



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

Manston Airport

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Transport

Examining Authority

Kelvin MacDonald BSc(Hons) FAcSS FRTPI CIHCM FRSA – Lead Member

Martin Broderick BSc MPhil FIEMA – Panel Member

Jonathan Hockley BA(Hons) DipTP MRTPI – Panel Member

Jonathan Manning BSc(Hons) MA MRTPI – Panel Member

18 October 2019

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OVERVIEW

File Ref: TR020002

The application, dated 17 July 2018, was made under section 37 of the Planning Act 2008 and was received in full by the Planning Inspectorate on the same date.

The Applicant is RiverOak Strategic Partners Limited.

The application was accepted for examination on 14 August 2018.

The examination of the application began on 9 January 2019 and was completed on 9 July 2019.

The Applicant proposes to reopen and develop Manston Airport into a dedicated air freight facility able to handle at least 10,000 air cargo movements per year whilst also offering passenger, executive travel, and aircraft engineering services.

The proposals include both the use of the existing airport infrastructure and the introduction of new facilities. In summary, the Proposed Development includes:

- The upgrade of Runway 10/28 and re-alignment of the parallel taxiway to provide European Aviation Safety Agency compliant clearances for runway operations;
- construction of 19 European Aviation Safety Agency compliant Code E stands for air freight aircraft with markings capable of handling Code D and F aircraft in different configurations;
- installation of new high mast lighting for aprons and stands;
- construction of 65,500m² of cargo facilities;
- construction of a new air traffic control tower;
- construction of a new airport fuel farm;
- construction of a new airport rescue and firefighting service station;
- development of the Northern Grass Area for airport-related businesses;
- highway improvement works;
- extension of passenger service facilities including an apron extension to accommodate an additional aircraft stand and increasing the current terminal size;
- an aircraft maintenance, repair and overhaul facility and end-of-life recycling facilities;
- a flight training school;
- a fixed base operation for executive travel; and
- business facilities for aviation-related organisations.

Summary of recommendation:

The Examining Authority recommends that the Secretary of State should not grant development consent. If however the Secretary of State decides to give consent, then the Examining Authority recommends that the Order should be in the form attached at Appendix D to this report, subject to the Secretary of State's consideration of the recommended actions listed in Annex E.

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The Planning
Inspectorate

ERRATA SHEET – Manston Airport - Ref TR020002

**Examining authority's Report of Findings and Conclusions and
Recommendation to the Secretary of State for Transport, dated 18
October 2019**

**Corrections agreed by the Examining Authority prior to a decision
being made**

Page No.	Paragraph	Error	Correction
11	1.4.57	"as" omitted in third sentence between "AV" and "an"	Insert "as" in third sentence between "AV" and "an"
32	3.5.17	Text in third and fourth bullets should be merged	Merge text in third and fourth bullets
39	3.9.5	Inclusion of second "in"	Insert comma after "particular" and delete second "in"
45	4.1.2	"Traffic and transport" numbering - second "i" should be "ii."	Replace second "i" with "ii."
50	4.5.4	Inclusion of "of" in final sentence	Delete "of" in final sentence
53	4.8.3	"Chapter 6"	Replace with "Chapter 7"
53	4.8.4	"Chapter 7"	Replace with "Chapter 8"
62	5.5.2	Missing "s"	Insert "s" at end of "consideration"
65	5.5.16	Missing full stop at end of paragraph	Insert full stop
65	5.5.19	"exiting runways" should be "existing runways"	Insert "s"
67	5.5.24	"short listed option" should be "short listed options"	Insert "s"
67	5.5.26	"that that" in first sentence	Delete one "that"
67	5.5.26	Missing "s"	Insert "s" at end of "consideration"
67	5.5.27	"with in particular"	Delete "with"
67	5.5.27	"the scheme"	Replace with "that scheme"
74	5.6.41	Missing "being"	Insert "being" between "without" and "subject"
77	5.6.51	Inclusion of "was carried out"	Delete "was carried out"

78	5.6.60	"the key to the understanding the future"	Delete second "the"
78	5.6.61	Missing full stop at end of paragraph	Insert full stop
90	5.6.111	Two full stops at end of paragraph	Delete one full stop
90	5.6.114	Use of "relating" instead of "related" in fourth sentence?	Delete "relating" and replace with "related"
93	5.6.132	"traffic was less on these roads less than on"	Delete second "less"
94	5.6.133	Use of double negative in second sentence	Replace second sentence with "However, it seems unlikely that such delays will be to such an extent that air freight will become more sustainable in the long term than trucking to northern Europe, or that cross-channel checks at sea ports will be substantially more than will be required at airports."
97	5.6.150	"will to have"	Replace with "will have to" and insert comma after "Gatwick"
98	5.7.4	"Around 50,000 tonnes of cargo"	Replace second sentence with "Previously the airport did not go above around 43,000 tonnes of cargo and 207,000 passengers a year, compared to the 340,000 tonnes and 1.4mppa forecast now."
99	5.7.8	Source of figures?	Replace first sentence with "London Stansted has reached agreement, subject to the signing of a Section 106 Agreement with Uttlesford DC, to increase the cap on the airport from 35mppa to 43mppa and allow combined airfield operations of 274,000 aircraft movements [REP3-025]."
100	5.7.11	Inclusion of "grow" in second sentence	Replace with "reach"
147	6.3.76	"Historic Environment"	Replace with "Historic England"

152	6.3.110	Negatively expressed conclusion	Replace paragraph with "Given the forecast noise contours, indicative flight paths, and distance of the aircraft from the Conservation Area that would arise from the Proposed Development the ExA concludes and recommends that the Proposed Development would not cause harm to the setting of this Conservation Area, in noise or visual terms."
165	6.3.173	"Enlgand"	Replace with "England"
165	6.3.174	First sentence structure; "sufficiently provide the level of protection"	Delete "sufficiently provide the level of protection" and replace with "provide a sufficient level of protection"
194	6.4.112	Missing close bracket	Insert close bracket after "(REAC"
196	6.4.127	"HCMP"	Replace with "MHCP"
255	6.7.170	"planning" in first sentence	Replace with "planting"
266	6.7.228	"planning" in first sentence	Replace with "planting"
351	6.8.480	"40" omitted between "to" and "residential"	Insert "40" between "to" and "residential"
398	6.10.100	"air" in first sentence?	Replace with "art"
403	6.10.123	Formatting error	Insert all text from paragraph 6.10.124 after "Develop"
403	6.10.124	Formatting error	Remove all text and replace with "Not Used"
403	6.10.127	"paragrph"	Replace with "paragraph"
563	8.2.82	Missing "concludes"	Insert "concludes" after "the ExA"
570	8.2.134	"40" omitted between "to" and "residential"	Insert "40" between "to" and "residential"
573	8.2.158	"in related"	Replace with "in relation"
574	8.2.162	Missing "month" after "6 to 12"	Insert "month" after "6 to 12"
585	8.3.2	"resulting from of the" in the fourth bullet	Delete "of"

625	9.10.29	Missing full stop at the end of the paragraph	Insert "." after "engagement"
654	9.14.31	Typographical error	Delete "be" after "been"
657	9.15.14	Missing full stop at the end of the paragraph	Insert "." after "acquire"
660	9.16.17	Missing full stop at the end of the paragraph	Insert "." after "statement"
725	10.5.105	Missing text at the end of the paragraph	Replace "note" with "notes" in extant text and insert "the Applicant to be able to use the highway as a temporary working site." after "for"
725	10.5.106	Typographical error	Delete "the" before "it"
725	10.5.109	Typographical error? "a valid request by the street and Highways Authority"	Replace "the street and Highways Authority" with "the KCC Streetworks Team"
729	10.5.133	Typographical error	Delete "=" and replace with "-"
738	10.7.21	Missing full stop at the end of the paragraph	Insert "." after "amendment"
759	10.8.10	Missing full stop at the end of the paragraph	Insert "." after "remains"
772	10.8.94	Missing full stop at the end of the paragraph	Insert "." After "Appendix D"
787	11.1.5	Inclusion of ")" after "HRA1998"	Delete ")"
787	11.2.1	Use of "We" instead of "The ExA"	Delete "We consider" and replace with "The ExA considers"
789	11.3.2	Delete "repo" at end of paragraph	Insert "report." at end of paragraph

Appendix C: List of Abbreviations –

- Add "APF" – "Aviation Policy Framework"
- Add "OAN" – "Objectively Assessed Need"
- Add "PCU" – "Passenger Car Unit"
- Add "SUs" – "Statutory Undertakers"

1. INTRODUCTION

1.1. INTRODUCTION TO THE APPLICATION AND THE EXAMINATION

- 1.1.1. The application for Manston Airport (the Proposed Development) was submitted by RiverOak Strategic Partners Limited (the Applicant) to the Planning Inspectorate on 17 July 2018 under section 37 of the Planning Act 2008 (PA2008) and accepted for examination under section 55 of the PA2008 on 14 August 2018.
- 1.1.2. Manston Airport operated as a military, and latterly civilian, aerodrome from 1916 until its closure in May 2014 [[APP-080](#)]¹. The Applicant proposes to reopen and develop Manston Airport into a dedicated air freight facility able to handle at least 10,000 air cargo movements per year whilst also offering passenger, executive travel, and aircraft engineering services [[APP-002](#)]².
- 1.1.3. The proposals include the use of some of the remaining decommissioned airport infrastructure and the introduction of new facilities. In summary, the Proposed Development includes:
- The upgrade of Runway 10/28³ and re-alignment of the parallel taxiway ('Taxiway A', or 'Taxiway Alpha') to provide European Aviation Safety Agency (EASA) compliant clearances for runway operations;
 - construction of 19 EASA compliant Code E stands for air freight aircraft with markings capable of handling Code D and F aircraft in different configurations;
 - installation of new high mast lighting for aprons and stands;
 - construction of 65,500m² of cargo facilities;
 - construction of a new air traffic control (ATC) tower;
 - construction of a new airport fuel farm;
 - construction of a new airport rescue and firefighting service (RFFS) station;
 - development of the Northern Grass Area (NGA) for airport-related businesses;
 - highway improvement works;
 - extension of passenger service facilities including an apron extension to accommodate an additional aircraft stand and increasing the current terminal size;
 - an aircraft maintenance, repair and overhaul (MRO) facility and end-of-life recycling facilities;
 - a flight training school;
 - a fixed base operation for executive travel; and

¹ See Chapter 2 of this report

² References in square brackets are to documents in the Examination Library, available at: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020002/TR020002-002558-Manston%20Examination%20Library%20Template.pdf>

³ Runways are identified by numbers which relate to their compass orientation

- business facilities for aviation-related organisations [[APP-002](#)].
- 1.1.4. A detailed description of the Proposed Development is provided in Chapter 3 of the Environmental Statement (ES) [[APP-033](#)] and the works required to deliver the Proposed Development are set out in Schedule 1 of the draft Development Consent Order (dDCO) [[APP-006](#)]. These include works comprising the principal development (the Nationally Significant Infrastructure Project (NSIP)) and works listed as Associated Development.
- 1.1.5. The location of the Proposed Development is shown in the Location Plan [[APP-015](#)] and Land Plans [[REP11-015](#)]. The site lies within the local government area of Thanet District Council (TDC) within the administrative county of Kent and is wholly within England.
- 1.1.6. The Applicant states that there is an urgent need for dedicated air cargo capacity in the South East of England because:
- There is significant unmet need for local air cargo capacity which is currently either not being met at all or being met by trucking cargo through the Channel Tunnel to and from airports on mainland Europe;
 - the existing airports in the region are primarily passenger airports with few cargo-only flights, which are often first to be displaced when there is disruption and delay; and
 - the main airport to carry cargo is Heathrow, where around 95% of cargo is carried in the holds of passenger aircraft, restricting it to the destinations and timetables served by passenger flights [[APP-012](#)].
- 1.1.7. A detailed explanation of the need for and the benefits of the Proposed Development is contained in the Azimuth Report provided with the application [[APP-085](#)].
- 1.1.8. The legislative tests for whether the Proposed Development is a NSIP were considered by the Secretary of State for the Ministry of Housing, Communities and Local Government (SoSMHCLG) in its decision to accept the application for examination in accordance with section 55 of the PA2008 [[PD-001](#)].
- 1.1.9. On this basis, the SoSMHCLG agreed with the Applicant's view stated in the Application Form [[APP-002](#)] that the Proposed Development is an NSIP as the effect 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, is within s23(5)(b) of the PA2008, and so requires development consent in accordance with s31 of the PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(i) of the PA2008.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 23 October 2018, Martin Broderick, Jonathan Hockley, Kelvin MacDonald and Jonathan Manning were appointed as the Examining Authority (ExA) for the application under s61 and s65 of the PA2008 [[OD-002](#)].

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

1.3.1. The persons involved in the Examination were:

- Persons who were entitled to be Interested Parties (IPs) because they had made a Relevant Representation (RR); or were a Statutory Party who requested to become an IP; or had been identified by the Applicant as persons who might be entitled to make a relevant claim for consultation if the dDCO were to be made and fully implemented.
- Affected Persons (APs) who were affected by the Compulsory Acquisition (CA) and / or Temporary Possession (TP) powers included in the dDCO.
- Other Persons, who were invited to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

1.4.1. The Examination began on 9 January 2019 and concluded on 9 July 2019.

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

The Preliminary Meeting

1.4.3. On 11 December 2018, the ExA wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (the 'Rule 6 letter') inviting them to the Preliminary Meeting (PM) and any other early hearings [[PD-005](#)]. The Rule 6 letter included:

- The arrangements and agenda for the PM;
- notification of initial hearings to be held in the early stage of the Examination;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- information about the availability of RRs and application documents; and
- other Procedural Decisions made by the ExA.

1.4.4. The PM took place on 9 January 2019 at Margate Winter Gardens, Fort Crescent, Margate, CT9 1HX. An audio recording [[EV-002](#), [EV-002a](#), [EV-002b](#)] and a note of the meeting [[EV-001](#)] were published on the National Infrastructure Planning website⁴.

⁴ Available at:

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

- 1.4.5. The ExA's Procedural Decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the ExA's letter issued under Rule 8 of the EPR (the 'Rule 8 letter') [[PD-006](#)], dated 18 January 2019.

Key Procedural Decisions

- 1.4.6. The Procedural Decisions set out in the Rule 8 letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. The Procedural Decisions were generally complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 letter dated 18 January 2019 [[PD-006](#)].
- 1.4.7. Further Procedural Decisions and notifications were made by the ExA in the course of the Examination. These are all available in the Examination Library [[PD-007 to PD-023](#)].
- 1.4.8. There were multiple instances of submissions being made after the deadlines set in the Examination Timetable [[PD-006](#), Annex A (and subsequent variations)]. In each case the ExA exercised its discretion to accept such Additional Submissions [[AS-001 to AS-586](#)] in order to facilitate the exchange of information up until the date of the close of the Examination.

Site inspections

- 1.4.9. Site inspections are held in the PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.
- 1.4.10. Where the matters for inspection can be viewed from publicly accessible land and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection, an Accompanied Site Inspection (ASI) is held.
- 1.4.11. The ExA undertook a USI on 8 January 2019. The purpose of the inspection was for the ExA and the Case Team to acquire a broad familiarity with the site and its surroundings in advance of the PM and initial hearings which were scheduled to take place immediately after the PM on 10 and 11 January 2019. The background, purpose and particulars of the USI were set out in a note published on 1 February 2019 [[EV-004](#)].
- 1.4.12. The ExA held the ASI on 19 March 2019. The purpose of the ASI was to allow the ExA to look at particular physical features firsthand and to gain access to sites and locations; in particular the site of the proposed airport and fuel farm and the site of previous vortex damage that were not publicly accessible.

1.4.13. Notification of the ASI was given in a Rule 13 and Rule 16 letter dated 8 February 2019 [[PD-008](#)]. The itinerary for the ASI was appended to this letter and also published as a separate document [[EV-003](#)].

1.4.14. The ExA has had regard to the information and impressions obtained during its USI and ASI in all the relevant sections of this report.

Hearing processes

1.4.15. Hearings are held in the PA2008 Examinations in two main circumstances:

- To respond to specific requests from persons who have a right to be heard - in summary terms:
 - where persons affected by CA and / or TP proposals (APs) object and request to be heard at a Compulsory Acquisition Hearing (CAH); and / or
 - where IPs request to be heard at an Open Floor Hearing (OFH).
- To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear. These are Issue Specific Hearings (ISH).

1.4.16. The ExA held eight ISHs, two CAHs and four OFHs to ensure the thorough examination of the issues raised by the application.

1.4.17. With the exception of the first ISH on the dDCO which was held at Margate Winter Gardens, Fort Crescent, Margate, CT9 1HX, all ISHs under s91 of the PA2008 were held at Discovery Park, Sandwich, CT13 9FF; a location four miles south of the site of the Proposed Development and four miles south of Ramsgate.

1.4.18. Two ISHs were held under s91 of the PA2008 on the subject matter of the dDCO:

- ISH1, 10 January 2019 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)]; and
- ISH8, 7 June 2019 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)].

1.4.19. Six ISHs were held under s91 of the PA2008 on the following subject matters:

- ISH2 - Need and operations, 21 March 2019 [[EV-013](#), [EV-014](#), [EV-014a](#), [EV-014b](#), [EV-014c](#)];
- ISH3 - Noise and vibration, 22 March 2019 [[EV-015](#), [EV-016](#), [EV-016a](#), [EV-016b](#)];
- ISH4 - Landscape, design, archaeology and heritage, 3 June 2019 [[EV-019](#), [EV-024](#), [EV-024a](#)];
- ISH5 - Socio-economic issues, 5 June 2019 [[EV-020](#), [EV-026](#), [EV-026a](#)];

- ISH6 - Habitats Regulations Assessment (HRA), biodiversity and other environmental issues, 5 June 2019 [[EV-021](#), [EV-027](#), [EV-027a](#)]; and
 - ISH7 - Traffic and Transport, 6 June 2019 [[EV-022](#), [EV-028](#), [EV-028a](#), [EV-028b](#), [EV-028c](#)].
- 1.4.20. Two CAHs were held under s92 of the PA2008 at Discovery Park, Sandwich, CT13 9FF:
- CAH1, 20 March 2019 [[EV-011](#), [EV-012](#), [EV-012a](#), [EV-012b](#), [EV-012c](#)]; and
 - CAH2, 4 June 2019 [[EV-018](#), [EV-025](#), [EV-025a](#), [EV-025b](#), [EV-025c](#)].
- 1.4.21. All APs were provided with an opportunity to be heard. The ExA also used these hearings to examine the Applicants case for CA and TP in the round.
- 1.4.22. Two OFHs were held under s93 of the PA2008 at Margate Winter Gardens, Fort Crescent, Margate, CT9 1HX:
- OFH1, the evening of 10 January 2019 [[EV-007](#), [EV-008](#), [EV-008a](#)]; and
 - OFH2, the morning of 11 January 2019 [[EV-007](#), [EV-008b](#), [EV-008c](#)].
- 1.4.23. A further two OFHs were held at The Oddfellows, 142 High Street, Ramsgate, CT11 9TY:
- OFH3, the afternoon of 18 March 2019 [[EV-009](#), [EV-10](#), [EV-10a](#)]; and
 - OFH4, the evening of 18 March 2019 [[EV-009](#), [EV-10b](#), [EV-10c](#)].
- 1.4.24. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

Written processes

- 1.4.25. Examination under the PA2008 is primarily a written process, in which the ExA has regard to written material forming the application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B of this report) and published on the National Infrastructure Planning website. Individual document references to the Examination Library in this report are enclosed in square brackets [] and hyperlinked to the original document held online. For this reason, this report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.

Relevant Representations and Additional Submissions

- 1.4.26. Two thousand and fifty-two RRs were received by the Planning Inspectorate in the RR period which ran between 3 September 2018 and

8 October 2019 [[RR-0001 to RR-2052](#)]⁵. All those who submitted RRs received the Rule 6 letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in individual chapters of this report and referenced where relevant.

- 1.4.27. 23 submissions were made either during or immediately after the RR period which purported to be RRs but could not be treated as such because they were either received late or were not made in the prescribed form; or both. In all of these cases the ExA exercised its discretion and accepted the submissions as Additional Submissions to the Examination [AS-001 to AS-023]. Apart from Canterbury City Council (CCC), which is a Local Authority under s56A of the PA2008 and therefore an IP, the persons who authored these representations were treated as Other Persons for the purposes of the Examination.
- 1.4.28. In all the ExA accepted 585 representations as Additional Submissions. The great majority of these were submissions which were not related to specific deadlines in the Examination Timetable but which, nevertheless, were considered to be potentially important and relevant to the Examination.

Written Representations and other Examination Documents

- 1.4.29. The Applicant, IPs and Other Persons were provided with opportunities to:
- Make Written Representations (WRs) (Deadline (D) 3);
 - comment on WRs made by the Applicant and other IPs (D4);
 - summarise their oral submissions at hearings in writing (D1, D5 and D8);
 - make other written submissions requested or accepted by the ExA; and
 - comment on documents issued for consultation by the ExA including:
 - The ExA's Report on Implications for European Sites (RIES) [[PD-019](#)] published on 17 June 2019 at D10;
 - the ExA's initial dDCO [[PD-015](#)] published on 10 May 2019 at D7; and
 - the ExA's second dDCO [[PD-018](#)] published on 14 June 2019 at D9.
- 1.4.30. All WRs and other Examination Documents have been fully considered by the ExA. The issues that they raise are considered in all relevant chapters of this report.

Local Impact Reports

⁵ The RRs are recorded in a discrete RR Library, available at: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020002/TR020002-002807-Final%20Relevant%20Rep%20library%20JB%20RP.pdf>

1.4.31. A Local Impact Report (LIR) is a report made by a relevant Local Authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 of the PA2008.

1.4.32. LIRs were received by the ExA from the following relevant Local Authorities:

- TDC [[REP3-010](#)];
- Kent County Council (KCC) [[REP3-143](#)];
- Dover District Council (DDC) [[REP3-227](#)]; and
- CCC [[REP3-246](#)].

1.4.33. The LIRs have been taken fully into account by the ExA in all relevant chapters of this report and cited where relevant.

Statements of Common Ground

1.4.34. A Statement of Common Ground (SoCG) is a statement agreed between an applicant and one or more IPs, recording matters that are agreed between them.

1.4.35. No SoCGs were submitted as part of the application on 17 July 2018.

1.4.36. In the Rule 6 letter the ExA requested that the Applicant prepare 27 SoCGs with various bodies [[PD-005](#)]. In addition to these, in the course of the Examination the Applicant sought to prepare SoCGs with the following bodies:

- Avman Engineering Limited;
- Cogent Land LLP (Cogent);
- National Air Traffic Control Services (NATS); and
- Polar Helicopters.

1.4.37. By the end of the Examination the Applicant had submitted signed SoCGs with the following bodies:

- Avman Engineering Limited [[REP3-181](#)];
- CCC [[REP4-010](#)];
- The Civil Aviation Authority (CAA) [[REP4-006](#)];
- DDC [[REP6-006](#)];
- The Environment Agency [[REP4-005](#)];
- Kent Wildlife Trust (KWT) [[REP7-004](#)];
- The Met Office [[REP6-007](#)];
- NATS [[REP6-009](#)];
- Natural England [[REP5-015](#)];
- Nemo Link Ltd [[REP5-016](#)];
- Network Rail [[REP7-005](#)];
- Polar Helicopters [[REP3-183](#)];
- Royal Air Force (RAF) Manston History Museum Association [[REP3-191](#)];
- South Eastern Power Networks plc (originally shown as UK Power Networks Services (South East) Limited in the submitted Book of Reference (BoR) [[APP-014](#)] [[REP4-004](#)];

- Southern Water [[REP4-009](#)];
 - Spitfire and Hurricane Museum [[REP3-173](#)];
 - Stone Hill Park Limited (SHP) [[REP6-010](#)];
 - TDC [[REP6-011](#)]; and
 - Vattenfall Wind Farm [[REP3-177](#)].
- 1.4.38. Public Health England (PHE) established matters agreed with the Applicant in the form of a letter [[REP5-017](#)]. The ExA has treated the agreed matters established in PHE's letter as if they had been provided in a SoCG.
- 1.4.39. Draft SoCGs with the following bodies were submitted in the course of the Examination, but signed versions were not submitted before the Examination closed:
- British Telecommunications plc [[REP4-011](#)];
 - Cogent [[REP4-015](#)];
 - Highways England [[REP7-003](#)];
 - Ministry of Defence (MoD) [[REP5-019](#)];
 - MoD High Resolution Direct Finder (HRDF) [[REP7a-005](#)];
 - MoD, Defence Infrastructure Organisation (DIO) and NATS [[REP4-014](#)];
 - MoD relating to interests other than the HRDF [[REP4-016](#)]; and
 - Southern Gas Networks [[REP3-175](#)].
- 1.4.40. The SoCGs have been taken fully into account by the ExA and referred to in all relevant chapters of this report. Greater weight is attributed to those SoCGs that were signed by the relevant parties.
- 1.4.41. Neither draft nor signed versions of the following five SoCGs, requested in the Rule 6 letter, were submitted to the Examination:
- British Gas Limited;
 - Historic England;
 - KCC Heritage Team;
 - KCC; and
 - The Department for Transport (DfT).
- 1.4.42. The Applicant provided a SoCG status table as Enclosure 1 to its covering letters for a number of deadlines [[REP1-001](#), [REP3-188](#), [REP4-001](#), [REP5-001](#), [REP6-001](#), [REP7-001](#) and [REP7a-001](#)], and in the case of the five above bodies the Applicant provided an explanation as to why a SoCG could not be progressed in the course of the Examination.
- 1.4.43. In the case of British Gas Limited, the Applicant stated in its cover letter for D1 submissions [[REP1-001](#)] that it:
- "...has confirmed that Southern Gas Networks (SGN), which is already recorded in the Book of Reference [...] is the only beneficiary of rights granted under this deed and British Gas Limited no longer has any interest [...] The Applicant does not propose to engage further with British Gas Limited and requests that the Inspectorate does not require a SoCG to be provided with British Gas Limited."*

- 1.4.44. The ExA accepts this explanation.
- 1.4.45. In the case of Historic England, the Applicant's cover letter for D3 submissions [[REP3-188](#)] stated that:
- "The Applicant has been in discussions with Historic England regarding the production of a SoCG. The parties have exchanged drafts but have not yet agreed an initial version for submission."*
- 1.4.46. Progress continued to be reported in subsequent SoCG status tables but, ultimately, no SoCG with Historic England was submitted. However, the ExA notes that Historic England did make a full range of submissions to the Examination which are considered in other chapters of this report; notably chapters 5 and 9.
- 1.4.47. The proposed SoCG with the KCC Heritage Team was taken to be subsumed into the proposed SoCG with KCC. In the case of KCC, the Applicant stated in its cover letter for D1 submissions [[REP1-001](#)] that:
- "A draft SoCG has been progressed between the Applicant and KCC."*
- 1.4.48. However, Enclosure 1 in the Applicant's cover letter for D4 submissions [[REP4-001](#)] stated that:
- "The matters raised by KCC in its representations and Local Impact Report are expected to be addressed as part of the updated Transport Assessment (referred to in paragraphs 9.3 to 9.6 above). There is no point in agreeing an SoCG with KCC until this is done, but it will be progressed as soon as possible afterwards."*
- 1.4.49. However, the Applicant's cover letter for D7 submissions [[REP7-001](#)] stated that:
- "KCC have indicated that they would prefer to issue a joint statement and this is in preparation."*
- 1.4.50. The ExA notes that KCC did make a full range of submissions to the Examination which are considered in other chapters of this report; notably Chapter 6.
- 1.4.51. In the case of the DfT, the Applicant stated in its cover letter for D1 submissions [[REP1-001](#)] that:
- "...as the Secretary of State is the decision-maker on the application, the DfT are considering whether it would be appropriate for them to enter into a SoCG on the project."*
- and Enclosure 1 in the Applicant's cover letter for D4 submissions [[REP4-001](#)] stated that:
- "The DfT are expected to decide it is not appropriate to agree an SoCG given that the Secretary of State is the decision-maker on the application."*

Written questions

- 1.4.52. The ExA asked five rounds of written questions and requests for information:
- First Written Questions (ExQ1) [[PD-007](#)] were published alongside the Rule 8 letter [[PD-006](#)] on 18 January 2019.
 - Second Written Questions (ExQ2) [[PD-010b](#)] were published on 5 April 2019 (ExQ2 on traffic and transport [[PD-011](#)] were published on 12 April 2019).
 - Third Written Questions (ExQ3) [[PD-014](#)] were published on 10 May 2019.
 - Fourth Written Questions (ExQ4) [[PD-020](#)] were published on 21 June 2019.
 - Fifth Written Questions (ExQ5) [[PD-022](#)] were published on 3 July 2019.
- 1.4.53. Each question in all five rounds of written questions has a unique reference number, constructed as follows:
- Topic identifier: Question round: Question number*
- 1.4.54. For example, 'LV.1.1' refers to the first question in the ExQ1 in the topic area of landscape and visual impacts. In the course of the Examination, and in this report, the ExA's written questions are referred to by their unique reference number.
- 1.4.55. All responses to the ExAs written questions have been fully considered and taken into account in all relevant chapters of this report and referenced where relevant.

Requests to join and leave the Examination, including requests to withdraw representations

- 1.4.56. During the Pre-examination stage an application was received from an individual, Denis Smith, requesting to become an IP under s102A of the PA2008. In order to assist the ExA's decision in this regard, the ExA wrote to Mr Smith seeking clarifications in respect of his application and requesting evidence to support it [[PD-004](#)]. Mr Smith did not respond to the ExA's letter and the ExA was therefore unable to give any further consideration to his application.
- 1.4.57. During the Examination, on 1 July the ExA exercising due diligence, identified and informed a party, Helix AV, under s102A(4) of the PA2008 that it considered that that person might successfully make a request to become an IP [[PD-021](#)]. Helix AV responded on 3 July 2019 to confirm that it wished to be treated as an IP but did not provide any of the evidence requested by the ExA which would have established its status

[[AS-586](#)]. Notwithstanding this, for the purposes of the remainder of the Examination the ExA treated Helix AV an IP.

1.4.58. During the Examination, as a consequence of discussion at hearings and / or discussions between relevant IPs / APs / Other Persons and the Applicant:

- Highways England wrote to the ExA to inform it that its objection to the Proposed Development was withdrawn [[REP7a-031](#)];
- SHP wrote to the ExA to request that its representations were withdrawn [[AS-552](#)]; and
- Kent Facilities Ltd wrote to the ExA to request that its representations were withdrawn [[AS-437](#)].

Highways England

1.4.59. In its response to ExA's question Tr.3.36 [[REP7a-031](#)], Highways England stated that:

"Highways England has completed its own assessments and these show that the proposed development will not have a material adverse impact on the Strategic Road Network.

Highways England therefore withdraws its objection to the proposed development."

1.4.60. The ExA has noted this withdrawal of objection which is covered in the traffic and transport section of Chapter 6 of this report.

Stone Hill Park Ltd and Kent Facilities Ltd

1.4.61. On the final day of the Examination on 9 July 2019, SHP submitted a letter timed at 19:44 [[AS-552](#)] which stated that:

"We write to confirm that SHP has today completed the sale of its freehold interests in land at Manston Airport to RiverOak MSE Ltd, a subsidiary of RiverOak Strategic Partners Limited (the "Applicant")."

and that:

"On the basis the Applicant no longer requires compulsory acquisition powers over the freehold interests previously held by SHP, please accept this letter as a request from SHP to withdraw the representations it has made relating to the application for a development consent order under reference number TR020002."

1.4.62. A letter dated 9 July from Kent Facilities Ltd [[AS-437](#)] stated that:

"Kent Facilities Limited held legal charges over the freehold land owned by Stone Hill Park Limited ("SHP") at Manston Airport. The legal charges were released as part of the sale of the SHP land to RiverOak MSE Limited which completed on 9 July 2019. Accordingly, please accept this letter as a request from Kent Facilities Limited to withdraw the representations it has made relating to the application..."

- 1.4.63. The requests by SHP and Kent Facilities Ltd to withdraw their representations were made less than five hours before the Examination closed at 23:59 on 9 July 2019. On that basis, the ExA determined that the requests were received too late in the Examination for the ExA to properly consider the requests to withdraw representations, including the implications for other IPs of the loss of information contained in those representations and potentially relied on by other IPs in their representations.
- 1.4.64. SHP's and Kent Facilities Ltd's representations therefore remain part of the Examination Library. This determination has been communicated to IPs by the Planning Inspectorate in the form of advice issued under s51 of the PA2008⁶.
- 1.4.65. The determination by the ExA set out in the previous paragraph refers to the requests to withdraw **representations**, not to the withdrawal of **objections** (emphasis added).

Basis on which the Recommendation Report has been drafted in respect of the withdrawal of objections by SHP and Kent Facilities Ltd

- 1.4.66. It is important to note that the ExA recognise that, in drafting its Recommendation Report, it must reflect the fact that SHP and Kent Facilities Ltd no longer object to the application and that, implicitly, they no longer object to the request for CA.

1.5. ENVIRONMENTAL IMPACT ASSESSMENT

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).
- 1.5.2. The Applicant notified the Secretary of State (SoS) under Regulation 6(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Proposed Development on 28 June 2016⁷. On 30 June 2016⁸ the Applicant submitted a Scoping Report to the SoS under Regulation 8 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the 2009 EIA Regulations) in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion) [[APP-043](#), Appendix 1.1].

⁶ Available here:

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

⁷ The ExA notes that both the Regulation 6 notice and Scoping Report were submitted by RiverOak Investment Corp LLC, the predecessor company to the Applicant [[REP7a-006](#), para 5]

⁸ The date of submission is prior to the coming into force of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the 2017 EIA Regulations) so the Applicant was subject to the transitional arrangements which allowed it to work under the 2009 EIA Regulations

- 1.5.3. On 10 August 2016 the Planning Inspectorate provided a Scoping Opinion on behalf of the SoS [[APP-043](#), Appendix 1.2]. In accordance with Regulation 4(2)(a) of the 2009 EIA Regulations, the Proposed Development was determined to be EIA development and the application was accompanied by an ES, when submitted, on 17 July 2018 [[APP-033 to APP-074](#)].
- 1.5.4. Scoping is not a mandatory requirement under either the 2009 EIA Regulations or the 2017 EIA Regulations. For the purposes of the 2017 EIA Regulations there is not a Scoping Opinion for the Proposed Development
- 1.5.5. The SoS, in the Scoping Opinion, drew the Applicant's attention to EU Directive 2014/52/EU (amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment), which was made in April 2014 [[APP-043](#)]. Under the terms of the 2014/52/EU Directive, Member States were required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 16 May 2017. Whilst transitional provisions apply under the 2017 EIA Regulations, the Applicant was advised to consider the effect of the implementation of the revised Directive in terms of the production and content of the ES to be submitted with the application [[APP-033 to APP-074](#)].
- 1.5.6. For these reasons, the Applicant based its ES on the 2017 EIA Regulations, but did not consider that it was necessary to request a new Scoping Opinion. Rather, the scope of assessment for those new topics (namely Chapter 15: Human Health [[APP-034](#)], Chapter 16: Climate Change [[APP-034](#)] and Chapter 17: Major Accidents and Disasters [[APP-035](#)]) that are required to be considered under the 2017 EIA Regulations is documented within the ES and was made available to both statutory and non-statutory consultees within the 2018 Preliminary Environmental Information Report (PEIR) used for the 2018 statutory consultation. This is discussed further at in Chapter 3, below.
- 1.5.7. On 29 August 2018 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of the PA2008 and Regulation 13 of the 2017 EIA Regulations had been complied with [[OD-003](#)].
- 1.5.8. Consideration is given to the ES and matters arising from it throughout this report.

1.6. HABITATS REGULATIONS ASSESSMENT

- 1.6.1. The Proposed Development is development for which a HRA Report has been provided by the Applicant.
- 1.6.2. A Report on the Implication for European Sites (RIES), prepared by the ExA, was published on 17 June 2019 [[PD-019](#)]. IPs were invited to comment on the RIES at D10 in the Examination Timetable.
- 1.6.3. Consideration is given to the adequacy of the HRA Report, which for the purposes of the Proposed Development is the Updated Report to Inform

Appropriate Assessment (RIAA) [[REP7a-014](#)], associated information and evidence and the matters arising from it in chapters 4 and 5 of this report.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.7.1. The Applicant provided an initial unsigned draft Section 106 Agreement at DL7a as Appendix Tr.3.1 Part B [[REP7a-003](#)]. This draft was for the benefit of TDC and KCC and covered the areas of air quality and noise monitoring; a local hiring policy and provisions for a local employment partnership board; Public Rights of Way (PRoW); the Manston-Haine link road; public transport contributions; and off-site highway contributions.

1.7.2. In its comments to the Applicant's responses to ExQ3 [[REP8-027](#)] KCC stated that:

"The draft section 106 agreement was not sent to KCC for comment [...]. KCC notes with some concern that the applicant submitted this first draft of the section 106 agreement without any discussion about the headline terms at the very least with KCC potential, which would be the expected way to proceed and secure agreement between the relevant parties. In fact, to date, there has still been no engagement from the applicant with regard to agreeing the headlines in the section 106 agreement, let alone any detailed drafting points."

1.7.3. A second unsigned draft Section 106 Agreement dated 14 June 2019 was submitted at D8 [[REP8-006](#)]. This covered similar areas to the initial draft with the addition of biodiversity; car parking management strategy; and a schools contribution. Other details and sums were altered, and the local hiring policy provision renamed to education / training / recruitment / procurement.

1.7.4. In its response to TR.4.48 [[REP9-024](#)], KCC stated that:

"Neither the first draft section 106 agreement nor the second revised draft agreement was shared or discussed with KCC before being submitted to the Examining Authority."

and that:

"KCC's view is that no weight or little weight should be given to the draft section 106 agreement, including if it were to be offered as unilateral undertaking under section 106."

and

"KCC notes that the party proposed to sign the obligation is said to be RiverOak Fuels Limited, who are an unknown entity. The section 106 agreement does not identify the nature of their interest in the land and whether they have an interest capable/sufficient for the purposes of section 106(1) TCPA 1990."

1.7.5. TDC stated in its answers to ExQ4 [[REP9-026](#)]:

"TDC first discovered the draft s106 as part of the Applicant's deadline 7a submissions, when it was included as part of the appendices to a response on Transport matters [Appendix Tr.3.1 Part B within REP7a-003]. The Applicant had not contacted TDC prior to this point (or indeed subsequently to the deadline 7a submission) either to draw TDC's attention to the existence of the draft s106 or to discuss or attempt to agree to the wording. On learning of its existence, TDC reviewed the draft and made various comments directly to the Applicant, raising some significant concerns about items within the draft".

and:

"TDC has since received the Deadline 8 draft of the s106 as part of the wider Deadline 8 submissions. There has again been no direct contact from the Applicant either to draw attention to this or to discuss its content. TDC has since made further comments directly to the Applicant"

- 1.7.6. An amended unsigned draft Section 106 Agreement was subsequently submitted [[REP11-010](#)] including amendments to the PRoW, car parking management and off site highways schedules and introducing a new schedule covering a Freight Management Strategy (FMS). Comments on this draft Section 106 Agreement by KCC were also received at D11 [[REP11-019](#)].
- 1.7.7. The three iterations of the unsigned draft Section 106 Agreement received at D7a, D8, and D11 were all in the name of RiverOak Fuels Limited (Company Registration Number 11535715) when submitted by the Applicant.
- 1.7.8. On the final day of the Examination, 9 July 2019, the Applicant submitted two signed Section 106 Unilateral Undertakings (UUs) in the name of RiverOak Fuels Ltd; one in favour of KCC [[AS-583](#)] and one in favour of TDC [[AS-584](#)].
- 1.7.9. The KCC UU covered matters of PRoW; car parking management; schools contribution; a Manston-Haine link road; public transport contributions; off-site highway improvements; and the FMS.
- 1.7.10. The TDC UU covered matters of air and noise monitoring; education / training / recruitment / procurement; biodiversity; and a car parking management strategy.
- 1.7.11. As the UUs were submitted on the final day of the Examination, the ExA had no opportunity to examine the provisions within them, including seeking the views of KCC and TDC. **The ExA recommends to the SoS that he should seek the views of KCC and TDC and also satisfy himself that it is appropriate for RiverOak Fuels to be the named party in the UUs.**
- 1.7.12. The ExA notes the content of the UUs and considers them in relevant chapters of this report.

1.8. OTHER CONSENTS

- 1.8.1. The document Details of Other Consents and Licences that may be required [[APP-087](#)] submitted with the application establishes other consents, licences, permits etc which in the Applicant's opinion:
- 1) Are expected to be required in addition to development consent;
 - 2) may be required in addition to development consent;
- in order to deliver the Proposed Development.
- 1.8.2. The list under (1) includes a number of aviation-related consents that will be required from the CAA [[APP-087](#)]. In this respect, the CAA Interface Document [[APP-086](#)] establishes the relationship between aviation regulation and the PA2008 process; with particular focus on the Airspace Change Process (ACP) and Aerodrome Certification, both implemented by the CAA.
- 1.8.3. In the interest of brevity, the content of Details of Other Consents and Licences that may be required [[APP-087](#)] is not repeated here.

1.9. STRUCTURE OF THIS REPORT

- 1.9.1. The structure of this report is as follows:
- **Chapter 1** introduces the reader to the application, the processes used to carry out the Examination and make this report.
 - **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
 - **Chapter 3** records the legal and policy context for the SoS' decision.
 - **Chapter 4** summarises the planning issues that arose from the application and during the Examination.
 - **Chapter 5** sets out the ExA's examination of the need case.
 - **Chapter 6** sets out the ExA's examination of the planning issues that arose from the application and during the Examination.
 - **Chapter 7** considers effects on European sites and Habitats Assessment Regulations.
 - **Chapter 8** sets out the balance of planning considerations arising from chapters 4, 5, 6 and 7 in the light of the factual, legal and policy information in chapters 1 to 3.
 - **Chapter 9** sets out the ExA's examination of CA and TP proposals.
 - **Chapter 10** considers the implications of the matters arising from the preceding chapters for the dDCO.
 - **Chapter 11** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.
- 1.9.2. This report is supported by the following appendices:
- **Appendix A** – Examination Events
 - **Appendix B** – Examination Library
 - **Appendix C** – List of abbreviations
 - **Appendix D** – The Recommended dDCO
 - **Appendix E** – Recommended actions (SoS)

2. THE PROPOSED DEVELOPMENT AND THE SITE

2.1. THE APPLICATION AS MADE

- 2.1.1. The application as made is comprised within application document references [[APP-001 to APP-087](#)].
- 2.1.2. The Proposed Development is summarised in Chapter 1 of this report. A full description of the works required to deliver the Proposed Development are set out in Chapter 3 of the ES [[APP-043](#)]; in Schedule 1 to the dDCO [[APP-006](#)]; and on the Works Plans [[REP3-197](#)].

2.2. SITE HISTORY

- 2.2.1. The history of the Manston Airport site is complex. It is explained in detail in Chapter 2 of the Applicant's Planning Statement [[APP-080](#)].
- 2.2.2. Until 1998 the site operated, at separate times, as a military base for the RAF and United States Air Force (USAF). From 1989 RAF Manston became known as Kent International Airport (KIA), offering a range of services including scheduled passenger flights; charter flights; air freight and cargo; a flight training school; flight crew training; and aircraft testing.
- 2.2.3. KIA closed permanently in May 2014. Despite the airport's closure, much of the airport infrastructure, including the runway, taxiways, aprons, cargo facilities and passenger terminal, remains [[APP-080](#)].

2.3. THE EXISTING SITE AND SURROUNDINGS

- 2.3.1. The Proposed Development is on the existing site of Manston Airport, west of the village of Manston and North East of the village of Minster, in Kent. The Planning Statement [[APP-080](#)] states at paragraph 2.8 that the town of Margate lies approximately 5km to the north of the site and Ramsgate is approximately 4km to the east⁹. Sandwich Bay is located approximately 4 to 5km to the South East. The northern part of the site is bisected by the B2050 (Manston Road), and the site is bounded by the A299 dual carriageway (Hengist Way) and Canterbury Road West to the south, and the B2190 (Spitfire Way) to the west.
- 2.3.2. The existing site is accessed in the west near the junction of the B2050 with the B2190 whilst the existing passenger terminal, hangar facilities and the NGA¹⁰, are all accessed from the B2050 west of the junction with Manston Court Road [[APP-012](#)].
- 2.3.3. The site covers an area of approximately 296 hectares (732 acres) and comprises a combination of existing buildings and hardstanding, some

⁹ It is noted however that at its western extent the Nethercourt Estate, a suburb of Ramsgate, is as little as 1.5km from the airport perimeter [[RR-1948](#)]

¹⁰ See para 2.3.7

areas of grassland, scrub land and landscaping, as well as areas which historically formed part of Manston Airport and its associated facilities. This includes the 2,748m long and 60m wide runway, which is orientated in an east-west direction across the southern part of the site [[APP-012](#)].

- 2.3.4. It is noted that in the course of 2019 various works have been carried out on the Manston Airport site by the DfT. The purpose of these works is explained in Section 2.5, below.
- 2.3.5. The existing buildings are clustered along the east and west boundaries of the site and include:
- a cargo handling facility comprising two storage warehouses 6 to 8m high, and one hangar 12m high, all finished with metal cladding, on an area of 5,200m², with gated entrances and a security box;
 - a 12m high fire station building, constructed of brick and with a corrugated metal roof, on an area of 2,200m²;
 - a helicopter pilot training facility comprising two 10m high hangars with metal cladding, on an area of 950m²;
 - two 5m high museum buildings of brick construction, on an area of 2,000m²;
 - a 4m high terminal building, on an area of 2,400m²;
 - a 6m high ATC building, including a 9m high viewing tower, on an area of 700m²;
 - a 12m high airplane maintenance hangar, with a taller 16m high movable section to enclose an airplane tail fin, on an area of 4,700m²; and
 - a fuel farm [[APP-012](#)].
- 2.3.6. A network of hard surfacing used for taxiways, aprons, passenger car parking, and roads connects the buildings to the runway and to the two main airport entrance points that are located in the east and west of the site [[APP-012](#)].
- 2.3.7. The NGA is located to the north of Manston Road (B2050) and bisects the centre of the site in a roughly east to west direction. This part of the site is predominantly grassland, with some areas of hard standing, including a stretch of taxiway that formerly linked across to the main taxiway network and runway. The name 'Northern Grass Area' is applied by the Applicant to identify the land described above. The two museums, the Spitfire and Hurricane Memorial Museum, and the RAF Manston Museum, are located in the southwestern corner of the NGA. A small number of other redundant buildings, such as the former RAF ATC tower, are also located on the NGA [[APP-012](#)].
- 2.3.8. There is also an underground pipeline which leads from the south-east corner of the airport site in a south-easterly direction towards an outfall located in Pegwell Bay, south of Ramsgate. This was historically used for the discharge of treated water from the airport when it was open and is required for the Proposed Development to continue to discharge treated surface water runoff [[APP-012](#)].

2.3.9. A full description of the site and its surroundings is provided in Chapter 3 of the ES [APP-043]; in the BoR [REP7a-023]; and on the Land Plans [REP11-015].

2.4. THE APPLICATION AS EXAMINED

2.4.1. During the course of the Examination a number of changes / amendments were made to application documents. The most up-to-date versions of such documents, taking into account ongoing diligence in respect of land and property information, all relevant issues raised in RRs, WRs, in written questions and responses to them and in oral submissions at hearings, are:

- Works Plans [REP3-197]
- Land Plans [REP11-015]
- dDCO [REP7a-017]
- Explanatory Memorandum [REP7a-019]
- BoR [AS-581]
- Funding Statement [REP7a-006]
- Application Document Tracker [AS-578]
- CA Status Report [AS-585]
- Construction Environmental Management Plan (CEMP) [REP7a-008]
- Register of Environmental Actions and Commitments (REAC) [REP7a-012]
- Report to Inform Appropriate Assessment [REP7a-014]
- Noise Mitigation Plan (NMP) [REP7a-021]

2.4.2. The ExA considers whether these amended documents amount to a change to the application sufficient to require it to be considered as a new application in Chapter 3, below.

2.5. RELEVANT PLANNING HISTORY

2.5.1. The planning history of the site since 1965 is set out in Appendix 3 of the Planning Statement [APP-080], which is extensive. The TDC LIR also contains a summary at Section 2.4 [REP3-010] from 1998 onwards. A summary of the planning history that is of particular and recent relevance is set out below.

The Town and Country Planning (Manston Airport) Special Development Order 2019¹¹

2.5.2. The 2019 works undertaken on the site by the DfT are to enable the runway and other areas of hardstanding on the airfield to be used as lorry holding areas in conjunction with 'Operation Brock'; a set of measures to keep the M20 open in both directions between junctions 8 and 9 in the event of disruption to services across the English Channel.

2.5.3. Parts of the application site are therefore subject to The Town and Country Planning (Manston Airport) Special Development Order 2019,

¹¹ Available at: <http://www.legislation.gov.uk/ukxi/2019/86/contents/made>

which gives effect to Operation Brock by granting temporary planning permission to the DfT.

- 2.5.4. Whilst the status of Operation Brock is currently inactive¹², the ExA notes the Order can be activated by the DfT at any time before 31 December 2020. The implications for the Proposed Development arising from Operation Brock are considered in chapters 6 and 9 of this report.

Planning application by Stone Hill Park Limited (TDC application number OL/TH/16/0550)

- 2.5.5. SHP submitted a hybrid planning application to TDC on 31 May 2016 for the comprehensive redevelopment of the site to create:

- a new, mixed-use settlement comprising up to 2,500 new homes;
- an advanced manufacturing focused business park with some distribution / storage and office space;
- large scale indoor and outdoor sports and recreational facilities with the former runway becoming part of a network of parkland, trails and outdoor space; and
- a new heritage hub which will accommodate the Spitfire and Hurricane Memorial Museum and RAF Museum.

- 2.5.6. The outline planning application (with all matters except access reserved for future determination) is for the provision of buildings / floorspace for the following uses:

- Employment (Use Classes B1a-c/B2/B8);
- Residential (Use Classes C3/C2);
- Retail (Use Classes A1/A5);
- Education and other non-residential institutions (Use Class D1);
- Sport and recreation (Use Class D2);
- Hotel (Use Class C1);
- Open space/landscaping (including outdoor sport/recreation facilities);
- Car parking;
- Infrastructure (including roads and utilities);
- Site preparation; and
- Other associated works.

- 2.5.7. The full / detailed element of the application comprises change of use of retained existing buildings; development of Phase 1 comprising four industrial units (Use Class B1c/B2/B8) with ancillary car parking; and associated infrastructure and access.

- 2.5.8. The application is currently undetermined. However, the ExA understands that once the agreed sale of the site to the Applicant has been completed, the planning application will be withdrawn.

Planning application by Stone Hill Park Limited (TDC application number OL/TH/18/0660)

¹² <https://highwaysengland.co.uk/OperationBrock/>

2.5.9. A hybrid planning application was submitted to TDC on 4 May 2018. This proposes the comprehensive redevelopment of the site for the provision of a mixed-use development. The outline element (with all matters except access reserved for future determination) comprises the provision of buildings/floorspace for the following uses:

- Employment (Use Classes B1a-c/B2/B8);
- Residential (Use Classes C3/C2);
- Retail (Use Classes A1-A5);
- Aviation (Sui Generis);
- Education and other non-residential institutions including museums (Use Class D1);
- Sport and Recreation (Use Class D2);
- Hotel (Use Class C1);
- Open space/landscaping (including outdoor sport/recreation facilities);
- Car Parking; and
- Infrastructure (including roads and utilities)

2.5.10. The full / detailed element of the application comprises a change in the use of retained existing buildings and their means of access. This includes:

- Up to 3,700 residential dwellings;
- up to 46,000 sqm (GIA) of employment floor space;
- retention and re-use of the western 1,199m of the existing runway for use by heritage, vintage and classic aircraft, alongside relocation of the existing RAF Manton Museum and Spitfire and Hurricane Museum;
- provision of a sports village;
- a new local centre;
- two new primary schools;
- potential for a small-scale campus for higher/further education; and
- 133 hectares of green infrastructure.

2.5.11. The application is also currently undetermined. Again, the ExA understands that once the agreed sale of the site to the Applicant has been completed, the planning application will be withdrawn.

Lothian Shelf (718) Ltd

2.5.12. Four planning applications were submitted by Lothian Shelf (718) Ltd to TDC:

- 1) F/TH/15/0458: Change of use from airport use to general industrial use - Building 4, Manston Airport, Spitfire Way, Manston, Ramsgate, CT12 5FF.
- 2) F/TH/15/0459: Change of use from airport use to storage and distribution use - Manston Airport Cargo Centre and Responding Vehicle Point, Spitfire Way, Manston, Ramsgate, CT12 5FF.
- 3) F/TH/15/0460: Change of use from airport use to general industrial for a temporary period of 3 years - Building South of Terminal (Hanger 1), Manston Airport, Manston, Ramsgate, CT12 5BL.

- 4) F/TH/15/0457: Change of use from airport use to general industrial use together with four storey extension and insertion of windows - Building 870, Manston Airport, Manston, Ramsgate, CT12 5BL.

2.5.13. All of the applications were subject to appeal, one for a refusal (F/TH/15/0457) and the other three for non-determination. All four appeals were dismissed on 13 July 2017 following a Public Inquiry. A copy of the linked appeal decision (APP/Z2260/W/15/3140995, 3140990, 3140992 and 3140994) is provided in Appendix 4 of the Planning Statement [[APP-080](#)]. All appeals were dismissed due to conflict with Saved Policy EC4 of the Thanet Local Plan (2006) (LP), which was not outweighed by other material considerations.

3. LEGAL AND POLICY CONTEXT

3.1. THE PLANNING ACT 2008

- 3.1.1. The application includes development that falls within the definitions for airport-related development set out in s23 of the PA2008.
- 3.1.2. As set out in sub-section 3.2, below, the Airports National Policy Statement (ANPS): new runway capacity and infrastructure at airports in the South East of England¹³ (ANPS) does not have effect in relation to the application to reopen and develop Manston Airport and therefore the examination of this application has been conducted under s105 of the PA2008 which applies to decisions in cases where no National Policy Statement has effect.
- 3.1.3. In deciding the application s105(2) of the PA2008 requires the SoS to have regard to:
- (a) any local impact report (within the meaning given by section 60(3)) submitted to the SoS before the deadline specified in a notice under section 60(2),
 - (b) any matters prescribed in relation to development of the description to which the application relates, and
 - (c) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.
- 3.1.4. This report sets out the ExA's findings, conclusions and recommendations taking these matters fully into account and applying s105 of the PA2008 in making its recommendation to the SoS.

3.2. NATIONAL POLICY STATEMENTS

- 3.2.1. The SoS for Transport designated the ANPS in June 2018.
- 3.2.2. The ANPS states at paragraph 1.41 that:

"The Airports NPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Heathrow Northwest Runway, and proposals for new terminal capacity located between the Northwest Runway at Heathrow Airport and the existing Northern Runway and reconfiguration of terminal facilities between the two existing runways at Heathrow Airport. Nevertheless, the Secretary of State considers that the contents of the Airports NPS will be both important and relevant considerations in the determination of such an application, particularly where it relates to London or the South East of England. Among the considerations that will be important and relevant are the findings in the Airports NPS as to the

¹³ Available at: <https://www.gov.uk/government/publications/airports-national-policy-statement>

need for new airport capacity and that the preferred scheme is the most appropriate means of meeting that need."

3.2.3. Therefore, as stated above, the ANPS does not have effect in relation to the application to reopen and develop Manston Airport.

3.2.4. The ANPS states at paragraph 1.12 that:

"The Airports NPS provides the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport, and will be an important and relevant consideration in respect of applications for new runway capacity and other airport infrastructure in London and the South East of England."

3.2.5. Therefore, the ANPS is an important and relevant consideration under s105(2) of the PA2008.

3.2.6. The content and provisions of the ANPS are referred to and quoted in each of the issue sections in Chapter 6 of this report, where relevant.

3.2.7. In examining this application, the ExA has also had regard to the National Policy Statement for National Networks (NPSNN) published by the DfT on 17 December 2014¹⁴. The NPSNN, which the ExA considers is also a relevant and important consideration under s105(2) of the PA2008, is referred to in the section in Chapter 6 of this report that deals with traffic and transport given the impacts on elements of the Strategic Road Network (SRN).

3.3. EUROPEAN LAW

Council Directive 2011/92/EU and 2014/52/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive)

3.3.1. The EIA Directive defines the procedure by which information about the environmental effects of a project is collected and taken into account by the relevant decision-making body before consent is granted for a development. It applies to a wide range of public and private projects, which are defined in Annexes I and II of the Directive.

3.3.2. The most recent EIA Directive is 2014/52/EU, which entered into force on 15 May 2014. The 2014 Directive was transposed into domestic UK law on the 16 May 2017.

Council Directive 2002/49/EC on the assessment and management of environmental noise (the Environmental Noise Directive)

3.3.3. The Environmental Noise Directive (END) concerns the assessment and management of environmental noise and is the main EU instrument to

¹⁴ Available at: <https://www.gov.uk/government/speeches/national-networks-national-policy-statement>

identify noise pollution levels and to trigger action at both Member State and EU level. The END compelled EU Member States to produce noise maps every five years, the drafting of local noise action plans and collection of noise data to inform future community policy and to consult on and make this information publicly available.

Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports

- 3.3.4. Directive 2002/30/EC establishes procedures on noise related measures at large airports. It is closely related to the International Civil Aviation Organisation (ICAO) Assembly Resolution A33/7, which establishes a 'Balanced Approach' to noise management with respect to environmental benefit and economic incentives, but without imposing measures that would be overly restrictive. The Directive requires consideration of noise reduction at source, land-use planning, noise abatement, operational procedures and operating restrictions.

Council Directive 2008/50/EC on ambient air quality and cleaner air for Europe (the Air Quality Directive)

- 3.3.5. The Air Quality Directive (AQD) came into force on 11 June 2008. The Directive consolidates four directives and one Council decision into a single directive on air quality. Under the AQD, Member States are required to assess ambient air quality with respect to sulphur dioxide, nitrogen dioxide and nitrogen monoxide, particulate matter (PM₁₀ and PM_{2.5}), lead, benzene and carbon monoxide (CO). The Directive set limiting values for compliance and establishes control actions where these are exceeded. It is transposed into domestic UK law through regulations made under the Environment Act 1995 (EA1995).
- 3.3.6. Part IV of EA1995 requires all Local Authorities in the UK to review and assess air quality in their area. If any standards are being exceeded or are unlikely to be met by the required date, then that area should be designated an Air Quality Management Area (AQMA) and the Local Authority must draw up and implement an Air Quality Action Plan aimed at reducing levels of the pollutant.
- 3.3.7. The relevance of this Directive to this application is set out in Chapter 6 of this report.

Directive 2010/75/EU of the European Parliament and the Council on industrial emissions and The Environmental Permitting (England and Wales) Regulations 2016 (the Environmental Permitting Regulations)

- 3.3.8. The Environmental Permitting Regulations apply to all new installations and transpose the requirements of the EU Industrial Emissions Directive (IED) (2010/75/EU) into domestic UK law.
- 3.3.9. Under the IED and Environment Permitting Regulations, the operator of an installation covered by the IED is required to employ Best Available

Techniques (BAT) for the prevention or minimisation of emissions to the environment, to ensure a high level of protection of the environment as a whole.

- 3.3.10. The relevance of this Directive and the Environment Permitting Regulations to this application is set out in chapters 5 and 6 of this report.

Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive)

- 3.3.11. The Habitats Directive (together with Council Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)) forms the cornerstone of Europe's nature conservation policy. It is built around two pillars: The Natura 2000 network of protected sites and the strict system of species protection. The Directive protects over 1,000 animals and plant species and over 200 habitat types (for example, special types of forests; meadows; wetlands; etc) which are of European importance. It requires designation of areas as Special Areas of Conservation (SACs).
- 3.3.12. The Habitats Directive and the Birds Directives are transposed into domestic UK law through:
- The Conservation of Habitats and Species Regulations 2017 (in respect of the terrestrial environment and territorial waters out to 12 nautical miles); and
 - The Conservation of Offshore Marine Habitats and Species Regulations 2017 (for UK offshore waters).
- 3.3.13. The relevance of this Directive to this application is set out directly in Chapter 6 of this report, and it is considered elsewhere as required.

Council Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)

- 3.3.14. The Birds Directive is a comprehensive scheme of protection for all wild bird species naturally occurring in the EU. The directive recognises that habitat loss and degradation are the most serious threats to the conservation of wild birds. It therefore places great emphasis on the protection of habitats for endangered as well as migratory species. It requires classification of areas as Special Protection Areas (SPAs) comprising all the most suitable territories for these species. Since 1994 all SPAs form an integral part of the Natura 2000 ecological network.
- 3.3.15. The Birds Directive bans activities that directly threaten birds, such as the deliberate killing or capture of birds, the destruction of their nests and taking of their eggs, and associated activities such as trading in live or dead birds. It requires Member States to take the requisite measures to maintain the population of species of wild birds at a level which corresponds, in particular, to ecological, scientific, and cultural requirements while taking account of economic and recreational requirements.

- 3.3.16. The relevance of this Directive to this application is set out directly in Chapter 6 of this report, and it is considered elsewhere as required.

The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations)

- 3.3.17. The Habitats Regulations provide domestic force to the Habitats Directive and the Wild Birds Directive and provide the cornerstone on which the practice of HRA is undertaken in England and Wales. Their relevance to this application is set out directly in Chapter 6 of this report, and they are considered elsewhere as required.

Council Directive 2000/60/EC of the European Parliament and the Council [...] establishing a framework for Community action in the field of water policy (the Water Framework Directive)

- 3.3.18. The Water Framework Directive (WFD) establishes a framework for water policy, managing the quality of receiving waters. The Directive is concerned with water management. Amongst other objectives, it requires EU Member States to prevent the deterioration of surface water bodies, groundwater bodies and their ecosystems and improve the quality of surface and groundwater bodies by progressively reducing pollution and by restoration.
- 3.3.19. The WFD is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.
- 3.3.20. Consideration of water quality and management is contained in Chapter 6 of this report.

3.4. LEAVING THE EUROPEAN UNION

- 3.4.1. The European Union (Withdrawal) Act 2018 includes clauses which establish that, subject to defined exceptions, EU law which was extant up to UK's exit from the EU will remain in force and be incorporated into domestic UK law. This report has therefore been drafted on the basis that relevant EU law (primarily environmental law) will remain in force at the point when the SoS decides this application.
- 3.4.2. Until the arrangements for the UK's exit from the EU are finalised, the requirements of the EASA will continue to apply to airports and aviation within the UK. It will be a matter for the SoS to satisfy himself as to the position on retained law at the point of his decision.

3.5. UK LAW

- 3.5.1. Outwith the PA2008, the following Acts of Parliament and related Rules and Regulations are implicit to the ExA's consideration of the application in chapters 5, 6, 7, 8, 9 and 10 of this report:

- Civil Aviation Act (1982, 2006 and 2012)*;
- Climate Change Act 2008*;
- Countryside and Rights of Way Act 2000;

- Environment Act 1995;
- Environmental Protection Act 1990;
- Equality Act 2010 (Public Sector Equality Duty)*;
- Floods and Water Management Act 2010;
- Human Rights Act 1998*:
- National Parks and Access to the Countryside Act 1949;
- Natural Environment and Rural Communities Act 2006;
- The Air Quality Standards Regulations 2010;
- The Environmental Permitting (England and Wales) Regulations 2010 together with subsequent amendments;
- The EU Water Framework Directive (2000/60/EC), as enacted into domestic law by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003;
- The EU Floods Directive (2007/60/EC), as enacted into domestic law by the Flood Risk Regulations 2009;
- The National Emission Ceiling Regulations 2018;
- The Town and Country Planning (General Permitted Development) (England) Order 2015;
- The Water Framework Directive (England and Wales) Regulations 2017;
- The Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015;
- Transport Act 2000*;
- Water Resources Act 1991; and
- Wildlife and Countryside Act 1981.

3.5.2. Where relevant and appropriate, an expanded explanation of the relevance of these Acts and Instruments is set out in the discrete topic chapters¹⁵.

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

3.5.3. The current EIA legislation for NSIPs is the 2017 EIA Regulations¹⁶. It revokes the 2009 EIA Regulations subject to transitional provisions in Regulation 37 of the 2017 EIA Regulations. The Applicant maintained in its Scoping Report that the transitional provisions applied to the application and hence had complied with the relevant provisions of the 2009 EIA Regulations at the Pre-application stage [APP-043, Appendix 1.1, paragraph 1.4.1].

3.5.4. The 2017 EIA Regulations came into force on 16 May 2017, one year after a Scoping Opinion request was made by the Applicant. Regulation 37(2)(a)(ii) of the 2017 EIA Regulations states that the 2009 EIA Regulations will continue to apply to any application for an order granting development consent or subsequent consent where before the commencement of the 2017 Regulations, the Applicant had requested the SoS adopt a Scoping Opinion defined by the 2009 EIA Regulations.

¹⁵ Those marked with an asterisk are expanded below

¹⁶ Available at: <http://www.legislation.gov.uk/ukxi/2017/572/contents/made>

- 3.5.5. The Applicant requested a Scoping Opinion from the SoS on 30 June 2016, and that opinion was adopted by the Planning Inspectorate on behalf of the SoS on 10 August 2016. The SoS drew the Applicant's attention to EU Directive 2014/52/EU (amending Directive 2011/92/EU), which was made in April 2014 [[APP-043](#), Appendix 1.2]. Under the terms of the 2014/52/EU Directive, Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 16 May 2017. Whilst transitional provisions will apply to such new regulations, the Applicant was advised to consider the effect of the implementation of the revised Directive in terms of the production and content of the ES [[APP-033 to APP-074](#)].
- 3.5.6. For these reasons, the Applicant based its ES on the 2017 EIA Regulations. The Applicant felt it was not necessary to request a new Scoping Opinion. Rather the scope of assessment for those new topics (namely Chapter 15: Human Health [[APP-034](#)], Chapter 16: Climate Change [[APP-034](#)] and Chapter 17: Major Accidents and Disasters [[APP-035](#)]) that need to be considered as a result of this DCO application being made under the 2017 EIA Regulations is documented within the ES and was made available to both statutory and non-statutory consultees within the 2018 PEIR used for the 2018 public consultation.
- 3.5.7. The EIA Regulations establish the minimum information to be supplied by the Applicant within an ES, as well as information that an ExA can request as being reasonably justified given the circumstances of the case. Schedule 4 represents the minimum requirements for an ES under the EIA Regulations.
- 3.5.8. The ExA in reaching its conclusions and recommendation has taken the environmental information as defined in Regulation 3(1) (including the ES and all other information on the environmental effects of the development) into consideration (see chapters 4 to 6 of this report).

Climate Change Act 2008

- 3.5.9. The Climate Change Act 2008 (CCA2008) is the basis for the UK's approach to tackling and responding to climate change. It requires that emissions of carbon dioxide and other greenhouse gases (GHGs) are reduced and that climate change risks are prepared for. The CCA2008 also establishes the framework to deliver on these requirements.
- 3.5.10. The CCA2008 supports the UK's commitment to urgent international action to tackle climate change. It commits the UK government by law to reducing GHG emissions by at least 80% of 1990 levels by 2050. This includes reducing emissions from the devolved administrations (Scotland, Wales and Northern Ireland), which currently account for about 20% of the UK's emissions. The 80% target was based on advice from the

Committee on Climate Change's (CoCC's) 2008 report Building a low-carbon economy¹⁷.

- 3.5.11. Towards the close of the Examination the CCA2008 was amended by The Climate Change Act 2008 (2050 Target Amendment) Order 2019¹⁸ to a 100% net zero target by 2050. The recommendations in this report have taken account of this change.
- 3.5.12. This is of relevance to biodiversity; flood risk; air quality; traffic and transport; and operational matters arising from the Proposed Development and reported in chapter 6 of this report.

Human Rights Act 1998

- 3.5.13. Article 6 of the Human Rights Act 1998 (HRA1998) states that:
- "In the determination of his civil rights and obligations [...], everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."*
- 3.5.14. Article 8: Right to respect for private and family life of the HRA1998 states that:
- "1 Everyone has the right to respect for his private and family life, his home and his correspondence.*
- 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."*
- 3.5.15. The First Protocol: Article 1 - Protection of property of the Human Rights Act 1998 states that:
- "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
- The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."*

¹⁷ Available at: <https://www.theccc.org.uk/tackling-climate-change/the-legal-landscape/the-climate-change-act/>

¹⁸ Available at: http://www.legislation.gov.uk/ukxi/2019/1056/pdfs/ukxi_20191056_en.pdf

3.5.16. The ExA has had full regard to the provisions of this legislation and, in particular, the Articles cited above in considering all aspects of the application and of the Proposed Development.

3.5.17. **The ExA concludes that it has fully addressed the provisions in Article 6** in that:

- It held four OFHs of which all IPs were informed within the prescribed period and at which any IP that wished to speak was given the opportunity to do so;
- it held eight ISHs of which all IPs were informed within the prescribed period and at which any IP that wished to speak was given the opportunity to do so;
- it held two CAHs of which all AP
- were informed within the prescribed period and at which any AP that wished to speak was given the specific opportunity to do so in a specific item on the agendas;
- all of the OFHs, ISHs and CAHs were held in public with no part on the sessions being held in private and the press were welcomed to attend all sessions and did so on a number of occasions; and
- both the ExA's Recommendation Report and the SoS's decision and statement of reasons will be pronounced publicly.

3.5.18. The ExA considers that, in the case of this application, Articles 1 and 8 are potentially particularly engaged in respect of noise and the request for CA and are dealt with in more detail in the parts of this report that deal with these issues.

Equality Act 2010 (Public Sector Equality Duty)

3.5.19. The Public Sector Equalities Duty (PSED) is established through s149 of the Equality Act 2010¹⁹. The duty requires that the ExA in the exercise of its functions, has due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.5.20. The 'relevant protected characteristics' under this Act are: Age; disability; sex; gender reassignment; pregnancy and maternity; race; religion or belief; and sexual orientation.

3.5.21. In coming to its conclusions throughout this report, the ExA has had close regard to its duties under this legislation.

3.5.22. In particular, it is aware that a number of RRs received specify that persons who may be impacted by aspects of the Proposed Development

¹⁹ Available at: <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

share a relevant protected characteristic [[RR-0741](#), [RR-0782](#), [RR-0198](#), [RR-1464](#), [RR-1798](#), [RR-1828](#), [RR-1982](#)].

- 3.5.23. Examples of this include people who are housebound, disabled, have stress related illness, have children with special educational needs or who are elderly.
- 3.5.24. In respect of such representations, the ExA has had particular regard to s149(4) which states that:
- "The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities."*
- 3.5.25. The ExA has sought to fulfil the requirements of the PSED in part by the ways in which it has managed its Examination. It, for example, ensured that all the venues for the hearings were fully accessible and offered hearing loops. It offered written material in alternative forms. It allowed representations to be made at hearings by persons acting on behalf of others for whom making such submissions may have presented difficulties and allowed extra time for those not certain of the procedures operated at hearings.
- 3.5.26. Whilst the ExA has had close regard to the need to fulfil the requirements of PSED across all the issues it has particularly focussed on the issues of transport, the design of the Proposed Development and the issue that is raised most amongst the RRs quoted above and by other IPs - noise.
- 3.5.27. The impact of PSED is, therefore considered in more detail in those parts of this report which deal with these issues.

Sector-specific UK law, guidance and procedures

Civil Aviation Act 1982, 2006 and 2012

- 3.5.28. The Civil Aviation Act is the principal legislation for the regulation of aircraft operations. The Act covers the functions of the SoS and the CAA in relation to aviation, and, amongst other issues, sets down the general objectives, duties and financial provisions of the CAA. The Act provides for aerodromes to fix charges based on noise and emissions, establish noise control schemes, restrict use of land for the purposes of securing safety, and provides powers to regulate air navigation.
- 3.5.29. The Act was updated in 2006 when additional powers to avoid, limit or mitigate the effects of noise connected with departures or arrivals of aircraft at an aerodrome were introduced.
- 3.5.30. The Act was further updated in 2012 to motivate airports to deliver better facilities, provide more information for passengers and give greater incentives for airports to prepare for disruptive events such as severe weather.

3.5.31. Relevant provisions of the Civil Aviation Act are considered in conjunction with relevant issues in Chapter 6 of this report.

Transport Act 2000

3.5.32. For aviation the Transport Act established the framework for the creation of a public-private partnership of NATS.

The Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003

3.5.33. These regulations designate 'competent authorities' for the purposes of EU Regulation 598/2014 which establishes the rules and procedures on the introduction of noise-related operating restrictions at airports within a 'Balanced Approach' to noise management, as promoted by the ICAO.

3.5.34. There are 4 principal elements to the Balanced Approach:

- The reduction of noise at source;
- land-use planning and management;
- noise abatement operational procedures; and
- operating restrictions.

3.5.35. The role of competent authorities is to ensure that the Balanced Approach is applied when operating restrictions are considered or implemented. In doing so the competent authorities must ensure that there is appropriate consultation, that any operating restrictions are cost effective and that operating restrictions are only adopted if no other measures are appropriate to address the noise problem.

3.5.36. The Balanced Approach is considered in Chapter 6 of this report.

Civil Aviation Authority and the Aerodrome Licence

3.5.37. The CAA is the UK's specialist aviation regulator, and works to ensure that the aviation industry meets the highest safety standards, that consumers have choice, value for money, are protected and treated fairly when they fly, that the environmental impact of aviation on local communities is effectively managed and CO₂ emissions are reduced through the efficient use of airspace, and that the aviation industry manages security risks effectively. Any airport in the UK which is used for commercial passenger flights, public transport flights and / or flying training in aircraft above a specified weight, is required to obtain an Aerodrome Licence from the CAA.

3.5.38. The CAA's principal functions and duties are set out in primary legislation (the Civil Aviation Act 1982, the Airports Act 1986, the Transport Act 2000 and the Civil Aviation Act 2012) and in secondary legislation (principally the Air Navigation Order 2017). Section 70 of the Transport Act 2000 places the CAA under a general duty in relation to its air navigation functions to exercise those functions so as to maintain a high standard of safety in the provision of air traffic services. That duty is to have priority over the CAA's other duties in this area of work.

- 3.5.39. Consideration of progress towards the Aerodrome Licence and its implications for the Proposed Development is contained within Chapter 6.

Air Navigation Guidance 2017

- 3.5.40. Section 70(2) of the Transport Act 2000 requires the CAA to take account of any guidance on environmental objectives given to it by the SoS when carrying out its air navigation functions. These functions are set out in the SoS's Air Navigation Directions 2017, as amended in 2018, made under sections 66(1) and 68 of the Transport Act 2000.

Airspace change

- 3.5.41. Changes to the design of UK airspace are proposed by an airspace change sponsor, usually an airport or a provider of air navigation services (including ATC). The CAA requires the change sponsor of any permanent change to the published airspace design to follow their ACP. Subject to operational constraints (including safety), the design of airspace, and the ACP, do not specify, or limit future increases in, the volume of air traffic using a piece of airspace at any given point in time. The volume of air traffic using an airport may however be addressed by land-use planning conditions, where relevant.
- 3.5.42. The CAA document CAP1616: Airspace Design: Guidance on the regulatory process for changing airspace design including community engagement requirements provides guidance on the ACP. The Applicant's ACP submission, which will need to be accompanied by an ES, is considered in Chapter 6, below.
- 3.5.43. The ACP is a discrete process under the CAA but is a relevant and important consideration for aspects of this land-use decision.
- 3.5.44. In addition, the Applicant has identified a range of other aviation-related consents that will be required from the CAA. These are defined in the document Details of Other Consents and Licences that may be required [[APP-087](#)] and are largely concerned with the provision of air traffic services, commercial aeronautical and meteorological information, and licences for aeronautical and navigation aid radio, fire, operations control, and radar.

European Aviation Safety Agency (EASA) and the EASA certificate

- 3.5.45. EASA are an agency of the EU with regulatory and executive tasks in the area of civil aviation safety. Most aviation regulation and policy is harmonised across the world to ensure consistent levels of safety and consumer protection. Worldwide safety regulations are set by the ICAO and within Europe by the EASA.
- 3.5.46. Aerodromes within the UK are within the scope of EASA and are required to obtain an EASA certificate if they are open to public use and serve commercial air transport operations and have a published instrument approach or departure procedure and have a paved runway of 800 metres or above or exclusively serve helicopters. Commission Regulation

(EU) No 139/2014 contains the Implementing Rules that cover all EASA aerodromes.

Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002

- 3.5.47. Certain civil aerodromes on the basis of their importance to the national air transport system are officially safeguarded in order to ensure that their operation is not impacted upon by proposed developments. Aerodrome safeguarding covers aspects such as:
- Protecting the airspace around an aerodrome to ensure no buildings or structures may cause danger to aircraft either in the air or on the ground;
 - protecting the integrity of radar and other electronic aids to navigation;
 - protecting aeronautical lighting, such as approach and runway lighting;
 - protecting the aerodrome from any increased wildlife strike risk;
 - preventing any construction processes from interfering with aerodrome operations; and
 - protecting aircraft from the risk of collision with obstacles through appropriate lighting.
- 3.5.48. The Direction provides details of the system of safeguarding, lists the civil aerodromes which are officially safeguarded and lists the Local Planning Authority (LPA) areas containing civil en-route technical sites for which separate official safeguarding maps have been issued.
- 3.5.49. The MoD (RAF Manston) Technical Site Direction 2017 provides the current safeguarding map for the technical site of Manston Airport. Consideration of any effects of the Proposed Development upon the current safeguarded site and upon the future safeguarding of the potential civil aerodrome that the Proposed Development entails are contained within chapters 4 and 5.

3.6. MADE DEVELOPMENT CONSENT ORDERS

- 3.6.1. There are no made Development Consent Orders (DCO) that directly impinge on the Proposed Development.
- 3.6.2. An Application for a DCO for Thanet Extension Offshore Wind Farm²⁰ by Vattenfall Wind Power Limited relates to the Proposed Development insofar as the Applicant has submitted a SoCG with Vattenfall Wind Power Limited [[REP3-177](#)] at the request of the ExA. The Application by Vattenfall was due to be submitted for decision to the SoS for Business, Energy and Industrial Strategy after the close of this Examination.

²⁰ Available at:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/thanet-extension-offshore-wind-farm/>

3.7. TRANSBOUNDARY EFFECTS

3.7.1. The Planning Inspectorate undertook two Transboundary Screenings [[OD-001](#)].

3.7.2. The first screening took place on 18 July 2017 following the issue of a Scoping Opinion by the SoS. The first screening concluded that:

“Under Regulation 24 of the 2009 EIA Regulations and on the basis of the current information available from the Applicant, the Inspectorate is of the view that the Proposed Development is not likely to have a significant effect on the environment in another EEA State.

In reaching this view the Inspectorate has applied the precautionary approach (as explained in its Advice note Twelve: Transboundary Impacts Consultation); and taken into account the information currently supplied by the Applicant.”

3.7.3. The Application was re-screened on 30 January 2019 after the submission of the application documents on 17 July 2018 and the SoS’s decision to accept the application for examination on 14 August 2018.

3.7.4. This screening noted that:

“On 16 May 2017 the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the 2017 EIA Regulations) came into force. RSP opted to prepare its ES in accordance with the requirements of the 2017 EIA Regulations. This transboundary screening has therefore been completed in accordance with Regulation 32 of the 2017 EIA Regulations.”

3.7.5. The second screening concluded that:

“Under Regulation 32 of the 2017 EIA Regulations and on the basis of the current information available from the Applicant, there is no change to the previous conclusion, and the Inspectorate remains of the view that the Proposed Development is not likely to have a significant effect on the environment in another EEA State.

In reaching this view the Inspectorate has applied the precautionary approach (as explained in its Advice Note twelve: Transboundary Impacts); and taken into account the information currently supplied by the Applicant.”

3.7.6. Both screenings concluded that no further action is required at this stage.

3.7.7. A representation on transboundary issues was received from Mr C. Lowe [[AS-162](#)] who requested that the Transboundary Screening be revisited and revised on the grounds that there would be major climate heating effects of the proposal, primarily from the aircraft, especially where these fly over EEA states, but also from all the associated activity including road transport, and other developments.

- 3.7.8. The ExA considered this submission but note that international flights are exempt from the CCA2008 and the Net Zero targets.
- 3.7.9. In undertaking the transboundary impact assessment the Planning Inspectorate noted that the assessment is whether “*the Secretary of State is of the view that the development is likely to have significant effects on the environment in another EEA State*”.
- 3.7.10. Because of the global nature of the aviation emissions it does not consider that there is a means of attributing a significant effect on a specific EEA state, so this has to be considered at a more global level.

3.8. OTHER RELEVANT POLICY STATEMENTS

3.8.1. The following policy documents are also referred to in relevant chapters of this report:

- Air Quality Guidelines for Europe, World Health Organisation, 2000;
- Air Quality Technical Planning Guidance, TDC in conjunction with the Kent and Medway Air Quality Partnership, August 2016;
- Aviation Policy Framework, HM Government, March 2013;
- Aviation 2050 – the future of UK aviation: A Consultation, HM Government, December 2018 (and supplementary reports);
- Aviation strategy: making best use of existing runways, HM Government, June 2018;
- Beyond the Horizon: The future of UK aviation. Next steps towards an Aviation Strategy, HM Government, April 2018;
- Biodiversity 2020: A Strategy for England’s wildlife and ecosystem services, HM Government, August 2011;
- Circular 01/2003 – Safeguarding aerodromes, technical sites and military explosives storage areas, HM Government (DfT), 2003;
- Circular 01/2010 – Control of development in airport public safety zones, HM Government (DfT), 2010;
- Environmental Noise Guidelines for the European Region, World Health Organisation, 2018;
- Local Transport Plan 4 (LTP4): Delivering Growth without Gridlock 2016-2031, KCC, 2017;
- Noise Policy Statement for England, HM Government, March 2010;
- Thanet District Transport Strategy 2015-2031 (Draft Version 2), KCC;
- The Air Quality Strategy for England, Scotland, Wales and Northern Ireland, HM Government March 2011; and
- The Clean Air Strategy, HM Government, January 2019.

3.9. THE NATIONAL PLANNING POLICY FRAMEWORK AND PLANNING PRACTICE GUIDANCE

3.9.1. The relevant version of the National Planning Policy Framework (NPPF) at the time the Examination closed on 9 July 2019 was the February 2019 version²¹.

3.9.2. The NPPF states at paragraph 5 that:

"The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework)".

3.9.3. The ExA considers that the NPPF is relevant to the examination of the Proposed Development and have taken account of relevant policies during the Examination and note that a number of representations, including those from the Applicant, made reference to specific provisions in the NPPF.

3.9.4. The NPPF does contain one policy of more direct importance and relevance to this Application. Paragraph 104(f) states that:

"Planning policies should recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government's General Aviation Strategy."

3.9.5. Planning Practice Guidance is also taken into account where appropriate; in particular in the advice on the imposition of planning conditions²² has applied to the ExA's consideration of the appropriateness of Requirements in Schedule 2 of the dDCO [[PD-018](#)].

3.9.6. The content and provisions of the NPPF are referred to and quoted in each of the issue sections of Chapter 6 of this report, where relevant.

3.10. THE DEVELOPMENT PLAN

3.10.1. The application site is located entirely within the administrative area of TDC. The Development Plan in Thanet consists of the:

- Saved Policies of the LP adopted in June 2006;
- Kent Minerals and Waste Local Plan, adopted in July 2016; and
- Cliftonville Development Plan Document, adopted in February 2010.

3.10.2. The Development Plan is not a statutory consideration specified in s105 of the PA2008. Notwithstanding this, in the case of this application the

²¹ Available at: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

²² Available at: http://www.legislation.gov.uk/ukxi/2019/1056/pdfs/ukxi_20191056_en.pdf

Panel consider that the Saved Policies of the LP are important and relevant.

- 3.10.3. The saved policies are referred to and quoted in each of the issue sections of Chapter 6 of this, where relevant.
- 3.10.4. TDC is in the process of preparing a new Local Plan, which was submitted to the SoSMHCLG for examination on 30 October 2018. At the time this report was submitted to the Secretary of State for Transport, the examination of TDC's new Local Plan was on-going. Until it has been adopted, the LP will remain the statutory local planning policy document for Thanet.
- 3.10.5. It is unclear at this time whether the emerging Local Plan (eLP) will be adopted before end of the statutory time period for determining this application. Nonetheless, given the eLP's advanced stage of preparation, the Panel also considers it to be important and relevant.
- 3.10.6. The policies of the eLP are referred to and quoted in each of the issue sections of Chapter 6 of this report, where relevant.

3.11. THE SECRETARY OF STATE'S POWERS TO MAKE A DCO

- 3.11.1. The ExA has remained aware throughout the Examination of the need to consider whether changes to the application documents have changed it to a point where it became a different application and whether the SoS would have power therefore under s114 of the PA2008 to make a DCO having regard to the development consent applied for²³.
- 3.11.2. Planning Act 2008: Guidance for the examination of applications for development consent²⁴ provides guidance at paragraphs 109 to 115 in relation to changing an application post Acceptance. The view expressed by the Government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made.
- 3.11.3. Having considered this context throughout the Examination, it is clear that the changes to the application (primarily consisting of minor changes to the application, a review of these within the framework provided by the ES and technical revisions to the DCO as applied for), have not resulted in any significant change to that which was applied for. The changes taken into account in reaching this conclusion are documented in Chapter 2 of this report, above.

²³ Planning Act 2008: Guidance for the examination of applications for development consent, DCLG

²⁴ Correspondence from Bob Neill MP, Parliamentary Under Secretary of State to Sir Michael Pitt, Chair, Infrastructure Planning Commission, DCLG (28 November 2011)

- 3.11.4. It follows that the SoS has the power to make the DCO as provided in Appendix D to this report.

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

4.1.1. The IAPIs for the Examination was set out in the Rule 6 letter, dated 11 December 2018 [[PD-005](#)] and amended in the Rule 8 letter dated 18 January 2019 [[PD-006](#)] following discussion at the PM held on 9 January 2019 [[EV-001](#)].

4.1.2. The list of Principal Issues as modified by the Rule 8 letter is as follows:

Air quality – to include:

- i. Cumulative effects of road and air traffic, including ground-based operations*
- ii. The effects on the Thanet Urban Air Quality Management Area (AQMA) and designated sites*

Compulsory Acquisition – to include:

- i. Whether all of the land which the Applicant wishes to acquire compulsorily has been shown to be necessary for the purposes of the Proposed Development*
- ii. The compelling case in the public interest for Compulsory Acquisition*
- iii. Alternatives to Compulsory Acquisition, including modifications to the Proposed Development and attempts to acquire by agreement*
- iv. The management of potential risks or impediments to implementation including the need to obtain other permits*
- v. Crown Land*
- vi. Special Category Land*
- vii. The position of Statutory Undertakers*

Funding – to include:

- i. Sources and availability of funding and the degree to which bodies have agreed to make financial contributions or to underwrite the Proposed Development, and on what basis such contributions or underwriting are to be made*
- ii. Further details of responsible bodies, including details of relevant Company assets, structures, ownership, Directors, proofs of willingness to invest and track record of developing and operating nationally significant infrastructure projects, notably airports*
- iii. The bases for the estimates of costs*
- iv. Funding for the scheme as a whole*
- v. Funding for Compulsory Acquisition if authorised, including for blight*
- vi. Funding for the Noise Mitigation Plan*

vii. Provisions in the draft Development Consent Order (dDCO) for guarantees in respect of payment of compensation

viii. The soundness of the business case and viability of the business model

ix. Whether there is a realistic prospect of the Proposed Development proceeding should it be consented

Habitat Regulations Assessment and effects on biodiversity – to include:

i. Likely significant effects on European protected sites and species, including conclusions regarding effects on integrity

ii. Effects on other habitats and species, including bird scaring techniques and habituation

Landscape, design, archaeology and heritage – to include:

i. The effect on Conservation Areas

ii. The Effect on Ramsgate Heritage Action Zone

iii. The effects on Scheduled Monuments

iv. The effects on Listed Buildings

v. The effects on heritage assets within the airport site

vi. Management and mitigation of impacts on archaeological features

vii. The design approach taken, including the parameters-based approach and justification for the sought provisions in Article 6 of the dDCO regarding limits of deviation

viii. Masterplanning

ix. Landscaping and planting schemes including any proposals for off-site mitigation schemes

Planning policy – to include:

i. The status of, and policy framework provided by, the Saved Policies from the 2006 Thanet Local Plan and the Draft Thanet Local Plan – 2031

ii. History of relevant planning policies and proposals on the site

Need – to include:

i. National and regional airports and air transport policy and guidance

ii. UK airport air cargo capacity and forecasts, including locational demands and cargo types/ markets

iii. Need for any airport development to take place at Manston

iv. Competition with, and possible displacement from, other UK airports

Noise – to include:

i. The assessment of effects on humans and faunal species

- ii. The Noise Mitigation Plan including the choice of relevant noise contours*
- iii. The use of aircraft quota count restrictions*
- iv. Cumulative effects of aircraft and road traffic noise*
- v. Location of noise monitors*
- vi. Outdoor and indoor impacts of noise*
- vii. Noise impacts of previous airport operations*
- viii. Limitations and uncertainty of noise modelling*

Operational issues – to include:

- i. Operational relationship to, and progress with, the Airspace Change Process*
- ii. Air Traffic Movements*
- iii. Progress with Aerodrome Certificate*
- iv. Night flights*
- v. Phasing*
- vi. Safety and security*
- vii. Customs and immigration*
- viii. Major accidents and incidents*
- ix. Aerodrome safeguarding*

Other environmental issues - to include:

- i. Baseline data*
- ii. Identification of worst-case scenarios*
- iii. Cumulative effects, including the relationship to the proposal by Vattenfall Wind Power Ltd*
- iv. Effects of construction, operation, maintenance and decommissioning methods, including waste and soil management*
- v. Approach to mitigation and monitoring*
- vi. Opportunities for enhancement*
- vii. Flood risk*
- viii. Impacts on land and water quality, including effects on the aquifer and drainage discharge to designated nature conservation sites*
- ix. Public health, including mental health, including night flights and cumulative effects*
- x. Unexploded Ordnance, Buried munitions and other military material*

Socio-economic issues – to include:

- i. Effects on the tourism/ holiday trade*
- ii. Estimates of employment generation*
- iii. Scope for local employment*
- iv. Cumulative effects regionally in South East of other proposed airport developments*
- v. Scope for training and education schemes*
- vi. Scope for agreements to provide benefits for communities*
- vii. The possible existence of war graves*

Traffic and transport – to include:

- i. Strategic and local transport modelling, including the traffic effects of the Proposed Development on the national road network, notably the M2/A2 corridor and cumulative impacts with other proposed developments*
- i Capacities of existing road networks*
- iii. Effectiveness of mitigation measures for road network*
- iv. The proposals for Thanet Parkway railway station*
- v. The effects of construction traffic*
- vi. The effects of operational traffic, including to and from the proposed fuel farm*
- vii. The effects of freight traffic*
- viii. The effects of passenger traffic, including the adequacy of parking*
- ix. The effects of Operation Stack and Operation Brock*
- x. The effects on Public Rights of Way*

- 4.1.3. As subsequent chapters of this Recommendation Report demonstrate, the ExA had full regard to these Principal Issues in structuring and focussing the examination of this application together with any other matters which arose during the Examination and which may be important and relevant to the decision under s105 of the PA2008.

4.2. OTHER ISSUES ARISING IN WRITTEN SUBMISSIONS

- 4.2.1. The Examination was wide ranging and covered all the issues identified in 4.1, above. As part of this consideration of issues and subsumed within them more detailed examination was undertaken of three issues not specified on the above list. These were:

- The location / relocation of a MoD HRDF, covered below in particular in consideration of operations issues (Chapter 6) and CA (Chapter 9);
- passenger forecasts, covered in particular in consideration of need (Chapter 5) and traffic and transport issues (Chapter 6); and

- the proposed Manston Green development²⁵, covered in particular in consideration of noise, traffic and transport issues (Chapter 6) and CA (Chapter 9).

4.3. ISSUES ARISING IN LOCAL IMPACT REPORTS

4.3.1. Reference is made to relevant specific parts of LIR in subsequent chapters but, in addition, the main issues raised in them are summarised below.

Canterbury City Council

4.3.2. The LIR from CCC [[REP3-246](#)] raised issues in relation to noise and vibration, traffic, air quality, socio-economic issues and landscape and visual impact.

4.3.3. The LIR concludes (paragraph 5.1) that there are outstanding matters relating to noise and highways impacts.

4.3.4. Paragraph 4.3 states, in relation to the impact of noise and vibration resulting from the operation of the airport:

"The proposed operation of the airport has the potential to result in noise and disturbance to residents living within the Canterbury District, including those in Herne Bay."

4.3.5. In terms of traffic, paragraph 4.8 states that:

"Impact of traffic generated during the operational phase of the proposed development on the local highways network within CCC's district."

4.3.6. In terms of air quality, the LIR states at paragraph 4.12 that:

"CCC's Environmental Health team have commented that the air quality assessment submitted with the application does not identify any human receptors within CCC's district and raise no objections to the application on air quality grounds."

4.3.7. In relation to socio-economic issues, the LIR states in paragraph 4.16 that:

"CCC recognise the generally positive economic impacts for its district associated with the proposed development and so there is some potential for the local economy to benefit and exploit economic opportunities arising out of the proposed development."

4.3.8. CCC rely on the expertise of KCC and Natural England in assessing the likely ecological impacts of the Proposed Development on

²⁵ Outline planning permission for 785 dwellings and associated infrastructure (LPA ref. OL/TH/14/0050) [[REPS-068](#)]

environmentally designated sites within its district and identifying necessary mitigation measures.

4.3.9. Paragraph 4.23 states that:

"...the proposed development would result in a visual impact and change in landscape but given the separation distance, it is considered that this would not be significant in respect of CCC's district."

Dover District Council

4.3.10. The LIR from DDC [[REP3-227](#)] concludes in relation to noise and to socio-economic effects that:

"...the Council recognises the potential positive socio-economic benefits of the proposed development for the East Kent area [...], the Council agrees with the noise levels presented by the Applicant for communities identified across the Dover District and stipulates that consideration is given to noise exposure from an operating Manston Airport for any new or refurbished developments within the administrative area."

4.3.11. In terms of transport and traffic, DDC relies on the expertise of KCC, as Local Highway Authority, in assessing and evaluating the impacts of the Proposed Development on the highway network and the identification of any associated mitigation measures, where necessary.

4.3.12. In terms of biodiversity, DDC relies on the expertise of KCC and Natural England in assessing the likely ecological impacts of the Proposed Development on environmentally designated sites within the district and identifying any necessary mitigation measures.

4.3.13. In terms of heritage, DDC relies on the expertise of KCC Heritage Conservation and Historic England in assessing the potential impact of the Proposed Development on the historic environment.

Kent County Council

4.3.14. The LIR from KCC [[REP3-143](#)] covers the issues of highways and transportation; noise; PRowS; heritage and conservation; and freshwater environment and provides detailed comments on each of these.

4.3.15. These detailed comments are drawn on in the drafting of the issue-based chapters in this report and are briefly summarised below.

4.3.16. In terms of noise, KCC considers the impacts of noise on local communities including different sensitivities, night noise, the efficacy of voluntary quotas, the effectiveness of proposed mitigation including insulation and relocation and concludes by requesting that the Proposed

Development should be compliant with World Health Organisation Environmental Noise Guidelines for the European Region²⁶.

- 4.3.17. With respect to PRowS, KCC would expect monies to be secured to improve the surface of the existing and diverted bridleways to a minimum width of 3m along the entire length, which will include bridleways TR8 and TR10.
- 4.3.18. KCC focuses on the adequacy of the surveys that the Applicant has been able to undertake to evaluate the archaeological value of the site of the Proposed Development and whether the provisions in, and secured through, the dDCO) are sufficient to deal with the situation in which further archaeological assets may be discovered.
- 4.3.19. Similarly, KCC states that the it is difficult to understand from the application which built heritage assets will be affected by the present plans and what may be retained.
- 4.3.20. KCC notes the dDCO does not currently include provision for KCC as Lead Local Flood Authority (LLFA).
- 4.3.21. For highways and transport, KCC conclude that:

"The Site- and junction-specific – rather than strategic – approach to capacity assessment taken in the TA has been shown to be inappropriate, resulting in highway mitigation proposals that deliver only partial benefits and which do not align with or incorporate the robust, long-term solutions proposed by the Thanet Transport Strategy.

The Local Highway Authority has safety concerns with a number of the proposed mitigation measures, and is also concerned that the Proposed Development could give rise to on-street parking on the surrounding highway network."

Thanet District Council

- 4.3.22. The LIR from TDC [[REP3-010](#)] provides detailed comments on a range of local impacts which have been addressed and drawn upon in subsequent chapters in this report.
- 4.3.23. The summary of the LIR states at paragraphs 5.1.1. and 5.1.2 that:

"...the current application and dDCO does not adequately mitigate or make the necessary provisions in order to address the negative local impacts at this current time...

There are several gaps within the ES that have a fundamental impact on the local area that will need to be assessed. In particular, these include:

²⁶ Available at: <http://www.euro.who.int/en/health-topics/environment-and-health/noise/publications/2018/environmental-noise-guidelines-for-the-european-region-2018>

- *The proposed job creation and the direct and indirect socio-economic impacts particularly in relation to housing;*
- *Noise and vibration impacts on residential, school and community receptors from daytime and night time noise levels, particularly those located within 1km of the airport and under the flight swathes;*
- *Noise mitigation considerations for heritage assets;*
- *The impacts on the Thanet Urban AQMA and the need for continuous air quality monitoring stations and funding to ensure the effectiveness of the proposed mitigation;*
- *Generic proposals for contamination which are insufficient in demonstrating significant effects can be avoided;*
- *The assessment of the landscape value as been low and lack of full methodology and mitigation;*
- *The need for further site investigation in the Northern Grass Area;*
- *The conflict between the delivery of draft Policy SP47 – Strategic Routes which includes a relief road from Manston Court Road to Manston Road – B2050 that crosses the Northern Grass.*
- *An underestimation of the impact on Climate Change in relation to the objectives set out in Aviation 2050: The Future of UK Aviation; and*
- *The lack of accordance with certain policies of both the adopted and local plan."*

4.4. CONFORMITY WITH NATIONAL POLICY STATEMENTS

- 4.4.1. The ANPS is not designated in relation to the application to reopen and develop Manston Airport and therefore the Examination of this Application has been conducted under s105 of the PA2008 which applies to decisions in cases where no National Policy Statement has effect.
- 4.4.2. However, as stated in Chapter 3 above, the ExA considers that the ANPS is an important and relevant consideration under s105(2) of the PA2008.
- 4.4.3. The content and provisions of the ANPS are referred to and quoted in each of the issue sections of Chapter 6 of this report, where relevant.
- 4.4.4. In examining this application, the ExA has also had regard to the NPSNN designated by the DfT on 17 December 2014. The NPSNN, which the ExA considers is also a relevant and important consideration under s105(2) of

the PA2008, is referred to in the section of Chapter 6 that deals with traffic and transport.

4.5. CONFORMITY WITH THE DEVELOPMENT PLAN

- 4.5.1. The Saved Policies of the LP include several policies relevant to the principle of the Proposed Development. Policy EC2 supports the development, expansion and diversification of the airport, subject to certain criteria that relate largely to mitigating potential impacts, such as, noise, air quality, landscape and visual, transport and the water environment. Policy EC4 safeguards land at the airport (shown on the policies map) for airside development. Further, Policy EC5 safeguards land to the east of the existing terminal building (shown on the policies map) for terminal related purposes. The ExA therefore considers that the principle of the development is supported by the development plan, subject to it being acceptable in other regards. This is considered under each of the main issues in Chapter 6 below and relevant development plan policies specific to those subjects have been drawn upon and considered where necessary.
- 4.5.2. Further, TDC's LIR [[REP3-010](#)] states at paragraph 4.1.4:
- "The adopted Thanet Local Plan 2006 allocates Manston Airport for aviation uses and airside development... TDC does not object to the development of the Manston Airport for aviation and has made significant efforts to support a functioning aviation use on the site".*
- 4.5.3. As set out in Chapter 3 of this report, the eLP is currently undergoing examination. The eLP is at an advanced stage of its preparation, but there has been a significant level of objections associated with matters relevant to the airport. On this basis, the ExA considers that moderate weight should be afforded to the eLP at the time of preparing this recommendation. The weight to be afforded to specific eLP policies that are relevant to each main issue in Chapter 6 below will be considered in those section where necessary.
- 4.5.4. Notwithstanding the above, the submission eLP takes a neutral stance with regard to the application site and whilst it is not allocated for aviation use, it has also not been allocated for any other use. The eLP refers to this application for development consent and sets out that this approach has been taken so that this application is not prejudiced. As it is currently drafted, the ExA considers that in principle of the Proposed Development does not conflict with the eLP.
- 4.5.5. The ExA has been made aware by several IPs that the Inspectors examining the eLP have requested that a main modification is drafted in relation to the application site. It is understood that this would potentially safeguard the site for aviation use and would allow other uses to be considered if development consent was refused. There remains a large amount of uncertainty around this matter, however, if the eLP was to be changed in this way, the ExA does not believe it would result in any conflict with the Proposed Development.

4.5.6. On a related matter, TDC in its LIR [[REP3-010](#)] at paragraph 4.2.6 state:

“The implications of the job creation purported from this project would significantly affect the OAN for housing within the East Kent region. The impact is a likely significant increase in housing requirements in Thanet”.

4.5.7. Whilst this concern is acknowledged, the Secretary of State for Housing, Communities and Local Government wrote to TDC on 28 January 2019 in relation to a Local Plan Intervention. This set out that following the adoption of the eLP, a review would need to be undertaken within six months.

4.5.8. The ExA considers that should the Proposed Development be granted development consent the early review of the Local Plan would be an appropriate time and mechanism to consider such effects.

4.6. APPLICATION OF OTHER POLICIES

4.6.1. Where relevant, the policies listed at paragraph 3.8 of this report are referred to in chapters 5, 6, 7, 8, 9 and 10.

4.6.2. Where the ExA has relied upon any policy provisions within the documents listed in paragraph 3.8, it has made this clear.

4.7. ENVIRONMENTAL IMPACT ASSESSMENT

4.7.1. As is recorded in Chapter 1 of this report and for reasons set out there, the application is EIA development. This section records the documents comprising the Environment Statement (ES) and changes to those documents provided during the Pre-examination and Examination stages [[REP11-005](#)]. It also records the environmental management documents proposed to be used by the Applicant, which would be secured through the recommended dDCO (rdDCO), to ensure the application of mitigation within the worst-case parameters (the Rochdale Envelope) assessed in the ES during the construction and operation of the Proposed Development.

4.7.2. This section concludes on the question of whether the submitted ES and EIA process provide an adequate basis for decision-making by the SoS.

The submitted Environmental Statement

4.7.3. A standalone Non-Technical Summary (NTS) [[APP-032](#)] and ES was provided with the application documents. The documents comprising the ES are [[APP-033 to 074](#)].

Environmental management documents

4.7.4. The ES is supported by the following existing and intended environmental management documents, *inter alia*:

- NMP [[REP9-014](#)];
- REAC [[REP11-009](#)];

- Outline Construction Environment Management Plan (oCEMP) [[REP9-017](#)];
- Draft Operational Environmental Management Plan (OEMP) [[REP9-011](#)]; and
- Habitats of Protected Species Plan (HPSP) Part 1 [[APP-026](#)] and Part 2 [[APP-027](#)].

4.7.5. These documents are defined and would be secured through the rdDCO. For all of these documents, the final versions of specific plans under the frameworks they set will be prepared by the Applicant in consultation with TDC and other parties and be submitted to TDC to be approved [[REP8-016](#)].

An adequate Environmental Impact Assessment process and Environmental Statement

4.7.6. Numerous IPs raised concerns about the adequacy of the EIA process and the ES in RRs, WRs and in oral submissions at OFHs [[EV-008](#) and [EV-010](#), [EV-010a](#), [EV-010b](#), [EV-010c](#)] and ISHs [[EV-016](#), [EV-016a](#), [EV-016b](#), [EV-017](#) and [EV-0026a to 028](#)]. These concerns were addressed by the ExA in hearings and in four sets of written questions [[PD-007](#), [PD-010b](#), [PD-011](#) and [PD-020](#)].

4.7.7. The ExA considered the matters raised by IPs over the adequacy of the EIA process and of the ES during the Examination. The SoS considered that the ES was adequate for the purposes of examination during the Acceptance process.

4.7.8. The ExA has considered all documentation relevant to EIA, and has taken it into account in the conclusions reached here and in the planning balance (Chapter 7 of this report). A full account has been taken of all environmental information in the assessment of the application and in the recommendation to the SoS.

4.8. HABITATS REGULATIONS ASSESSMENT

4.8.1. As is recorded in Chapter 1 of this report and for reasons set out there, the application is subject to HRA. This section sets out the documents submitted to support the HRA process for this application.

4.8.2. The Proposed Development has been identified by the Applicant as giving rise to the potential for likely significant effects (LSE) on European sites and hence is subject to HRA as recorded in the RIAA [[REP7a-014](#)]. The SoS is the competent authority for the purposes of the Habitats Directive²⁷ and the Habitats Regulations²⁸. Regulation 63 of the Habitats Regulations states that if a plan or project is likely to have a significant

²⁷ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive').

²⁸ The Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations')

effect on a European Site as defined by the Habitats Regulations²⁹ (either alone or in-combination with other plans or projects), then the competent authority must undertake an appropriate assessment of the implications for that site in view of its conservation objectives.

- 4.8.3. As is conventional in ExA Recommendation Reports to inform SoS decisions prepared under the PA2008, a separate record of considerations relevant to HRA has been set out in Chapter 6 of this report. The SoS as the competent authority has been provided with necessary information to carry out an appropriate assessment by the ExA.
- 4.8.4. However, at this point in this chapter it is necessary to record that the ExA has considered all documentation relevant to HRA, and has taken it into account in the conclusions reached here and in the planning balance (Chapter 7 of this report). Further, project design and mitigation proposals included in the ES and secured in the rdDCO have been fully considered for HRA purposes.

²⁹ Sites of Community Importance (SCIs), Special Areas of Conservation (SACs), candidate SACs, Special Protection Areas (SPAs); and under UK policy, potential SPAs and listed Ramsar sites

5. NEED

Introduction

- 5.1.1. As set out in Chapter 3 of this report, the ANPS does not have effect in relation to the application to reopen and develop Manston Airport and therefore the examination of this application has been conducted under s105 of the PA2008 which applies to decisions in cases where no National Policy Statement has effect.
- 5.1.2. Paragraph 1.41 of the ANPS notes that the contents of the ANPS will be both important and relevant considerations in the determination of such an application, particularly where it relates to London or the South East of England and that:
- "Among the considerations that will be important and relevant are the findings in the Airports NPS as to the need for new airport capacity and that the preferred scheme is the most appropriate means of meeting that need."*
- 5.1.3. However, paragraph 1.42 of the ANPS states that the Government accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of the Northwest Runway at Heathrow.
- 5.1.4. As the examination of the Proposed Development is being conducted under s105 of the PA2008 the ExA is obliged to examine the need for the Proposed Development.

5.2. ISSUES

- 5.2.1. The Applicant's Statement of Reasons [[APP-012](#)] considers that there is an urgent need for dedicated air cargo capacity in the South East of England for the following reasons:
- That *"there is significant unmet need for local air cargo capacity which is currently either not being met at all or being met by trucking cargo through the Channel Tunnel to and from airports on mainland Europe"*;
 - that *"the existing airports in the region are primarily passenger airports with few cargo-only flights, which are often first to be displaced when there is disruption or delay"*; and
 - that *"the main airport to carry cargo is Heathrow, which carries around 95% [of the cargo it carries] in the holds of passenger aircraft, restricting it to the destinations and timetables served by passenger flights"* [[APP-012](#), paragraphs 4.9.1 to 4.9.3]
- 5.2.2. The Applicant's detailed justification of the need for the proposed development relies heavily on the Azimuth Report [[APP-085](#)] which was commissioned by the Applicant and forms part of the application suite. This report aims to answer three questions of its own setting:

- Does the UK require additional airport capacity to meet its political economic and social aims;
- should this capacity be located in the South East of England; and
- can Manston Airport relieve pressure on the UK airport network and meet the requirements of a NSIP?

5.2.3. The report contains four volumes, considering demand in the South East of the UK (Volume I), then a qualitative study of potential demand (Volume II), leading to the forecast (Volume III) and finally considering the economic and social impacts of airport operations (Volume IV). The forecast is replicated in the ES.

5.2.4. The ExA's IAPIs prepared in accordance with s88 of the PA2008 and Rule 5 of EPR was published with the Rule 6 letter [[PD-005](#)] and amended in the Rule 8 letter [[PD-006](#)] following discussion at the PM. The ExA had regard to the application documents and the RRs received in formulating this list. The Rule 6 letter made it clear that the list was not a comprehensive or exhaustive one and that regard would be had to all important and relevant matters in reaching a recommendation after the conclusion of the Examination. One of the main topic headings in this letter was that of Need. The Rule 6 and Rule 8 letters identified four non-exclusive sub-headings for this issue:

- i. National and regional airports and air transport policy and guidance;
- ii. UK airport air cargo capacity and forecasts, including locational demands and cargo types/ markets;
- iii. the need for any airport development to take place at Manston; and
- iv. competition with, and possible displacement from, other UK airports.

5.2.5. An ISH considering need was held on Thursday 21 March (ISH2) [[EV-013](#), [EV-014 to EV-014c](#)]. The agenda for ISH2 considered a range of issues within the overall umbrella of need, including policy, forecasts and freight types / patterns, existing and future capacity and constraints in the South East and wider UK airports and locational factors. Such issues drew on various questions contained in the ExQ1 [[PD-007](#)] and various questions within the ExQ2 [[PD-010b](#)], ExQ3 [[PD-014](#)] and ExQ4 [[PD-020](#)] questions followed on from the similar themes.

5.2.6. Within the overall ISH2 agenda the issues were broken down further, as follows:

- Policy.
- Forecasts and freight types / patterns, including:
 - The methodology and approach taken during the calculation of the forecasts, the breakdown of forecasts and expected business types and areas;
 - potential operators/ airlines, including integrator uses;
 - DfT forecasts;
 - the various reports of York Aviation [[APP-085](#)], Avia Solutions [[REP3-025](#), Appendix 4], Altitude Aviation [[REP3-025](#), Appendix 5] and Northpoint Aviation [[REP4-031](#)];

- differences between the Applicant's forecast and historical performance, including reasons for any differences
 - any other forecasts;
 - the differences between 'bellyhold' and 'pure' freight (including the role of integrators³⁰ and their facilities) in the UK market and differences and reasons between this split and those in the rest of Europe, as well as the requirements and trend of the air freight industry with regard to mode, operations, time, night flights, and services;
 - the differences between road and air freight and the interrelationship and synergy between the two; and
 - the view of TDC and others over the viability of an airport with regards to likely usage.
- Existing and future capacity and constraints in the South East and wider UK airports (including references to known capacity increases at UK airports, constructed or consented and the potential or otherwise for permitted development rights to be used at such airports), in relation to:
 - Freight capacity and constraints at London Heathrow, including any effects of a possible 3rd runway;
 - freight capacity and constraints at London Stansted Airport;
 - freight capacity and constraints at other South East Airports;
 - freight capacity and constraints at East Midlands Airport (EMA); and
 - freight capacity and constraints for European Airports
 - Locational factors, including:
 - Those relating to Manston Airport and other airports, notably London Stansted and EMA but also other airports in the South East, as well as issues relating to northern European airports; and
 - consideration of routes between various airports and London and the South East, including the assertions given concerning road capacities and travel times.

5.2.7. The Applicant's Overall Summary of Need Case [[REP11-013](#)] is categorised into the following sections: Introduction; Policy; Capacity constraints in the South East; Trucking; Dedicated Freighters; Modern airport (e-commerce); Summary.

Issues arising in Local Impact Reports and Written Representations

5.2.8. LIRs were submitted by CCC [[REP3-246](#)], DDC [[REP3-227](#)], KCC [[REP3-143](#)] and TDC [[REP3-010](#)].

Thanet District Council

³⁰ Integrators, such as DHL or UPS, are cargo transporters who use their own equipment (such as aircraft and trucks) to provide a door to door service for delivery of freight

- 5.2.9. TDC do not make any specific comments over the need for the Proposed Development in its local LIR. However, of some relevance to this section are comments made concerning the previous actions of the Council in relation to the site. Comments are also made detailing some of the history of the site. There are considered in more detail under 'Historical Performance', below.
- 5.2.10. The LIR states that TDC explored the possibility of using a Compulsory Purchase Order (CPO) to buy the airport in 2014, and then to sell immediately onto a private sector investor willing to use the site as a commercial airport. A month-long search yielded a small number of interested parties but further scrutiny indicated that none provided the Council with sufficient confidence that it would be indemnified were it to exercise its CPO rights.
- 5.2.11. This resulted in the Council reaching an initial conclusion in December 2014 that it was unable to find a CPO Indemnity Partner. At the request of RiverOak Investment Corporation (one of the previously interested parties), in May 2015 the Council started a review of this decision and in October 2015 reached the same conclusion.
- 5.2.12. At the start of 2016 TDC launched a further search for a CPO Indemnity Partner, but this again proved unsuccessful. TDC note that since the MoD sold Manston Airport in 1998, three separate private sector investors have attempted to develop the airport as a viable commercial undertaking. These ventures have all been unsuccessful and have incurred substantial losses in the process. TDC state that they have undertaken extensive exercises to find new investors prepared to re-open the airport but has failed to identify an appropriate party.
- 5.2.13. However, the Applicant did emerge from this process. TDC note that the Applicant has been critical of previous owners, considering that they were not sufficiently active in seeking to develop and market Manston as a freight airport.

Other LIRs

- 5.2.14. The discrete LIRs provided by KCC, DDC and CCC do not refer to the need for the Proposed Development.

Written representations

- 5.2.15. York Aviation were employed by SHP, the majority landowners of the site during the Examination, and various reports and evidence of York Aviation concerned matters of need, submitted at deadlines throughout the Examination [including [REP3-025](#), [REP3-303](#), [REP4-065](#), [REP4-067](#), [REP5-028](#), [REP5-032](#), [REP6-055](#), [REP7-014](#), [REP7a-044](#), [REP8-035](#), [REP9-129](#)]. An issue raised by York Aviation [[REP3-025](#), Appendix 4] and in subsequent representations not contained within the above list was the passenger forecasts supplied by the Applicant.
- 5.2.16. A local interest group, No Night Flights (NNF), submitted various comments relating to need [including [REP3-275](#), [REP4-056](#), [REP6-049](#),

[REP7a-038](#)] and other comments relating to the subject of need were received from a wide variety of IPs, both in WRs and RRs. Such comments and evidence related to issues contained in the above list and did not raise wider matters. Where necessary such matters raised are covered in the findings section, below.

- 5.2.17. Some comments from IPs [[RR-0162](#), [RR-1939](#), [REP1-028](#), [REP3-253](#)] were received on the subject of General Aviation (GA), stating their support for the re-opening of Manston for GA, including flight training and noting that some GA companies had moved to other airports since the closure of Manston previously. Such comments also showed a desire to move back to Manston should the airport re-open.

5.3. SECTION STRUCTURE

- 5.3.1. This section of the report uses largely the same issues as outlined at ISH2, ordering them in a similar way to the Azimuth Report's three questions and the Applicant's summary of case, and adding issues from ISH2 and IPs as follows:

- Introduction;
- Policy;
- Capacity;
- Demand and forecasts (including trucking, dedicated freighters, e-commerce and other types of freight);
- Locational factors (including historical performance);
- Passenger forecasts; and
- Conclusion.

- 5.3.2. The introduction describes different types of freight and considers briefly the historical performance of Manston.

5.4. FINDINGS

Introduction

Types of freight

- 5.4.1. Air freight can be carried as 'bellyhold', that is in the hold of passenger aircraft, or in dedicated freighters (often referred to as 'pure' freight). The Azimuth Report [[APP-085](#)] notes that globally around 56% of all air freight is carried in dedicated freighters (measured in revenue tonne-kilometres) but that only 22 to 30% of UK air freight is carried in such aircraft (measured in weight), with the remainder as bellyhold freight. The Applicant's answer to question ND.1.13 states that 30% of air freight is carried in dedicated freighters and 70% carried as bellyhold. This will be considered further below.

- 5.4.2. The Azimuth Report [[APP-085](#)] describes two approaches to segmenting air freight, via Boeing³¹ and Gardiner and Ison³². Boeing categorise air freight into three main categories of scheduled freight, charter freight, and mail, with Gardiner and Ison segmenting air freight into belly freight, express freight and heavy freight. Other categories noted are general air cargo, express freight / perishables, specialist or niche cargo and mail.
- 5.4.3. In March 2010 Steer Davies Gleave published a report entitled Air Freight – Economic and Environmental Drivers and Impacts³³ (the Steer Report). This report was undertaken on behalf of the DfT and aimed to consolidate and develop the Department’s understanding in three areas: The structure of the UK air freight market and drivers of behaviour; the economic value to the UK of air freight services; and the environmental impacts of air freight, with a focus on CO₂. This report divides air freight into four separate sub-markets: General air cargo; express freight; specialist / niche cargo; and mail. In answer to the ExA’s written question ND.4.3 [[REP9-006](#)] the Applicant agreed with this description of the overall air freight market, with the addition of ‘new integrators’.
- 5.4.4. Integrated carriers provide an integrated ‘door to door’ service, often using their own road transport, freight handling and warehousing and aircraft. New integrators in this context refers to electronic commerce (e-commerce) retailers and distributors, such as Amazon and Alibaba.
- 5.4.5. General air cargo forms the majority of air freight being shipped to and from the UK. CAA figures provided within the Steer Report (Figure 5.1) show that general cargo provides 65% of total UK air freight, with express freight at 18%, specialist / niche at 10% and mail 7%. Express freight, as its name suggests, is time critical and is employed when the need to deliver a consignment by a certain time is particularly important. This market is dominated by four main integrators: DHL; Fed-Ex; TNT; and UPS. Specialist / niche cargo is cargo which has a set of specific needs which cannot be met by a general air cargo solution, with examples such as perishables, dangerous goods and live animals.
- 5.4.6. At ISH2 [[EV-013](#), [EV-014 to EV-014c](#)] and implied in answer to the ExA’s written question ND.2.12 [[REP6-012](#)], the Applicant stated that express freight integrators would not be targeted by the Proposed Development and did not factor in their forecasts (Volume III of the Azimuth Report [[APP-085](#)]). Instead, the Applicant aims to attract new integrators as

³¹ Boeing (2014), World Air Cargo Forecast 2014–2015. Available at <http://www.boeing.com/resources/boeingdotcom/commercial/about-ourmarket/cargo-market-detail-wacf/download-report/assets/pdfs/wacf.pdf>

³² Gardiner, J. and Ison, S. (2007), Literature Review on Air Freight Growth. Loughborough University: UK

³³ Steer Davies Gleave (2010), Air Freight: Economic and Environmental Drivers and Impacts. Prepared for the Department for Transport. Available at <http://webarchive.nationalarchives.gov.uk/20120606174609/http://www.dft.gov.uk/publications/air-freight-economic-and-environmental-drivers/>

referred to above, such as Amazon and Alibaba, alongside general and niche freight.

- 5.4.7. The Applicant's answers to the ExA's written question ND.1.40 and ND.2.32 [[REP3-195](#), [REP6-012](#)] confirmed that due to proposed night flight restrictions³⁴ the Proposed Development would not seek to carry mail, although this was somewhat qualified in answer to subsequent written question ND.3.11 [[REP7a-002](#)], where the Applicant states that mail may be carried in amongst other freight. However, such usage for the purposes of this report, were it to occur would fall within general air cargo categorisation.
- 5.4.8. Given the above, the ExA considers it useful to use the Steer Report's categorisation of air freight types with the replacement of express freight with new integrators and the omission of mail to provide a useful basis in the remainder of this chapter to aid consideration of demand, forecasts, capacity and locational factors relating to the air freight element of the Proposed Development. Therefore, this report will consider air freight in terms of general air cargo, new integrators and specialist / niche cargo in the following sections.

Historical performance

- 5.4.9. As stated above, TDC in its LIR [[REP3-010](#)] detail some of the historical performance of the airport. In common with many UK airports, Manston commenced life as a military airport, playing an important role during the Second World War and carrying on as an air force base after the war, with civilian operations permitted. In 1998, the MoD sold the site to the Wiggins Group plc, which strove to build up commercial operations, including investment in an airline (EUjet) to provide passenger services. However, the airline ceased operations in July 2005 and the parent group (renamed Planestation), went into administration. In August 2005 Infratil Limited acquired Manston Airport from the administrators and continued commercial air transport operations. In each year that Infratil owned Manston it incurred losses of more than £3 million a year and wrote off the purchase price of £17 million. Infratil sold the airport in November to December 2013 for the notional price of £1 to Manston Skyport Limited, but the airport closed for operations on 15 May 2014³⁵.
- 5.4.10. After Wiggins Group plc took over the airport Manston saw an increase in freight traffic. This grew to circa 30,000 tonnes per annum, although the

³⁴ During the Examination the Applicant's position in relation to night flights changed. Its overall summary of its case [[REP11-014](#)] states "*Taking account of the representations that have been received...the Applicant has proposed a range of measures to mitigate the impacts of noise. Those measures include, amongst other things: a. A ban on aircraft between 11pm and 6am, other than late arrivals, emergency and humanitarian flights*" and "*A ban on night-time flights (i.e. effectively between 0600 and 0700) of aircraft with a quota count of 4 or higher.*"

³⁵ Commercial Viability of Manston Airport, AviaSolutions FINAL Report for Thanet District Council, September 2016 (submitted by various parties, including [[REP3-046](#), [REP3-276](#)])

AviaSolutions Report for TDC states “the passenger element of the business stagnated” [REP3-276]. After Wiggins Group plc invested in EUjet, the airport saw rapid growth in passengers increasing to 200,000 in 2004. Through the ownership of Infratil and Manston Skyport, freight volumes were maintained at circa 30,000 tonnes per annum. Passenger volumes increased with the introduction of Flybe in 2010 but fell back as the routes were withdrawn. KLM began operations from the airport in 2013 but were also withdrawn due to the announcement of the airport’s closure [REP3-276].

5.4.11. While under private ownership the airport averaged 30,500 passengers and 25,000 tonnes of freight per annum, with the peak being 207,000 passengers in 2005 and 43,000 tonnes of freight in 2003. The diagram below, taken from the Avia Solutions Report for TDC [REP3-276] usefully demonstrates the actual levels of traffic at Manston Airport from 1990 to 2014.



5.5. POLICY

Airports NPS and the Airports Commission

5.5.1. The ANPS followed the outcomes of the independent Airports Commission (AC). The AC was set up to find an effective and deliverable solution to increase aviation capacity in the South East and to make recommendations to allow the UK to maintain its position as Europe’s most important aviation hub. The Applicant notes in the ES [APP-033] that the AC looked at the potential to redistribute demand away from

airports in London and the South East, but that there was relatively little scope for redistribution but that it did recognise that regional airports and those serving London and the South East, other than Gatwick and Heathrow, play a crucial national role. The Applicant also notes [[APP-033](#), paragraph 4.25 to 4.46] that the AC interim report, dating from December 2013, states that Manston Airport presents some potential as a reliever airport, but does not address the larger question of London and South East capacity, and that the report states that the AC is supportive of the reliever airports concept. The final report from the AC does not specifically refer to Manston.

- 5.5.2. Section 3.2 of this Recommendation Report confirms that the ANPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Northwest Runway at Heathrow and associated proposals for new and reconfigured terminal capacity, but that the contents of the ANPS will be both important and relevant consideration in the determination of such an application, particularly where it relates to London or the South East of England.
- 5.5.3. As stated above, in direct relation to the need for the Proposed Development are the findings in the ANPS as to the need for new airport capacity and that the preferred scheme [Heathrow] is *"the most appropriate means of meeting that need"*. Paragraph 1.42 of the ANPS states that *"in light of the findings of the Airports Commission on the need for more intensive use of existing infrastructure [...] the Government accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow."*, and paragraph 1.39 states that *"the Government has confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways"*.
- 5.5.4. Chapter 2 of the ANPS sets out the Government's underlying policy and evidence on the need to expand airport capacity in the South East of England, and states that *"international connectivity, underpinned by strong airports and airlines, is important to the success of the UK economy"*, and that *"it is essential to allow domestic and foreign companies to access existing and new markets, and to help deliver trade and investment, linking to valuable international markets and ensuring that the UK is open for business"*, noting airports are the primary gateway for vital time-sensitive freight services. The chapter notes that air freight is important to the UK economy, and that although only a small proportion of UK trade by weight is carried by air, it is particularly important for supporting export-led growth in sectors where goods are of high value or time critical.
- 5.5.5. In the context of the need for new airport capacity, Chapter 2 of the ANPS also states that capacity constraints in the UK's aviation sector create negative impacts on the UK through erosion of the UK's hub status relative to foreign competitors and constraining the scope of the aviation sector to deliver wider economic benefits.

5.5.6. Chapter 3 of the ANPS sets out why the Government has stated its preference for the Northwest Runway at Heathrow. In identifying this as the preferred scheme, the ANPS states that a wide range of factors has been taken into account including international connectivity and strategic benefits including freight. It states expansion at Heathrow Airport will mean it will continue to attract a growing number of transfer passengers, providing the added demand to make more routes viable. In particular, this is expected to lead to more long-haul flights and connections to fast-growing economies, helping to secure the UK's status as a global aviation hub, and enabling it to play a crucial role in the global economy.

5.5.7. Chapter 3 of the ANPS goes on to state that the aviation sector can also boost the wider economy by providing more opportunities for trade through air freight. The time-sensitive air freight industry, and those industries that use air freight, benefit from greater quantity and frequency of services, especially long haul. By providing more space for cargo, lowering costs, and by the greater frequency of services, this should in turn provide a boost to trade and gross domestic product (GDP) benefits, and that:

"...expansion at Heathrow Airport delivers the biggest boost in long haul flights, and the greatest benefit therefore to air freight."

and that this would be

"...further facilitated by the existing and proposed airport development of freight facilities as part of the Northwest Runway scheme." (ANPS, paragraph 3.24).

Aviation Policy Framework

5.5.8. Paragraph 1.38 of the ANPS states that the document sets out Government policy on expanding airport capacity in the South East of England, in particular by developing the Northwest Runway at Heathrow Airport, and that it does not affect Government policy on wider aviation issues, for which the 2013 Aviation Policy Framework (the APF) and subsequent policy statements still apply.

5.5.9. With regards to need, the APF states that the Government believes that aviation infrastructure plays an important role in contributing to economic growth through the connectivity it helps deliver, including through air freight operations.

5.5.10. Paragraph 1.6 states that:

"Although air freight carries a small proportion of UK trade by weight, it is particularly important for supporting export-led growth in sectors where the goods are of high value or time critical. Air freight is a key element of the supply chain in the advanced manufacturing sector in which the UK is looking to build competitive strength."

and notes that in 2011 goods worth £116 billion were shipped by air between the UK and non-EU countries, representing 35% of the UK's extra-EU trade by value.

- 5.5.11. The APF states that the express air freight sector alone contributed £2.3 billion to UK GDP in 2010 and facilitates £11 billion of UK exports a year. Over 38,000 people are directly employed in the express industry, which supports more than 43,000 jobs in other sectors of the economy (paragraph 1.7).
- 5.5.12. Paragraph 1.8 of the APF states that a successful and diverse economy will drive a need for quicker air freight. Key components to keep factories working are often brought in from specialist companies in North America and the Far East. To keep production lines rolling this often has to be done at short notice. Access to such services is crucial to keeping UK manufacturing competitive in the global marketplace.
- 5.5.13. The APF also notes the importance of business and GA (paragraph 1.12); the size of the aerospace manufacturing industry in the UK, including maintenance (paragraphs 1.9 to 1.10); the contribution of aviation to greater productivity and growth (paragraphs 1.13 to 1.14); air travel and inbound tourism, and the benefits of travel as a wider social benefit, for example to visit friends and relatives and experience different cultures (paragraphs 1.17 to 1.19). In relation to tourism the APF notes that the 'tourism deficit' question is a complex one and that the evidence available does not show that a decrease in the number of UK residents flying abroad for their holidays would have an overall benefit for the UK economy.
- 5.5.14. In addition to the above the Applicant points out [[REP5-024](#)] that paragraph 1.22 states that many airports act as focal points for business development and employment by providing rapid delivery of products by air and convenient access to international airports and that the Government wishes to see the best use of existing airport capacity (paragraph 1.24).

Emerging aviation policy

- 5.5.15. The government is developing a new aviation strategy. This was consulted upon initially in July 2017, leading to the production of a 'next steps document' (Beyond the Horizon³⁶) in April 2018 and a subsequent Aviation 2050 green paper³⁷ consultation running from December 2018 to June 2019.
- 5.5.16. The Applicant notes that the initial consultation document states that *"The Government agrees with the Airports Commission's recommendation that there is a requirement for more intensive use of existing airport capacity and is minded to be supportive of all airports*

³⁶ Beyond the horizon: The future of UK aviation. Next steps towards an Aviation Strategy, HM Government, April 2018.

³⁷ Aviation 2050 The future of UK aviation, HM Government, December 2018.

who wish to make best use of their existing runways including those in the South East" [APP-033] and further notes in its Overall Summary of Need Case [REP11-013] that the Beyond the Horizon document states that air freight plays a crucial role in the sector and is currently flourishing, stating that the strategy will establish our approach to place the UK at the forefront of air freight technology and facilitation processes

- 5.5.17. The Applicant also notes [REP5-024] that this document recognises the crucial role that air freight plays in the economy, especially high-end manufacturing, engineering, pharmaceuticals, retailing and automotive sectors and notes the value of air freight per tonne as being much greater than other modes of freight, due to the nature of the goods transported. They also note that the document states that the UK's airport and airspace capacity is constrained, with the situation particularly acute in the South East of England where increases in capacity have been achieved through higher utilisation of existing runways and airspace.
- 5.5.18. The Aviation 2050 Green Paper consultation states that the Government has been clear about the importance of aviation to the whole of the UK, noting that aviation creates jobs across the UK, encourages the economy to grow, connects the UK with the rest of the world as a dynamic trading nation and maintains international, social and family ties (paragraph 1.2). This paragraph states that *"this is why the government supports the growth of aviation, provided that this is done in a sustainable way and balances growth with the need to address environmental impacts."*
- 5.5.19. Paragraph 1.19 states that there were:
- "...record quantities of freight handled by UK airports in 2017, highlighting the growing importance of aviation to the transport of freight, noting that globally, air freight grew more than twice as fast as overall global trade during 2017 and that the "changing nature of the goods and services we trade means that aviation freight is becoming increasingly significant to the economy, transporting high value, high tech products, medicines and just in time deliveries"*
- leading paragraph 1.20 to state that:
- "...this highlights the need for further capacity – delivered sustainably and in a way that benefits the whole country."*
- and that:
- "...this is why the government is supportive of the development of a third runway at Heathrow Airport, which could deliver up to £74 billion worth of benefits to passengers and the wider economy", and that the Government is also supportive of airports throughout the UK making the best use of their exiting runways, subject to environmental issues being addressed." (paragraph 1.21)*

- 5.5.20. Various policy papers were published in June 2018, including reports on GA³⁸, consumer information³⁹, UK airport connectivity alongside wider economic and airline competition impacts⁴⁰, sustainable growth and airspace⁴¹, sustainable growth and carbon⁴², sustainable growth and aircraft noise⁴³, business passengers⁴⁴, and making the best use of existing runways at airports beyond Heathrow⁴⁵.
- 5.5.21. The latter policy paper states that the Government is supportive of airports beyond Heathrow making best use of their existing runways. However, the paper recognises that the development of airports can have negative as well as positive local impacts, including on noise levels. Freight or cargo flights are not mentioned within this paper, although passenger flights and air traffic movements (ATMs) are (paragraph 1.26).
- 5.5.22. At the time that the Examination of this application closed, the Government had not published its response to the Aviation 2050 Green Paper consultation.

National Planning Policy Framework

- 5.5.23. The NPPF states that planning policies [development plans] should provide for any large-scale transport infrastructure facilities that need to be located in the area (including airports) and recognise the importance of maintaining a national network of GA airfields (paragraph 104). The Framework notes that the purpose of the planning system is to contribute to the achievement of sustainable development, with at a very high level the objective of sustainable development summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Policy discussion

- 5.5.24. Various discussions took place during the Examination over the extent to which the AC and the ANPS took account of freight, with the Applicant stating that it was only at stage 2 of the AC's work which "*focused on a*

³⁸ Available at: <https://www.gov.uk/government/publications/aviation-2050-the-future-of-uk-aviation-consultation-general-aviation-reports>

³⁹ Available at: <https://www.gov.uk/government/publications/aviation-2050-the-future-of-uk-aviation-consultation-consumers-reports>

⁴⁰ Available at: <https://www.gov.uk/government/publications/aviation-2050-the-future-of-uk-aviation-consultation-competitive-markets-reports>

⁴¹ Available at: <https://www.gov.uk/government/publications/aviation-2050-the-future-of-uk-aviation-consultation-sustainable-growth-airspace-reports>

⁴² Available at: <https://www.gov.uk/government/publications/aviation-2050-the-future-of-uk-aviation-consultation-sustainable-growth-carbon-reports>

⁴³ Available at: <https://www.gov.uk/government/publications/aviation-2050-the-future-of-uk-aviation-consultation-sustainable-growth-noise-reports>

⁴⁴ Available at: <https://www.gov.uk/government/publications/aviation-2050-the-future-of-uk-aviation-consultation-global-and-connected-britain-report>

⁴⁵ Available at: <https://www.gov.uk/government/publications/aviation-strategy-making-best-use-of-existing-runways>

detailed appraisal of 3-4 short listed option for new runways” that air freight became a material consideration for the AC and that:

“the Government did not have a modelling tool capable of forecasting the scale and distribution of future growth in air freight, under the strategic options it was examining for South East Airport Capacity” [REP3-195, ND.1.1].

5.5.25. The Applicant acknowledged however that there is:

“significant evidence from the Commission’s final report and supporting Business Case annexes published in June 2015 that air freight capability was an important differentiator between the Heathrow and Gatwick runway options. The ability of the preferred Heathrow option to substantially increase air freight capacity within the South East airport system was also mentioned as a material consideration in the Government’s support for that scheme as reflected subsequently in the NPS” [REP3-195, ND.1.1]

5.5.26. It is clear, as stated above, that that the ANPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Northwest Runway at Heathrow but that the contents of the ANPS will be both important and relevant consideration in the determination of the Proposed Development, particularly as it is located in the South East of England.

5.5.27. The ExA considers that it is clear that freight was considered within the ANPS, with in particular noting comments relating to the proposed expansion at Heathrow Airport delivering the biggest boost in long haul flights, and the greatest benefit therefore to air freight, further facilitated by the existing and proposed airport development of freight facilities as part of the scheme.

5.5.28. Aside from this, the ExA note and recognise that a common theme running through Government aviation policy from the APF in 2013, through the work of the AC, the ANPS and through to the latest consultation documents is the Government’s view that airports should make the best use of their existing capacity and runways, subject to environmental issues being addressed.

5.6. ISSUES IN THE EXAMINATION

Capacity

5.6.1. The ANPS states that London Heathrow is operating at capacity today, Gatwick is operating at capacity at peak times and that the whole London airports system is forecast to be full by the mid-2030s, and notes that, with very limited capability for London’s major airports, London is beginning to find that new routes to important long haul destinations are being set up elsewhere in Europe, having an adverse impact on the UK economy and affecting the country’s global competitiveness (paragraph 1.2).

- 5.6.2. Such background led to the setting up of the AC and the ANPS itself concluding that there is clear and strong evidence that there is a need to increase capacity in the South East of England by 2030 by constructing one new runway, with the preferred scheme to meet this need being the Northwest Runway at Heathrow.
- 5.6.3. The Applicant's Summary of Need Case [[REP11-013](#)] notes that the AC states that London Airports facilitate 76% of the UK's air freight and that all London Airports will be at capacity by 2030.
- 5.6.4. Altitude Aviation for SHP [[REP3-025](#), Appendix 5] considers however that there is no overall shortage in UK airport capacity for dedicated freighter operations. It considers that both of the two largest freighter hubs, EMA and Stansted, can accommodate significantly more freighter services than they currently operate.

London Heathrow

- 5.6.5. The ANPS states that Heathrow is the best placed to meet the need for additional capacity in the South East by providing the biggest boost to the UK's international connectivity. Paragraph 3.20 of the ANPS estimates that a new Northwest Runway at Heathrow by 2040 would result in 113,000 additional flights a year across the UK as a whole (including 43,000 long haul), 28 million additional passengers a year and a doubling of freight capacity at the airport (paragraph 3.73)
- 5.6.6. Heathrow is by far the most significant airport for air freight in the UK, with 63% of UK air freight volumes, the vast majority of which is carried in the bellyhold of passenger aircraft (Steer Report, 2008 figures). In 2017 Heathrow carried nearly 1.7m tonnes of air freight, 83% of the total air freight for the South East airports, and the Applicant notes that Heathrow's proposals to Government (for a third runway) include a commitment to provide a freight capacity at the airport of up to 3 million tonnes per annum [[REP3-195](#), response to ND.1.19].
- 5.6.7. London Heathrow consulted on their proposed masterplan for expansion from 18 June 2019 until 13 September 2019. This proposes the new runway to open in approximately 2026. An application for development consent is expected to be submitted to the Planning Inspectorate in 2020.
- 5.6.8. The third runway would clearly add to capacity substantially at Heathrow. The Applicant is of the view that it is difficult to say what the balance of Low-Cost Carriers (LCCs) and traditional airlines using the third runway would be [[REP3-195](#), response to ND.1.19]. This is fundamental to freight, as LCCs do not generally carry bellyhold freight and traditional carriers do. It is also of the view that the runway would likely handle one long haul flight to two short haul ones, noting that the majority of freight at Heathrow is on long haul flights [[REP3-195](#), response to ND.1.19].
- 5.6.9. In this respect the ExA notes that the ANPS states in paragraph 3.18 that expansion at Heathrow will lead to more long-haul flights and connections to fast growing economies, helping to secure the UK's status

as a global aviation hub, and enabling it to play a crucial role in the global economy. The ANPS notes that the Government estimates that a new runway at Heathrow would result in an additional 43,000 long haul flights. Paragraph 3.23 notes that, by providing more space for cargo, lowering costs and by the greater frequency of services, air freight would provide a boost to trade and GDP benefits.

5.6.10. Discussion through written questions in the Examination considered how Heathrow would be able to accommodate the projected 3m tonnes of air freight a year within the confines of the site, with the Applicant considering [[REP7a-002](#), response to ND.3.21; [REP9-006](#), response to ND.4.25] that it may necessitate Terminal 4 being removed or re-configured. It appears however from the latest evidence received by the ExA from SHP [[REP9-134](#)] that the Heathrow Airport:

“Preferred Master Plan Report (Figures 5.2.11 and 5.2.12) illustrates clearly where additional cargo facilities are to be provided to accommodate the doubling of cargo throughput expected by Government as a consequence of the additional flights facilitated by the third runway. These do not [...] involve the closure and demolition of Terminal 4.” (York Aviation Supplementary Note, paragraph 18)

5.6.11. The Applicant provides a review of Heathrow’s destinations and airlines [[REP6-014](#), Appendix ND.2.15] showing that five of 12 sovereign states in South America are served by direct flights from Heathrow and detailing limitations in destinations in south and east Asia. However, while noting this information, it seems likely that such markets would more likely be served by routes from the Northwest Runway at Heathrow, should demand exist.

5.6.12. Heathrow is the dominant airport in the UK for air freight by weight; the ANPS notes that the freight handling operation at Heathrow Airport is around 20 times larger by tonnage than that at Gatwick Airport, and accounts for 34% of the UK’s non-EU trade by value – around 170 times more than Gatwick Airport (paragraph 3.24). The proposed third runway would build upon this, providing significant new opportunities for bellyhold freight via new long-haul routes. The ExA also note that in the absence of the third runway freight volumes at the airport continue to grow [[APP-085](#), paragraph 4.1.3], although clearly at such a busy and constrained airport this will present technical and logistical challenges.

5.6.13. The Applicant is of the view that the third runway would not be open until later than the 2026 date proposed by the operators of Heathrow, in the time between 2027 and 2030 [[REP4-031](#), [EV-014 to EV-014c](#)].

5.6.14. The Applicant also notes that the 3m tonnes of air freight may not be fully achieved and would not be provided upon opening of the Northwest Runway at Heathrow, with slots released gradually over a 15-year period to beyond 2040, providing, together with their view on the possible opening date of the runway, a ‘window of opportunity’ for Manston to mature in to.

- 5.6.15. This window of opportunity is considered further below but the ExA note at this juncture that 3m tonnes of air freight is a very substantial uplift from the almost 1.7m tonnes carried in 2017 and that Quod on behalf of SHP, who are working on the Heathrow scheme consider that 2026 for the opening of the possible third runway is realistic [[REP5-029](#)].

London Stansted

- 5.6.16. London Stansted is currently subject to planning conditions which restrict the airport to 35 million passengers per annum (mppa) and 274,000 air movements, including 20,500 air cargo movements. Formal agreement has been reached with the LPA, Uttlesford District Council, to raise these figures to 44.5mppa and 285,000 movements respectively, although at the close of the Examination full permission was yet to be granted as the Section 106 Agreement was yet to be signed.
- 5.6.17. Stansted has a large operation for express freight / integrator traffic with a base for Fed-Ex being sited at the airport, and an additional World Cargo Centre. The Azimuth Report [[APP-085](#)] states that around 8% of ATMs at Stansted are cargo-only flights which traditionally have used night slots at the airport.
- 5.6.18. The Applicant considers that Manchester Airport Group (MAG), the owners of Stansted, will want to maximise the use of their infrastructure and that in their view this is likely to focus on the passenger market. The Azimuth Report [[APP-085](#)] quotes the European Shippers Council in considering that the battle between LCCs (such as Ryanair and EasyJet) and all cargo operators will be *“central to the global debate over airport capacity for the next decade”*, with airports nearing capacity and handling both LCCs and air freight (as Stansted does) the impact will be to *“pit the rival economic benefits of high-value cargo with its huge economic importance as a wealth multiplier against leisure airlines catering to populations which desire cheap and regular flights to global destinations in services which often carry limited or no bellyhold cargo”*.
- 5.6.19. The Applicant also notes the flexibility of LCCs to be able to move to different airports should the service at their existing airport not be to their liking; if for example freight flights are prioritised above their movements [[APP-085](#)]. However, equally this can also apply to the charges that LCCs would expect to pay and cargo operators may be a more reliable source of income for airport operators.
- 5.6.20. In this regard evidence is forwarded [[REP3-195](#), response to ND.1.18] of cargo movements decreasing at Amsterdam Schiphol where an annual quota of movements resulted in a reduction of full freighter movements as regular passenger movements filled the quota. However, in this context the ExA is not convinced that a comparison can be fully made between London Stansted, a significantly sized but essentially a point to point airport, and Amsterdam Schiphol an international hub airport carrying some 71mppa and 1.7m tonnes of freight in 2018 [[REP3-195](#), response to ND1.26]

- 5.6.21. The Applicant also notes that passenger airlines focus on punctuality – especially LCCs, and therefore considers that cargo flight timings are likely to be impacted severely as Stansted airport will “*prioritise serving Ryanair*”, and considers that this may already be happening at the airport [[APP-085](#)].
- 5.6.22. The Applicant states in answer to question ND1.18 [[REP3-195](#)] that a significant proportion of Stansted’s freight flights are at night, whereas LCCs operate mainly during the day, although they note that in the winter there are more freight flights during the day when there are less passenger departures, and that in the summer cargo flight levels may be being impacted upon due to three or four rotations of passenger flights to mid-haul destinations, such as North Africa, Turkey and Greece.
- 5.6.23. In the same answer a graph is produced showing the utilisation of Stansted’s runway. This shows that the runway is very busy in the hours 06:00 to 07:59 and also busy during other time periods, such as 12:00 to 12:59 and 17:00 to 18:59. Stansted is a 24-hour operation but has restrictions on the numbers and types of aircraft that are allowed to operate between the hours of 23:30 to 07:00 hours. These are based on LMax noise limits and quota counts (QC)(based on the noise of aircraft), with aircraft rated QC4 or above not allowed to be scheduled to take off or land during the night period (23:30 to 06:00) and QC8 and QC16 aircraft banned between 23:00 to 07:00. A movement limit for the night time period applies of 8,100 for the summer and 5,600 for the winter and a quota limit of 4,650 for the summer and 3,310 for the winter [[REP6-012](#), response to ND.2.20]. Nevertheless, even with such restrictions, 24-hour operations are allowed and the graph / bar chart also shows substantial degree of capacity remaining in the hours 00:00 to 04:59 and a fair amount of capacity in the late evening and around 08:00 to 10:59.
- 5.6.24. The Applicant also notes that spare capacity in terms of space needs to be allocated to passenger services or to increasing freight handling and warehousing. York Aviation draw attention [[REP4-065](#)] to the World Cargo Centre at Stansted, a facility of some 55,000m² of warehousing and offices with nine associated stands. They note that Stansted has dedicated freight stands and that therefore these do not conflict with passenger stands.
- 5.6.25. The Applicant considers that, as cargo movements were down 6.4% between 2017 and 2018 while passenger movements increased by 7.2%, this is a clear indication of the airport’s strategic choice of passengers over freight. However, evidence from SHP [[REP5-029](#)] states that the planning application to raise the cap at Stansted forecasts a growth of cargo tonnage to some 376,000 tonnes per year by 2028 from a level of 236,892 tonnes in 2017 [[APP-085](#)]. Such forecasts predict 16,000 cargo movements a year (from 10,126 in 2017 [[APP-085](#)]) and an increasing amount of bellyhold cargo alongside the predicted growth in passenger numbers. York Aviation [[REP5-029](#)] consider that a capacity of some 400,000 tonnes of air cargo is attainable at Stansted in due course.

5.6.26. **The ExA considers, therefore, there is no clear evidence of the Applicant's view of Stansted airport's strategic choice to prioritise passengers over freight. MAG did not make any representations to the Examination, and a quote from the CEO of Stansted in the Azimuth Report [APP-085, paragraph 5.1.3] does not correspond with the planning application to increase the cap on movements at the airport to 285,000 and the freight levels at the airport substantially. While therefore it is clear that Stansted is becoming busier, and therefore potentially more constrained, in summary from the evidence available to the ExA it appears that there remains significant freight capacity which the airport operators wish to fulfil. The ExA is also not convinced that a comparison can be fully made between London Stansted, a significantly sized but essentially a point to point airport, and Amsterdam Schiphol an international hub airport.**

Other South East airports

5.6.27. London Gatwick carried nearly 97,000 tonnes of freight in 2017, with the vast majority of this being carried as bellyhold – just one dedicated freighter movement was noted in this year [APP-085]. The Applicant considers that this very limited experience means that Gatwick is not a serious competitor in the freight market, although they also note that the airport aims to carry 10 times the freight the airport currently carries. The Applicant also considers that much of the bellyhold that the airport currently carries is as a result of constraints at Heathrow and may move back to Heathrow if and when a 3rd runway is constructed.

5.6.28. London Luton Airport handles around 28,000 tonnes of cargo per year with 1,490 cargo movements in 2017 [APP-085]. The Applicant is of the view that the airport focuses on passenger traffic and it would be improbable for the airport to provide a hub for dedicated freighters.

5.6.29. Bournemouth airport handled no cargo aircraft movements in 2016 or 2017 [APP-085]. The Applicant notes that the airport attracted £40 million of government investment in 2016 but notes the logistical difficulties in the route from the airport to the motorway network.

East Midlands Airport

5.6.30. EMA, owned by MAG, is a major integrator hub, hosting a large base for DHL, as well as facilities for UPS and TNT, and a base for the Royal Mail. Evidence submitted in the examination showed modern extensions to DHL that the Applicant's architects had worked upon [REP8-014]. Planning permission was granted in February 2018 for an extension to the UPS facility at the airport [REP3-165, response to ND.1.15]. The airport operates 24-hours a day and handled 21,286 freight movements in 2017 [APP-085]. Figure 4 of the Azimuth Report [APP-085] shows the location of businesses served by the integrators at the Airport, with agglomerations clearly shown around various centres of population in the UK – including the South East, the West Midlands, the North West, South and West Yorkshire, the North East and the central belt in Scotland.

- 5.6.31. The Applicant reports that EMA has an aspiration to carry one million tonnes of air freight per annum but that increasing passenger numbers at the airport may lead to conflicts between passenger and cargo traffic, referring to Schiphol Airport. However, in 2018 EMA handled some 4.87mtpa, significantly fewer than Schiphol. Based on such numbers it appears that there remains ample capacity for cargo growth at EMA, whether integrator or general freight, and the ExA note that the Applicant accepts that there is significant growth potential at the airport [[REP4-031](#)].
- 5.6.32. As an integrator base the express freight servers are often busy at night time. The Applicant contends that there is 'substantial circumstantial evidence' [[REP7a-002](#), response to ND.3.6] that due to this there is likely to be little if any scope for general cargo operators to stay overnight at EMA, considering that the proposed construction of three new stands as part of the UPS extension shows that space is at a premium overnight. However, the evidence in relation to this question does not, in the view of the ExA, demonstrate that there is 'little if any scope' for general cargo operators to overnight at EMA. While stands may be expensive to construct there seems no reason and no evidence to suggest that, should the demand exist, such stands could not be constructed relatively quickly. The new stands at UPS would seem to be being constructed to be adjacent to the UPS facility as opposed to not being available anywhere else on the airport site.
- 5.6.33. The Applicant is of the view that EMA is dominated by integrator traffic and that the Proposed Development could attract general cargo operators, acting in a complementary role to EMA [[REP6-012](#), response to ND.2.24]. However, further evidence submitted by the Applicant [[REP8-011](#), Appendix 3] includes a copy of the MAG Annual Report and Accounts for year ending March 2018 which states that West Atlantic, a 'major air cargo company' had moved to the airport. In answer to question ND.4.12 [[REP9-006](#)] the Applicant stated that West Atlantic operates contract and ad hoc cargo worldwide, including specialisms and supply and operating of airports to integrators and consolidators, and acknowledges that it is the kind of operator that the Proposed Development would be seeking to attract. The ExA considers therefore that EMA does have significant spare capacity both for integrator expansion and for general cargo, should the demand be there.
- 5.6.34. York Aviation [[REP5-029](#), Annex 2] note that Amazon have operated various flights from the airport with DHL and that a substantial (500,000ft²) Amazon distribution warehouse opened in April 2019 at the East Midlands Gateway⁴⁶, a substantial rail connected logistics hub located just to the north of the airport, at the junction of the M1 / A50 and A / M42.
- 5.6.35. The ExA also note that this development is noted in the 'Beyond the Horizon' next steps document referred to above; paragraph 4.27 states

⁴⁶ A Nationally Significant Infrastructure Project which received development consent in 2016 (ref. TR050002)

"...last year [...] ground was broken on Segro Logistics Park East Midlands Gateway – a 700 acre facility which will link the airport with a major new rail freight terminal as well as the M1."

Other UK airports of relevance

- 5.6.36. Doncaster Sheffield Airport has a long runway (2893m) and has plans to grow to 100,000 tonnes of air freight [[REP7a-002](#), response to ND.3.16].
- 5.6.37. Birmingham Airport has a central location at the heart of the UK motorway network and has a recently extended runway. The airport handled nearly 34,000 tonnes of freight in 2018 and the Applicant considers there is scope for growth in bellyhold capacity at this airport [[REP4-031](#)], although this was not considered in depth during the Examination.

Permitted Development Rights

- 5.6.38. Airports in England have substantial permitted development rights under The Town and Country Planning (General Permitted Development) (England) Order 2015. Class F, Part 8 of this Order allows for development, including operational buildings to be constructed on operational land in connection with the provision of services and facilities at a relevant airport. An operational building means a building, other than a hotel, required in connection with the movement or maintenance of aircraft, or with the embarking, disembarking, loading, discharge or transport of passengers, livestock or goods at a relevant airport, and therefore covers cargo facilities. The construction or extension of a runway or extension of a passenger terminal is not permitted by Class F above a certain level, and should a development require an EIA then permitted development rights would not apply.
- 5.6.39. Such rights are largely subject to the proviso that the airport operator consults the LPA before carrying out such development. However the form of such consultation is not defined, and neither is there any necessity for the airport operator to act upon the results of any such consultation.
- 5.6.40. Permitted development rights would not automatically apply to the Proposed Development were consent to be granted as an airport has to have had a certain annual turnover in at least two of three financial years before applying for such rights⁴⁷.
- 5.6.41. Should demand, airport facilities and infrastructure and the business case exist, it is therefore possible for English airports to construct cargo facilities, including stands / apron and processing buildings at relatively short notice and without subject to the same extent of development control and management that a full planning application would require.

European airports

⁴⁷ The Town and Country Planning (General Permitted Development) (England) Order 2015, Airports Act 1986

- 5.6.42. Along with Heathrow, Frankfurt, Paris Charles de Gaulle and Amsterdam Schiphol are the principal hub airports for Europe. The mainland hubs form the points of the 'golden triangle' for logistics and air freight in northern Europe, in which Liege Airport, a base largely for integrator traffic sits in the middle. Other airports raised during the Examination include Maastricht, Frankfurt Hahn, Brussels, Cologne, Leipzig and Luxembourg [including [REP7a-002](#)].
- 5.6.43. The Applicant states [[REP9-006](#), response to ND.4.1] that Maastricht, Frankfurt Hahn and Liege do not appear to have sufficient passenger or freight volumes to be likely to face a short or long term runway capacity problem, with some capacity issues at Leipzig, Luxembourg and Cologne and the busiest airports of Amsterdam, Paris, Frankfurt and Brussels having high levels of utilisation.

Capacity summary

- 5.6.44. In some 16 years of private ownership, from its sale in 1998 to its closure in 2014 Manston Airport averaged 30,500 passengers and 25,000 tonnes of freight per annum, with the peak being 207,000 passengers in 2005 and 43,000 tonnes of freight in 2003 [[REP3-276](#)]. The Azimuth Report [[APP-085](#)] notes that in 2017 Heathrow handled 1,698,461 tonnes of freight, EMA 319,609 tonnes (2016), and Stansted (2017) 236,892 tonnes. The Applicant acknowledges that Heathrow's proposals for a third runway includes a commitment to provide a freight capacity at the airport of up to three million tonnes per annum [[REP3-195](#)], that EMA has an aspiration to carry one million tonnes of air freight per annum [[REP4-031](#)] and SHP [[REP5-029](#)] states that Stansted forecast a growth of cargo tonnage to some 376,000 tonnes per year.
- 5.6.45. The dominance of Heathrow in the UK air cargo market is clear, with the vast majority of this freight being carried in bellyhold (95% of the total freight, [APP-012](#)), and EMA dominating the integrator market. There also appears to be substantial capacity available at EMA, reasonable levels of capacity still at Stansted, and potentially highly significant levels of capacity at Heathrow if the third runway is constructed.

Demand and forecasts

Applicant forecasts

- 5.6.46. Volume I of the Azimuth Report [[APP-085](#), paragraph 2.2.1] states that the aviation sector is of vital importance to the UK, contributing £52 billion to UK GDP and supporting 961,000 jobs in 2015, with the total value of tradable goods carried through UK airports exceeding £140 billion, and that the freighter fleet is set to increase by 70% over the next 20 years while air cargo traffic more than doubles.
- 5.6.47. The Applicant notes that the UK imports more than it exports (1.3 million tonnes vs. one million tonnes), [[APP-085](#)], with machinery and transport equipment providing a large proportion of exports and imports being more mixed.

- 5.6.48. The Azimuth Report [[APP-085](#)] states that in 2017 global cargo volumes grew by 9.3%, with growth of 4.5% forecast for 2018. In Europe the increase was 11.9% and in London total cargo tonnage increased by 8.8% with dedicated freighter tonnage up 5.5%. The report notes that demand is increasing for air cargo for a number of reasons, including the need to restock inventories quickly to meet demand (and associated Just-in-Time systems); the need to transport perishable and time sensitive items; overseas production facilities and global supply chains; the growing importance of e-commerce; declining costs through liberalisation and technological progress; and customer demand for rapid delivery and return of products purchased online.
- 5.6.49. Table 1 in Volume III of the Azimuth Report [[APP-085](#)] summarises the freight and passenger forecast for the Proposed Development, reproduced below.

Table 1 Summary 20 year freight and passenger forecast

	Freight moves	Pax moves	Total moves	Inbound tonnage	Outbound tonnage	Total tonnage	Passenger numbers
Y1	0	0	0	0	0	0	0
Y2	5,252	0	5,252	39,865	56,687	96,553	0
Y3	5,804	4,932	10,736	47,335	61,218	108,553	662,768
Y4	9,700	5,024	14,724	76,326	90,765	167,092	679,868
Y5	9,936	5,064	15,000	81,455	92,286	173,741	686,672
Y6	10,144	6,702	16,846	85,832	95,604	181,436	965,295
Y7	10,872	6,754	17,626	92,357	100,551	192,908	975,591
Y8	11,184	6,754	17,938	96,979	103,694	200,673	975,591
Y9	11,392	6,754	18,146	98,585	104,660	203,245	975,591
Y10	11,600	6,754	18,354	102,609	109,742	212,351	975,591
Y11	12,064	6,966	19,030	107,592	114,785	222,377	1,011,587
Y12	12,547	7,186	19,733	114,034	120,473	234,508	1,049,022
Y13	13,048	7,416	20,464	118,691	125,999	244,690	1,087,954
Y14	13,570	7,654	21,224	125,949	131,039	256,989	1,128,444
Y15	14,113	7,902	22,015	133,064	137,515	270,579	1,170,553
Y16	14,678	8,160	22,837	140,889	143,015	283,904	1,214,347
Y17	15,265	8,428	23,693	146,524	150,070	296,594	1,259,892
Y18	15,875	8,707	24,582	156,271	156,073	312,344	1,307,259
Y19	16,510	8,997	25,507	162,522	162,316	324,838	1,356,521
Y20	17,171	9,298	26,469	171,949	168,809	340,758	1,407,753

- 5.6.50. In essence therefore the Applicant forecasts 17,171 freight and 9,298 passenger movements by year 20, with 340,758 total tonnes of freight and some 1.4mppa. The forecast is based on a 'bottom-up' approach, referring to specific types of traffic, although it is to be noted that the applicant accepted during the Examination [[EV-014 to EV-014c](#)] that the forecast was indicative, with aircraft and freight types indicative, and that the forecast was effectively an assessment of potential. In other words, that viability was not taken into account.

- 5.6.51. It was stated that a viability assessment was undertaken by the Applicant to ensure that the traffic forecast by Azimuth could be captured at a price that would make the Proposed Development viable was carried out but that this was confidential [[REP6-012](#), response to ND.2.1]. A 'top-down' assessment of the Azimuth forecast was undertaken by Northpoint Aviation during the Examination process. This is considered further on in this chapter.
- 5.6.52. A more detailed forecast to the above is to be found in Appendix 3.3 of the ES [[APP-044](#)].
- 5.6.53. The Azimuth Report [[APP-085](#)] acknowledges that assessing demand for freight is no easy matter, with forecasts usually calculated by extrapolating past trends for a region or country before allocating a proportion to individual airports. The report considers that this approach may miss any currently unmet demand and is inappropriate for an airport such as Manston with a history of underinvestment and no data to extrapolate from since 2014. The report therefore takes a qualitative approach, as opposed to a quantitative one, and states that academic and industry experts contacted through this research process validated the qualitative approach taken. The report provides "*qualitative information derived from 24 interviews with industry experts*" (Volume II, Executive Summary).
- 5.6.54. These interviews took place over email, telephone or face to face. Interviewees consisted of a range of air freight companies, policy-based bodies and promotional associations. The transcripts of the interviews are not included in the report for reasons of confidentiality, so the published excerpts and findings are chosen by the author of the report. The report notes that many interviewees talked about problems of freight at Heathrow and at the Channel crossings, with issues such as freight being bumped from belly freight, so that freight booked onto a passenger flight to be carried in the hold is left at the departure airport without uploading onto the aircraft and has to wait for a later flight, lengthy truck queues at Calais and Heathrow, and security issues. It is also noted that dedicated freighters need to go from Prestwick or Stansted. Issues regarding facilities for handling oversized freight was also raised.
- 5.6.55. Interviewees thought the freight market would expand but considered that there is considerable pressure on price for air freight carriers, and that the potential effect of Brexit and changes in fuel price were trigger points for contraction / expansion. Regarding the choice between bellyhold and pure freight the report considers that "*the feeling was generally that the use of belly freight was due to availability*". Speed and cost were primary factors in choosing freight routes with one interviewee noting that the total cost of a flight is generally 75% fuel. Potential markets in perishables, oversized freight and handling of live animals were also identified.
- 5.6.56. Transport for London made comments regarding improving passenger access to Stansted Airport and findings regarding airport capacity in the

South East. Comments were also made regarding fuel savings for trucking freight to Manston as opposed to EMA.

- 5.6.57. While potentially useful and interesting, the fact that the transcripts have not been made available as part of the Azimuth Report due to the confidentiality of the interviews and the commercial sensitivity of the data collected limits the weight that can be given to them. Many of the interviewees also appeared to be local businesses of limited size or pro-business organisations for Kent.
- 5.6.58. When questioned on this point the Applicant referred to various other interviews that took place with several other “*key airports in the UK air freight sector*”; industry organisations; DfT officials; and “*leading academics and other consulting experts and businesses*”, with the objective of confirming the Applicant’s core forecasting analysis [[REP7a-002](#), response to ND.3.5] but was unable to provide any details of them, such as names, organisations or content. It states that “*it is not possible for the Applicant to provide further information regarding the commercially confidential discussions that have taken place with potential clients*” and asked the ExA to “*consider the fact that numerous developments are consented without any information regarding the identity of likely customers.*”
- 5.6.59. Such as it is, and on the basis of the evidence provided, the ExA cannot conclude that that academic and industry experts have validated the approach of the Azimuth Report. While noting the statement that further evidence was commercially confidential, without access to such evidence the ExA is unable to take this into account.
- 5.6.60. The Northpoint Report [[REP4-031](#)] was submitted in evidence partway through the Examination. This report is a ‘top-down’ view of the freight market as opposed to the ‘bottom-up’ analysis presented by the Azimuth Report. The Northpoint Report presents an alternative view to that suggested by SHP in their representations, which the Northpoint Report considered flawed. The Northpoint Report explains that the value of the Azimuth ‘bottom-up’ forecasting approach is that it required extensive contact with key market players. This offers dynamic insights rather than relying on an inflexible methodology and data that relies on the notion that the key to the understanding the future is in the past when the future of the fast moving industry is going to look very different in 10 to 20 years’ time than it does now.
- 5.6.61. The Northpoint Report presents a scenario-based analysis and considers that this verifies the Azimuth Report of project development. The model aimed to analyse a range of scenarios combining alternative future demand projections, with variable assumptions about the scale of clawback that is achievable, matching that with underlying capacity assumptions over a 50-year period to identify whether the South East system as a whole is likely to have a surplus of demand. The resulting surplus was then regarded as potentially capturable by Manston and is measured on a quinquennial basis against Azimuth’s core project forecasts

- 5.6.62. The Northpoint Report considers that information produced by SHP and by consultants previously working for TDC (Avia Solutions, see below) used a restricted data set from 2003 to 2017 as the basis for much of their commentary on the prospects for Manston and that the use of data from the earliest available date (1983) shows a change in the rate of growth of freight tonnage before and after 2000, with growth rates of 7.4% before 2000 and 0.95% after. The report also considers that since 2014 the growth rates have begun to rise again [[REP4-031](#), paragraph 78] and notes higher growth in European airport's air freight tonnages since 2000 than in the UK. They state that this points to a structural issue affecting the performance of the UK air cargo industry as a whole; that is one of capacity constraints in the South East.
- 5.6.63. The Northpoint Report also considers the likely extent of future cross-channel leakage of freight bound for, or departing from the UK, by truck via Dover Port and the Channel Tunnel and the potential for 'clawing-back' some or all of this traffic to fly from UK based airports, including the Proposed Development. This is considered in more detail below.
- 5.6.64. Scenarios used in the Northpoint Report combined alternative future demand projections with variable assumptions about the scale of clawback that is achievable. Underlying growth ranged from 2.35% (the base case), 2.0% (low case), 2.7% (high case) to 3.0% (stretch case) for 2017 freight tonnages at UK airports. The scenarios assumed that capacity is largely held constant, but a number of later scenarios examine what would happen if additional capacity, beyond what has been assumed for Heathrow third runway were to be added at Heathrow, EMA and Stansted.
- 5.6.65. The conclusions of the Northpoint Report are that at a growth rate of 2.3% or greater, with relatively modest levels of cross-channel clawback, the project compares favourably against the Azimuth forecasts. It is only when asymptotic curves⁴⁸ or greater capacity at other large freight airports are introduced that tonnage forecasts associated with these scenarios under-perform Azimuth's expectations. It notes however that these scenarios perform satisfactorily at higher starting interest rates, or with high levels of cross-channel clawback [[REP4-031](#), paragraph 69].
- 5.6.66. Functional limitations of this model are identified within the Northpoint Report as not using differential rates for bellyhold, express and ordinary freight (although it is stated that the analysis is a level of aggregation where this is not a fundamental determining issue); not examining aircraft movements; not considering the scope for migrating between type of carrier (eg bellyhold to freighter); and it does not examine the impact of price because it is primarily interested in the issue of capacity [[REP4-031](#), paragraph 67].
- 5.6.67. The Northpoint Report closes with a quote from an unnamed 'leading industry figure' who states that "*in the medium to long term I think there*

⁴⁸ An asymptotic line is a line that gets closer and closer to a curve as the distance gets closer to infinity

will be some changing trade lane flows. The UK is currently an underserved air freight market because it can rely upon logistics flows to and from the mainland of Europe, and I think that the offering could change in terms of timing, the speed to market”.

- 5.6.68. York Aviation [REP5-029] consider the drawbacks to the Northpoint Report to be largely those outlined by the report itself in terms of its limitations. It also considers that the thesis that trends from the 1990s need to be included is flawed when the effect of aviation fuel price rises since 2000 is taken into account. This aspect is covered in more depth below.
- 5.6.69. The ExA note that the purpose of outlining the limitations of a model is normal practice for any assessment [REP9-006, response to ND.4.23] but consider that the limitations described of not considering the scope for migrating between types of carrier and the impact of price (particularly when considering differences between bellyhold and pure freight, and trucking) appear to the ExA to be fairly substantial limitations in the case of the Proposed Development. A more complicated commercial model to investigate more complex variables that impact on the airport’s business plan, pricing and marketing strategies is stated to be being developed, but is not provided.

Department for Transport forecasts

- 5.6.70. 2017 UK Aviation Forecasts from the DfT⁴⁹ do not model freight in detail, but an assumption is made for the purposes of the model used by the DfT. This assumption is for zero growth for 2017 as the number of freighter movements had been volatile with some evidence of overall national decline in recent decades and in the absence of clear trends for individual airports.
- 5.6.71. The Applicant is of the view that the zero-growth forecast may be pragmatic due to the lack of capacity for dedicated freighters, particularly in the South East [APP-085]. In support of this view they have attached correspondence between themselves and the DfT [REP3-195, Appendix ND.1.14]. However, the response from the DfT does not comment on this view, confirming that the Department does not claim to model freight in detail and have labelled it as an assumption. The DfT state that they will consider conducting more detailed modelling of air freight as part of the emerging aviation strategy. It is clear therefore that freight has not been modelled in detail, but no more than that can be inferred in the ExA’s view.

Industry forecasts

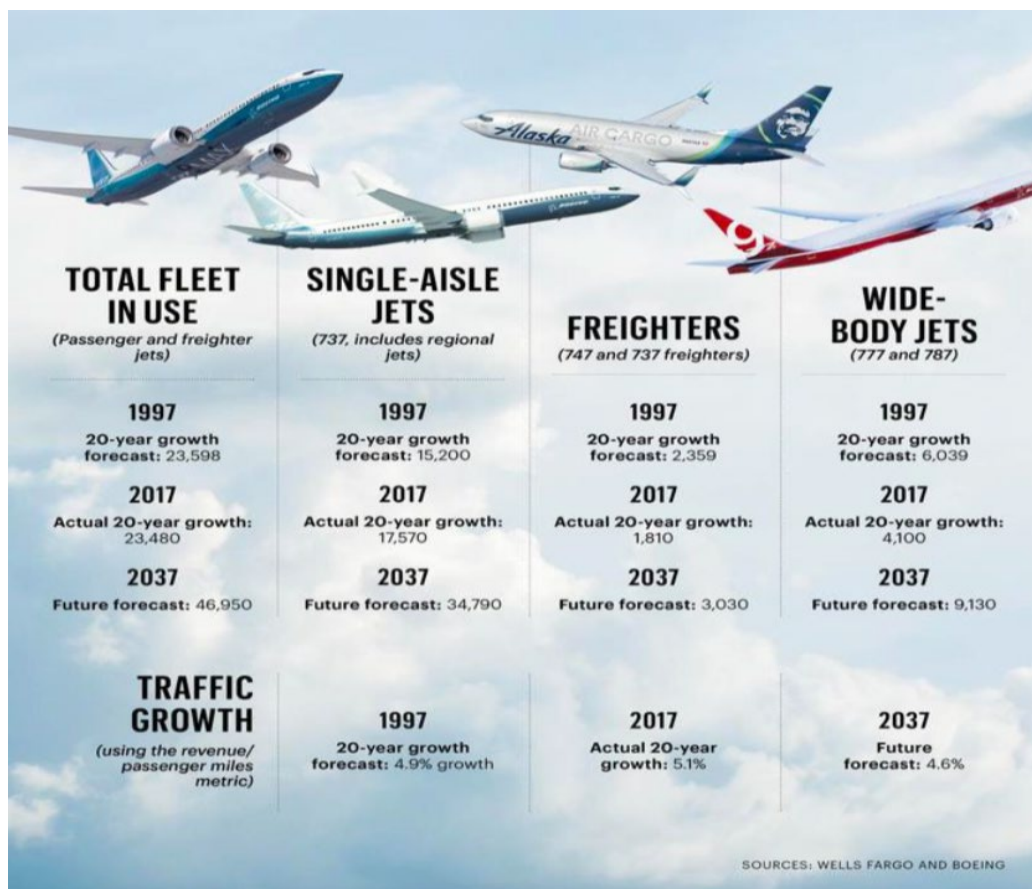
- 5.6.72. The Azimuth Report [APP-085] notes that Boeing forecasts from 2016 predict global air cargo traffic (measured in revenue tonne kilometres (RTK), the revenue load in tonnes multiplied by the distance flown) to increase annually at 4.2%, and the Airbus forecast is for 4% growth. It

⁴⁹ UK Aviation Forecasts 2017: Moving Britain Ahead, available at: <https://www.gov.uk/government/publications/uk-aviation-forecasts-2017>

states that these forecasts are based on the opinions of experts who summarise the world’s major air trade markets and identify key trends. The Applicant notes that such companies produce forecasts so that they can plan their response to the long term trends in the marketplace and that production of planes is a result of years of planning, development, testing, manufacturing set up, etc. so short term fluctuations in the market place do not generally affect strategic decision-making [REP6-012, response to ND.2.15]

5.6.73. The 2018 Boeing forecast was released during the examination period [REP6-012, response to ND.2.15]. This predicts a growth in the freighter market from 1,870 in 2017 to 3,260 by 2037 and forecasts that China will overtake the USA as the largest domestic passenger market in the world within 10 to 15 years. Boeing consider that the percentage of freight carried in dedicated freighters will remain at around 50% and that freighters are essential where both long range and frequent services are required. The 2018 forecasts remain for 4.2% growth of cargo over 20 years and states that e-commerce will continue to boost air cargo demand.

5.6.74. The diagram below shows the level of accuracy in the long run of the Boeing Forecasts [REP6-012, response to ND.2.15], comparing the 1997 forecasts with the actual levels of 2017.



5.6.75. This diagram succinctly shows the relative long-term accuracy of the Boeing forecasts with the numbers predicted and the actuals for total fleet in use being very similar. However, within this figure, the ExA notes that the forecast underestimated the levels of single-aisle jets and overestimated the number of freighters and wide-body jets, with the overestimation of the number of freighters in percentage terms being fairly considerable of around 25%. The Applicant considers that the previous overestimation of freighters was considered and calculated within the 2018 forecasts, but specific evidence was not submitted on this point [[REP9-006](#), response to ND.4.26]. Avia Solutions (see below) state that Boeing and Airbus base their long-term forecasts on GDP changes.

The Avia Solutions Report for Thanet District Council

5.6.76. The Avia Solutions Report [[REP3-276](#)] was published in 2016, and was procured by TDC, who required:

"an independent assessment advising whether or not it is possible to run a viable and economically sustainable free-standing airport operation from Manston. The Council is seeking advice from an independent expert aviation consultant who can make this assessment within the context of the national and international air traffic market, the viability of airport operations at a national and international scale and likely future developments in airport operations."

5.6.77. The Avia Solutions study is referenced in TDC's eLP which states that the report concluded that airport operations at Manston are very unlikely to be financially viable in the longer term, and almost certainly not possible in the period to 2031 [[REP3-010](#)].

5.6.78. The report [[REP3-276](#)] details how Avia Solutions developed two models for the survey, one which assessed the capacity of six airports serving the London area and how future passenger and freight traffic might be distributed between these airports including Manston; and the second a financial model to assess the potential cashflow outlook for Manston Airport.

5.6.79. The timing of the report [[REP3-276](#)] took into account the findings of the AC (in 2015) and its recommendation of a new runway at Heathrow, although it predated the ANPS.

5.6.80. The report [[REP3-276](#)] considered the construction of a third runway at Heathrow. Under this scenario, the forecast passenger traffic at Manston would initially grow to almost 2.5mppa immediately before the opening of the third runway in 2030 but would fall materially afterwards. Retained earnings would not become positive until around 2040, preventing payment of dividends to equity investors until around that date. The Earnings before interest, taxes, depreciation, and amortization (EBITDA) margin would become positive in the early 2030s and grow and reach 41% by 2050. On this basis, the report considers that it would be doubtful that an informed private sector investor would consider an equity stake in Manston Airport.

- 5.6.81. The report [[REP3-276](#)] notes that the scenario which most supports the re-opening of Manston Airport is one in which no new runways are built in the South East of England in the period to 2050. In this scenario, forecast operating cash flow of Manston Airport is negative until 2025; re-financings of £20 million are required in both 2028 and 2029 to fund terminal expansion; and retained earnings remain negative until 2029 preventing the payment of dividends. Thereafter, financial performance improves significantly, but it is 2043 before EBITDA margin reaches 50%. The scenario of no runway development in the South East of England before 2050 is a low probability scenario in the view of Avia Solutions.
- 5.6.82. The report [[REP3-276](#)] states that such conclusions are based on a set of assumptions that favour Manston Airport at all times, with examples including above market aeronautical yield, aggressive cost reduction projections and minimal acquisition costs, which would require some significant management attention. The report also notes the strong anecdotal evidence that a material proportion, probably around 20%, of air freight flying to and from the UK actually originates or is destined for continental Europe and is trucked across the channel (see below) and assumes that 20% of unaccommodated demand is lost to the UK air freight industry and flies from continental European airports. The Avia Solutions forecasts assume that half of the remaining unaccommodated demand is flown via Manston, with the other half going to other UK regional airports.
- 5.6.83. With the above assumptions Avia Solutions conclude [[REP3-276](#)] that airport operations at Manston are very unlikely to be financially viable in the longer term, and almost certainly not possible in the period to 2031. Avia Solutions assumed as a minimum that a re-opened Manston would be able to attract a minimum of its previous freight, of around 30,000 tonnes per annum. The report considers whether the scale of activity may be greater than experienced in the past, with two possible causes examined: Firstly that a major multinational manufacturing or retail group (such as an Asian electronics firm or Amazon) choose East Kent to be the location of its distribution network, or secondly, noting that freighters are often the first category of air traffic to be 'squeezed' out of busy airports, that freighters look to move to an alternative airport. Essentially this is close to the case put forward by the Applicant, that a lack of South East capacity has squeezed, and will continue to squeeze, freighters out of existing operational airports and that a new integrator would use the Proposed Development.
- 5.6.84. The report [[REP3-276](#)] considers that the UK's planned exit from the EU leaves a decision to make Manston the location of a distribution network of a major multinational manufacturing or retail group less likely, and that integrators require a central location within the market being served, considering that the geographic location of Manston precludes it from being a suitable base airport for an integrator in particular when compared to UK competitors such as EMA.

Bellyhold vs. pure freight – and trucking

- 5.6.85. The Applicant is of the view that capacity shortages at UK airports restrict the market for pure freight, both in terms of runway capacity but also freight handling facilities, resulting in the domination of bellyhold freight in the UK outlined above. They note that this is the reverse of the position globally (citing UK bellyhold to pure freight figures of 70/30 to Global 44/56) [[APP-085](#)], where dedicated freighter capacity is more freely available. They note that Frankfurt Hahn Airport carried 63% of freight on dedicated freighters in 2018.
- 5.6.86. This issue is intertwined to a certain extent with trucking air freight, as mentioned above. The Applicant is of the view that the lack of capacity in the South East forces air freight that in an unconstrained market may have flown using pure freighters to be trucked to airports in Europe with capacity [[APP-085](#)], and that the prevalence of trucked goods produced in or destined for the UK to European airports is therefore largely as a result of capacity constraints rather than market preference [[REP11-013](#)].
- 5.6.87. An alternative view of the reasons for the differences between UK and global figure for bellyhold vs. pure freight and the presence of trucking is suggested by York Aviation for SHP [[REP5-029](#)], who consider that this is caused by a combination of the price differentials between the two modes of freight travel (bellyhold and pure); the price of aviation fuel; and by the network of logistics and distribution users that has built up around Heathrow and links to similar facilities in northern Europe around hub airports there.
- 5.6.88. York Aviation suggests [[REP5-029](#)] that airlines would expect to make some 10% of total revenues from bellyhold freight (with the remaining 90% coming from the passengers sitting above the freight), whereas dedicated freighter airlines have to make all their money from the freight itself. They state that this results in freight travelling in dedicated freighters being some 4.5% more expensive than bellyhold transit, and that this price differential when combined with the dominance of Heathrow in the UK airport market and the network of routes it is able to provide as a dominant hub airport is the economics of the industry [[REP3-025](#), Appendix 4]
- 5.6.89. A similar view is held by Altitude Aviation for SHP [[REP3-025](#), Appendix 5], which states that the UK lacks available dedicated freighter capacity at its major passenger hub airport, Heathrow, with a lack of available runway slots restricting freighter activity. It considers in such situations freight customers have the following choices: To operate freighter flights (or use existing freighter flights) from other UK airports where capacity is available (such as Stansted or EMA); to transport freight in the bellyhold of passenger flights from Heathrow (or other UK airports); to transport freight to a major European air freight hub (eg Liege, Frankfurt), typically by road truck; or to use surface modes of transport (road, rail, water) for the whole journey (where possible due to distances and time).
- 5.6.90. It considers that as freighter capacity is available at other airports (Stansted and EMA) any shortage of air freight capacity in the UK relates

specifically to Heathrow hub capacity rather than a more general lack of capacity. Altitude Aviation is also of the view that trucking is a highly integrated component of the air freight business model, and not merely a substitute for air freighter flights when airport capacity is constrained, considering that the increasing use of truck feeder services is due to cost efficiencies and is not restricted to the UK, and "*see no evidence that the growth in trucking is primarily driven by lack of Heathrow capacity for air freighter flights*" [[REP3-025](#), Appendix 5].

- 5.6.91. Altitude Aviation also note that as there is already spare capacity at other airports in the UK, provision of further capacity would not make any significant difference to trucking levels, considering that "*there is no reason why economic decisions to truck freight rather than fly would change in the absence of new Heathrow capacity*" [[REP3-025](#), Appendix 5].
- 5.6.92. Avia Solutions is of the view [[REP3-276](#)] that the disparity between UK and world comparisons between bellyhold and pure freight is due to the excellent bellyhold networks available from Heathrow. They consider that as passenger demand increases additional belly-hold capacity will enter the market, and that this capacity growth is unhooked from the demand scenario for bellyhold cargo and can result in excess capacity in the market. As a result, airlines will often sell this bellyhold capacity using a marginal cost pricing structure. This pricing structure does not need to account for the high cost of the aircraft and must only meet the additional marginal cost that each kilogram of cargo incurs. Through the application of this pricing structure, belly-hold cargo often undercuts the minimum price that can be charged on dedicated freighter operations, and that as a result of this market dynamic, **an airport focused on airfreight carried by dedicated freighters may be overly exposed to a declining or stagnant total market, or at best to a market that is not exposed to strong potential** (the ExA's emphasis).
- 5.6.93. However, it does note that some elements of the market may be limiting the increase in bellyhold capacity, namely that some of the newer aircraft types have a smaller bellyhold capacity than the aircraft they replace and that LCCs are gaining market share but generally do not carry freight [[REP3-276](#)]
- 5.6.94. The Applicant disputes that price differences are as significant as stated by York Aviation and Avia Solutions, considering that the price of transferring freight by bellyhold and in pure freighters is very similar and differences marginal, although they offer no substantive evidence of this view, stating that such information is not publicly available as it is extremely commercially sensitive. They consider that the price difference is of secondary and marginal consideration when compared against the core product offer of scheduling, speed and efficiency of the transport process, reliability, security, the size of the consignment or the need for specialist handling, global connectivity and the efficiency of ground handling and trucking operations for differentiating between bellyhold and pure freighters . The Applicant considers that the UK is the outlier because of its capacity shortages, not because it is cheaper to truck

cargo to other hubs. [[REP6-012](#), response to ND.2.7; [REP7a-002](#) response to ND.3.7; [REP9-006](#) response to ND.4.17].

- 5.6.95. Avia Solutions [[REP3-276](#)] note that total air freight handled at UK airports has been virtually constant at around 2.3 million tonnes per annum since 2000, with the exception of reductions immediately after the start of the recession in the early 2000s and the financial crisis in 2008. They are of the view that while the lack of ATM growth in air freight at Heathrow has undoubtedly hampered the development of the national air freight market, it is also true that since 2000 there was adequate airport capacity available at both Stansted and Manston (when it was open) to support additional dedicated freighter movements, noting that freighter movements at Stansted decreased over the period, while Manston closed, suggesting that the stagnation of UK airfreight is not a consequence of capacity constraints.

The Oxford Economics Report

- 5.6.96. A report by Oxford Economics and Ramboll for Transport for London was cited by the Applicant [[REP4-031](#)] and York Aviation [[REP6-053](#)], as well by Avia Solutions [[REP3-276](#)]. This was carried out as part of the investigation of the development of an estuary airport for London. A potential cause of the stagnation of growth in air cargo since 2000 was identified as the increase in oil and jet fuel price, as suggested by York Aviation above. Trend forecasts were based on average growth from 2000 to 2012 (the Lower Bound) and from 1990 to 2012 (the Upper Bound). The difference in growth rates of the two periods produce very different forecast outcomes.
- 5.6.97. Avia Solutions note [[REP3-276](#)] that Oxford Economics relied on a forecasting technique based on historic trends, rather than econometric regression analysis seeking to correlate historic growth in air cargo with changes in external / exogenous variables such as GDP, international trade etc that might be driving the freight growth. They consider that the Oxford Economics approach is consistent with it either not being confident in any relationships that exist, or simply not finding any explanation for the stagnation of air freight and note that the forecasts produced have an exceptionally large range between low and upper bounds, which indicate the difficulty of forecasting cargo growth with confidence.
- 5.6.98. The Applicant was questioned over the price of aviation fuel since 2000. They replied that since 2012 the price of jet fuel has dropped considerably, but that trucking had not decreased thereby confirming their view that trucking is prevalent due to airport capacity issues and under investment [[REP6-012](#), response to ND.2.18]. A subsequent question [[REP7a-002](#), response to ND.3.13] reiterated the original question concerning the time period from 2000. The answer to this question demonstrated that, while showing considerable fluctuations, the price of jet fuel has, in general, not been as low as the period from April 1999 to around April 2003 since then, with only a drop around early 2016 being close to this price range. Such price differences are substantial – from a low of around \$0.39 per gallon in April 1999 to a

high of some \$3.85 in April 2008, and around \$1.87 in April 2019; considerably higher than the price of some \$0.76 in April 2000.

- 5.6.99. In response the Applicant [[REP9-006](#), response to ND.4.27] was of the view that the fuel position is more complicated than as analysed as diesel costs will vary across Europe and does not take into account currency rates or tolls, considering that the price of fuel is not likely to be responsible for major behavioural changes such as trucking vs air, and that the choice between codes is a lot more complicated, involving factors such as speed, security, reliability, journey distance, perishability etc.

The Steer Reports

- 5.6.100. The Azimuth Report [[APP-085](#)] and other representations [[REP3-025](#)] cite the 2010 Steer Report⁵⁰, which identifies 97,000 tonnes of freight a year which crosses the Channel by truck and that trucked air freight grew in importance between 2002 and 2007. The report notes that from the UK it is common for freight to be trucked by a European airline to its main hub airport in Europe to be loaded for onward movement on a long haul passenger or freighter service, and that the reverse is true for imports into the UK; for example, British Airways will truck cargo inwards from mainland Europe to help fill its long haul flights from Heathrow.
- 5.6.101. The report goes on to state that these movements are analogous to the passenger airline hub and spoke model whereby an airline feeds long haul flights from a central hub with a number of domestic and regional services. In the air freight market, domestic and regional flights are replaced by trucks due to the significant saving in cost compared to flying and acceptable reduction in time for a general air freight product.
- 5.6.102. Air freight by road is described as trucks that contain air freight which has been customs cleared. The report says that this type of cargo supports freighter and passenger bellyhold services on the first or final leg of the international journey, and has developed due to short haul flights within the UK and Europe becoming uneconomical for general cargo combined with an increase in wide body freighter services to hub airports, whilst at the same time the industry has faced increasing difficulty in transferring air cargo between container types (due to compatibility issues). The report notes that in the UK the vast majority (over 95%) of 'air freight' trucking movements begin or end their journey at Heathrow.
- 5.6.103. A further Steer Report from 2018⁵¹ [[REP3-187](#), Appendix ND.1.13] confirms that a significant amount of air freight is transported in customs-bonded trucks between the UK and continental Europe and is

⁵⁰ Steer Davies Gleave (2010), Air Freight: Economic and Environmental Drivers and Impacts. Prepared for the Department for Transport

⁵¹ Steer (2018), Assessment of the value of air freight services to the UK economy. Prepared for Airlines UK with support from Heathrow Airport Limited, Manchester Airports Group and the Freight Transport Association

classified as air freight with an assigned flight number. It reiterates that freight is often flown to continental Europe, particularly from Asia, as there is often more available air freight capacity than to UK airports, partly due to lack of available slots for freighter aircraft at Heathrow. The freight is trucked as bonded freight to avoid having to undergo local customs procedures so that importers only need to deal with the UK customs authorities rather than investing in systems to deal with multiple customs authorities. The report considers that *"this represents an inefficiency from the perspective of the UK economy as whole"*.

- 5.6.104. However, the report also notes that in contrast to goods from Asia, Heathrow stated that goods destined for North America are also often trucked to the UK, in particular Heathrow, from continental Europe in order to take advantage of cheaper rates from the UK on North American routes. As Heathrow is the primary European hub for North American passenger connections, there is a significant level of bellyhold capacity available, which means air freight rates are cheaper compared to other European airports.
- 5.6.105. Paragraph 3.21 of the report notes that many of the largest freight airports in the EU are concentrated in North West Europe, which is relatively well off, densely populated and the home to a lot of European industry (thereby generating demand for imports and a large amount of goods for export), and states this close proximity of many large airports may to some extent explain why so much air freight is flown to continental Europe and trucked to the UK, as there is greater capacity available to continental North West Europe than to the UK.

York Aviation 2015 Report

- 5.6.106. The subject of much debate during the Examination, York Aviation produced a report in 2015 for the Freight Transport Association (FTA) and Transport for London (Implications for the Air Freight Sector of Different Airport Capacity Options, York Aviation, 2015)⁵² (the FTA Report) [[REP3-187](#), Appendix ND.1.17]. This report was carried out to consider issues around the freight market and feed into the AC, due to the view that this had focussed strongly on passenger markets.
- 5.6.107. The FTA Report notes that air freight tonnage at the London airports had grown over the last 20 years (to 2015) but considered that this disguised a worrying trend in that the market grew rapidly until 2000, but had then largely stagnated. This coincided with growing capacity constraints at Heathrow and the report considered that, to a significant degree, other airports could not step in to provide relief as they do not have the long-haul networks to support bellyhold capacity. Only Stansted, with its significant spare runway capacity, emerged as an alternative for pure freighter airlines albeit the range of destinations served by these aircraft

⁵² Available at: <http://content.tfl.gov.uk/air-freight-implications-from-new-capacity.pdf>

is substantially smaller than is available using bellyhold capacity in passenger aircraft.

- 5.6.108. The FTA Report considered that only a four-runway hub would provide spare capacity at 2050 and concluded that ultimately its analysis demonstrates clearly the importance of the provision of sufficient concentrated airport hub capacity in London by 2050. The report also contains details of a basic model to consider where excess air freight demand from the London system might be served by trucking to other airports in the UK and on the continent. This considered that 72% of excess demand would be trucked to Paris Charles de Gaulle, Frankfurt and Amsterdam (with 22% split between Birmingham, EMA and Manchester). The report notes that UK regional airports, despite being substantially closer to London in most cases, cannot match the level of attractiveness offered by the continental hubs and their wider global networks.
- 5.6.109. When considering the 2010 and 2018 Steer reports, the FTA Report and the Oxford Economics Report together, the ExA considers that the already considerable levels of trucking freight identified in 2010 have and may continue to increase over the long term. However, this seems to be a function of not only the price of aviation fuel since 2000 but also the function of the market to find the airports with the best hub networks – whether this is from Heathrow to North America or from northern European hubs for Asian and South American routes (in general terms) and that the distances between London and Heathrow to such European airports makes it economically viable and advantageous to do so.
- 5.6.110. The relative proximity of the European golden triangle, with the density of population and manufacturing that is located in North West Europe also appears to be a key factor. Such an area would clearly generate large demand for both imports and exports and the subsequent demand for air freight that this entails. Furthermore, the economies of scale that have led to this situation at the northern European hub airports and the Heathrow environs becoming a highly developed and sophisticated network of freight handling and distribution facilities would also seem to be self-perpetuating; as hub airports provide a wider range of flights with bellyhold capacity so more freight forwarders and distributors are attracted to their immediate environs and the hub airports become more attractive still. Such an effect would also take place at the dedicated freight airports such as Liege and to a lesser extent the UK freight airports of EMA and Stansted.
- 5.6.111. When considering this together, noting that the FTA Report of 2015 states that only Stansted with its spare runway capacity has emerged as an alternative for pure freighter airlines (noting that the range of destinations served is substantially smaller than is available using bellyhold capacity), and the FTA model which finds that UK regional airports, despite being substantially closer to London in most cases, cannot match the level of attractiveness offered by the continental hubs and their wider global networks, it appears unlikely to the ExA that the

Proposed Development would divert and attract existing and future trucked air freight to the extent shown in the applicant's forecasts..

- 5.6.112. Air freight would still primarily be attracted to the airports with the widest possible global networks for reasons of economies of scale. While Brexit may have a short term impact on the efficiencies of trucking across the Channel, the ExA considers that one reasonable scenario is that, in the medium to long terms, such inefficiencies would be ironed out to the benefit of the UK and mainland Europe, and that efficiencies of air freight itself may also be affected in the short term.
- 5.6.113. It also seems logical that bellyhold freight would be significantly cheaper than pure freight. While evidence on this point is not strong from the representations made, the ExA is attracted by the argument that freight being carried on a plane whose purpose also includes transporting passengers (and the operator would be receiving the revenue that would be generated from such passengers) would be substantially cheaper than on a plane whose sole income is from the freight itself. The ExA also considers that price must be a determining key factor in the choice of how to fly freight; while clearly other factors such as efficiency will play key role, price would be a primary rather than a secondary consideration.

New integrators - e-commerce

- 5.6.114. As stated above, the Applicant aims to attract new integrators. In this context this term refers to e-commerce retailers and distributors, such as Amazon and Alibaba. The Applicant reports that such e-commerce retailers are establishing and forming their own distribution networks, to reduce reliance on outside parties, and consider that the e-commerce integrators are not reliant on night time flights. Evidence in the Examination relating to Amazon including descriptions and studies of the current operations of Amazon's own airline, Amazon Air, in the USA and of preliminary operations in the UK based at EMA [including [REP6-012](#), response to ND.2.12]. Alibaba, a Chinese e-commerce company has established links at Liege Airport in Belgium [[REP5-029](#), Annex 2].
- 5.6.115. The Applicant is of the view that the cargo industry is fundamentally changing, and that this change needs an innovative response which cannot be provided at constrained South East airports, but a complementary facility tailored to the demands of freighters could be provided at Manston [[REP11-013](#)]. A chart is provided in the Applicant's summary of need [[REP11-013](#)] demonstrating in their view the rapid recent rise in e-commerce air freight operations and the relative decline of old-style integrators. However, there is very little detail of the chart, including which geographical market it refers to, and whether it refers to air freight or traditional postal services in the US.
- 5.6.116. E-commerce integrators are considered in more detail below, within locational factors.

Specialist / niche cargo

- 5.6.117. The Azimuth Report [[APP-085](#)] states that the perishable market (fruit, vegetables, flowers) was a previous staple for Manston, and the airport had a reputation for the speed at which cargo can be offloaded and onto the road. Evidence of a previous operator from the airport (Finlays Horticulture) is provided within the Azimuth Report [[APP-085](#)] who previously used to import some 400 tonnes of perishable cargo per week into Manston and would support a return to use of the airport. However, the ExA note that this evidence dates from January 2015 and was provided shortly after the airport previously closed. It is not clear therefore if this evidence remains up to date, or if the company concerned still maintain the same view.
- 5.6.118. Fresh fish is also identified as a market by the Applicant, as well as live animal transportation, particularly for racehorses and breeding stock. Pharmaceutical and biotechnology goods are also raised as a potential market, as well as oversized items such as aircraft parts, luxury and Formula 1 cars and band equipment / sound stages [[APP-085](#)].
- 5.6.119. The Applicant notes that fresh fish is a considerable market for exports from the UK, with 446,500 tonnes of fish and shellfish exported from the UK in 2017. The forecasts [[APP-085](#)] predict two ATMs a week for 26 weeks from Year 2 for exporting fish [[REP6-012](#), response to ND.2.2]. The Azimuth Report notes that fresh salmon is the top export from Heathrow [[APP-085](#)].
- 5.6.120. The transportation of racehorses is a specialist market which the Proposed Development would seek to attract. The Applicant notes that Stansted and Heathrow are England's main airports for equine transportation [[REP6-012](#), response to ND.2.3]. Cars are also forecast for air freight, with Formula 1 cars moving from UK bases to the location of races around the world, as well as a market for large luxury cars from the Middle East to London during the summer [[REP6-012](#), response to ND.2.3].
- 5.6.121. The Applicant notes that pharmaceuticals currently comprise 1.9% of all air cargo volume and that the market is predicted to increase, but that a large percentage of shipped products are degraded due to poor temperature control; a situation which the Applicant states the proposed development could assist with through modern handling facilities [[REP6-012](#), response to ND.2.4].
- 5.6.122. Oversized items such as aircraft parts or specialist equipment for concerts or band tours are also raised, with one operator already flying out of Doncaster Sheffield Airport mentioned as wishing to have a facility in the south of the UK [[REP6-012](#), response to ND.2.5]
- 5.6.123. The movement of perishables such as those which previously flew into Manston may be achieved by the Proposed Development, and there may be a market for pharmaceuticals to be flown from the airport, bearing in mind local industry and the climate control needed for such goods which is easier to achieve at a smaller modern airport. However, the ExA considers that for such goods, and other oversized items mentioned they

would generally gravitate to airports closer to where they are produced / based – for instance racehorses from Newmarket and biotechnology from Cambridge may be more likely to fly from Stansted.

- 5.6.124. Some flights exporting fish may be achievable; the ExA notes that the highest-ranking UK ports in terms of fish volume and value are dominated by Scottish ports [[REP6-014](#), Appendix ND.2.3] and that Humberside and the Grampian region of Scotland dominate fish processing. However, given the relatively low number of flights forecast in this regard such a market may be achievable.

Locational factors

- 5.6.125. The Applicant's summary of the need case [[REP11-013](#)] considers that the Proposed Development is ideally located to serve the South East market where aviation demand is highest and most constrained. The Applicant is of the view that Manston has good surface access to the SRN with no bottlenecks and good connections to high quality public transport, noting that the site is in the South East of England, close to main significant population and commercial centres, with good connections to continental Europe. They note that York Aviation uses a gravity model (referred to above) which shows how excess freight from the London system might be served by trucking to other UK airports and Europe, which shows Paris Charles de Gaulle at 34%, Amsterdam Schiphol 19% and Frankfurt 18%, with UK airport at Birmingham (13%) and EMA 8%, considering that the 71% outlined could be met by Manston. It considers that the time taken to load and offload aircraft is a key factor in the choice of airport by freight airlines, and, as noted previously, that the lack of capacity in the South East is the reason why many freight forwarders choose to use Northern European airports [[APP-085](#)].
- 5.6.126. Evidence was produced [[REP3-195](#), response to ND.1.8] to demonstrate that the time taken to travel from Manston to most M25 and London destinations is quicker from Manston than from EMA, with Manston being better located geographically and therefore providing cost advantages to customers. The Applicant notes that the time is shorter from Stansted but that Stansted does not operate a dedicated freight facility that will allow for rapid turnaround, and considers that EMA is the base for DHL and UPS as it is located in a central location that serves the large part of the country outside of London and the South East, and that there is more stress on the M1 and the M25 (route from EMA to London) than on the A299 and M2 / A2. Interviews are also cited in the Azimuth Report [[APP-085](#)] which noted the location of Manston in a favourable way.
- 5.6.127. York Aviation [[REP3-025](#)] considers that Manston is in a poor position to serve the wider South East market or the UK. They also note the lack of critical mass of manufacturing nearby, the lack of a passenger hub and proposed night flight restrictions, considering that within a three-hour drive from Manston only the South East and the east of England can be reached, whereas most of England and Wales is within three hours of EMA. They note that Liege and Leipzig have central locations and while cargo origins and destinations are difficult to track, distribution of

manufacturing employment is vital for exports and population distribution for imports, considering that on their own assessments demand for imports is around 45% in London and the South East and exports around 25%.

- 5.6.128. Altitude Aviation for SHP [[REP3-025](#), Appendix 5] states that cargo is less time sensitive than passengers, and therefore an airport's cargo catchment area is often many times larger than its passenger catchment, citing the example of EMA which serves the whole of England and Wales by exploiting its central location in England. It also notes that the extensive network of long-haul flights from Heathrow means it attracts freight from the whole of Great Britain. Due to this it does not see a need for new air freight capacity to be located in the South East specifically, considering that new capacity would be most usefully concentrated at existing major air freight hubs, whether in the South East (Heathrow, Stansted) or outside (EMA), enabling the *"air freight industry to continue to benefit from the economies of scale and scope flowing from market consolidation."*
- 5.6.129. Altitude Aviation also note that the AC negatively assessed the freight potential of Gatwick due to its location, stating that Gatwick's position to the south of London limits its effectiveness as a national freight hub. It is of the view that were Manston airport to be reopened, it would likely be competing directly with EMA and Stansted for cargo-only flights, with a poor outlook.
- 5.6.130. Many IPs [including [RR-0089](#), [RR-0603](#), [RR-0646](#), [RR-0949](#), [RR-1342](#), [RR-1717](#)] point out that the location of Manston, with sea to the north and east, is not conducive to attracting freight or as a centre for imports. Alternatively many IPs [including [RR-0211](#), [RR-1621](#), [RR-1607](#), [RR-2041](#)] consider the location of Manston to be ideal to release pressure on the South East.
- 5.6.131. The Applicant states [[REP4-031](#)] that the success story that is EMA is not as well placed as Manston to deal with the 35 to 40% of freight market that originates or has destinations in London and the South East (or East) of England.
- 5.6.132. At the ISH [[EV-014 to EV-014c](#)], alternative routing to the South East and M25 was discussed, with the ExA asking questions over alternative routes to the M25 should there be issues on the M2 / A2 and A299. The Applicant considered that there were other cross routes possible if there were issues with M2 / A299, and that traffic was less on these roads less than on the M1, M25 and other radial routes. The Applicant also notes the proposed Lower Thames Crossing would make access easier to and from Manston to the M11 / A14 corridor, and consider that it would not benefit Stansted so much due to capacity constraints, noting the specialist handling proposed as part of the proposed development and stating that lower shipping costs would be available at Manston.
- 5.6.133. The Applicant is of the view that the forthcoming exit of the UK from the EU will lead to increased delays at cross Channel ports, making air freight

more attractive as opposed to trucking. However, it seems unlikely that such delays will be such an extent that air freight will become more sustainable in the long term than trucking to northern Europe, or that cross-channel checks at sea ports will not be substantially more than will be required at airports. It could be reasonably expected that such effects will also only be in the short term.

- 5.6.134. From the evidence provided, it is clear that trucking times from Manston to central London, north London (M25), east London (M25), south London (M25) and Cargo Centre Heathrow (M25 West) are all quicker than from EMA [[REP3-195](#), response to ND.1.8]. However, it is noticeable that the journey to Heathrow Cargo is only 20 minutes longer than from EMA. York Aviation [[REP3-025](#)] states that while there is a heavy concentration of demand in the Greater South East, there is significant demand across the country and consider that it is misleading to assume that cargo that is currently flown from the London airports is necessarily destined or originating in the South East. York Aviation model the regional distribution of UK Air Cargo Demand [[REP3-025](#), Figure 4.4] as 45% London and the South East, meaning that 55% of freight originates from areas outside of the South East. It is also reported that much of UK freight is consolidated at Heathrow, where journey times differences between Manston and EMA are not significant.
- 5.6.135. The Applicant considers that the M1, as the primary route from EMA to the M25 is subject to higher stress than the A299 and M2 / A2. However, at period of high stress or when accidents may have occurred on the M1, then EMA traffic also has the option of travelling south via the A / M42 and M40, an ideal option for approaching the west side of the M25 towards Heathrow and the agglomeration of freight warehousing sited around. When questioned at ISH2 [[EV-014 to EV-014c](#)] over alternative routings for Manston traffic should accidents occur on the M2, the suggested cross-routes appeared convoluted and time consuming.
- 5.6.136. Figure 4 of the Azimuth Report [[APP-085](#)] details the locations of businesses served by integrators at EMA. This shows a wide range of businesses, with concentrations not only in the North West, North East, the East and West Midlands, but also Cambridge, the South East and London itself. This accords with the evidence of York Aviation [[REP3-025](#)] who state that much of England and Wales can be reached in three hours from EMA. Locations a certain distance north or west of London would likely be reached in quicker time from EMA than from Manston.
- 5.6.137. The presence of EMA as the national hub for DHL, UPS and TNT also strongly seems to suggest that it has a good national location, including for the South East. While Manston may be more proximate for the significant import demand from the population density in the South East, EMA is in a position that can benefit from fairly easy access to much of this import demand and also for export demand from the manufacturing heartlands of England and Wales.

Locational factors and new integrators

- 5.6.138. Above the ExA has considered that EMA is in a good position nationally to cater for import and export air freight demand, a fact evidenced by the siting of the express integrators already at this airport. Such integrators require quick access to markets across the UK and customers would pay a premium to ensure such quick deliveries.
- 5.6.139. In answer to question ND.2.13 [[REP6-012](#)] concerning proposed new integrators and the night flight ban proposed for the Proposed Development, the Applicant considered that new integrators would dovetail with the night flight ban by flying during the day and clustering movements in the evening before the night curfew and after the curfew in the morning. They note that some new integrator cargo takes the form of pre-packed parcels (with individual addresses already on them) which would be transported to fulfilment centres and some cargo would be required to maintain stock levels of popular products within the fulfilment centres. The answer also states that, for products other than those on 'Amazon Prime' (next day delivery) which are commonly held in fulfilment centres, where a product order may come from another country delivery times are longer and flying of products is used to ensure that targets of two to three days are met.
- 5.6.140. This implies to the ExA that time is less important to new integrators than to express integrators. In answer to question ND.3.8 [[REP7a-002](#)] the Applicant states that:
- "...new integrators are not focused on overnight shipment for early morning delivery the next day in the same way traditional integrators B2B [business to business] markets are because they keep stocks topped up in fulfilment centres rather than delivering them directly to customers. Amazon Prime delivery even if next day is likely to be afternoon or evening and if the product has had to be originated overseas, it may take longer."*
- 5.6.141. The ExA considers therefore that logically if time is less important to new integrators than to express integrators, and express integrators currently are located outside of the South East at EMA (other than Fed Ex at Stansted) then the proximity of Manston to the South East would not provide a great benefit to such operators.
- 5.6.142. This evidence, together with the evidence of a substantial Amazon fulfillment centre very close to EMA [[REP5-029](#)], where much of England and Wales can be reached within three hours trucking time, as opposed to just the South East of England, would seem to suggest that a more central location would be more likely for new integrators to choose than the Proposed Development and that they would likely consolidate in the Midlands along with other distribution hubs.
- 5.6.143. At ISH2 [[EV-014 to EV-014c](#)], Rockford International Airport was raised as an example of rapid growth at an airport due to the presence of an e-commerce integrator. Rockford is situated around 90 minutes from the centre of Chicago and some 60 minutes from the major international airport of Chicago O'Hare and accommodates a traditional integrator

(UPS) and a new integrator (Amazon Air). The Applicant considers that Rockford is an:

"...example of an airport which [...] shows the potential impact on the surrounding area in terms of employment, skills and the potential for high tech business clusters to locate around the airport."

and that:

"it is interesting to note the success Rockford has had with its cargo operation despite its proximity to one of the world's major airport hubs" [[REP6-012](#), response to ND.2.14].

- 5.6.144. SHP [[REP5-029](#)] note that Rockford Airport is publicly owned, employs 41 members of staff and recorded an operating expenses loss of \$13,727m dollars in 2017 to 2018 despite handling around 238,710 tonnes of freight in the same year. The Applicant considers [[REP7a-002](#), response to ND.3.20] that this is a result of competition in the region, that due to its public ownership a more long term financial view can be taken and it is unclear what subsidies or tax breaks may be available to UPS or Amazon, summarising that its business model is adapted to a different economic and governance environment.
- 5.6.145. In respect to Rockford Airport, the ExA notes that the Applicant states that *"...we do not believe RFDs most recent accounts tell us anything about the likely commercial success or otherwise of RSPs proposals for Manston and should not be presented as such"* [[REP7a-002](#), response to ND.3.20]. The ExA considers that this is reasonable; however, given such losses, the nature of the local area and ownership of the airport it is also not comparable to the Proposed Development in terms of a comparator for showing likely or possible effects of a new integrator in a significantly different economic and governance environment.

Passenger traffic

- 5.6.146. Whilst the application for development consent was made under s23(5)(b) of the PA2008 - 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 – it is necessary also to consider the issue of need for, and forecasts of, passenger air transport movements.
- 5.6.147. The Azimuth Report [[APP-085](#)] forecasts some 975,000 passengers in the 10th year of operation, and some 1.4mppa by year 20. York Aviation [[REP3-025](#)] consider the passenger potential of the Proposed Development in detail, concluding that the Proposed Development might achieve around half of the number of passengers (750,000) forecast within the Azimuth Report, but consider to do so there would need to be an allowance for passenger aircraft movements in the night period. They also consider that the build up to such levels of passenger throughput would be significantly slower than projected.

- 5.6.148. The Applicant notes that the passenger forecasts are not significantly different to that by Avia Solutions [REP3-276] and notes that York Aviation do not take account of the strengths of the local market and attractions including cruise ships, language schools and Canterbury Cathedral. They cite the example of Southend Airport as an example of how an airport can grow quickly in passenger terms.
- 5.6.149. York Aviation [REP7-014] consider that the Avia Solutions report [[REP3-276](#)] did not take account of greater infrastructure at Gatwick and Luton, which would largely remove, in their view, the 'spill' component of the forecasts which may have occurred due to insufficient capacity at these airports. They also consider that the proposed night restrictions would deter passenger airlines being based at the Proposed Development, citing the lack of based Ryanair aircraft at Exeter in support of this view. Further restrictions on passenger flights in terms of no such flights between 09:00 and 11:30 and limiting passenger departures to one flight only between the hours of 07:00 and 08:00, 11:30 to 11:44, and 11:45 to 12:00 were accepted by the Applicant [[REP11-002](#)] following proposals put forward by the ExA for the purposes of managing ground transportation and traffic effects. York Aviation also note that Southend Airport accounts show that operating losses have increased from £3.6m to £6.5m which, in their view, suggests that it may have been 'buying traffic'; that is taking reduced landing fees for passenger traffic to what other airports may offer to entice airlines to base themselves at the airport.
- 5.6.150. The Applicant is of the view that the passenger forecasts anticipated a new runway at Heathrow and expansions of other South East airports within their limits of core infrastructure capacity (in line with the AC and DfT forecasts), and comment that Manston will be focused on serving east and mid-Kent catchment which is the most remote in home counties from other airports [[REP9-006](#), response to ND.4.31]. It considers that Southend has the same complementary role to Stansted as Manston will to have Gatwick and Southampton and Bournemouth do to Heathrow. It points out that they examined likely routes, as well as the market for inbound Kent, London and South East visitors and niche markets like Dover cruise ships.
- 5.6.151. The forecast levels which are similar to Avia Solutions are coincidental in the Applicant's view but points to a broadly consistent view of size of market. It considers that spill to Gatwick and Luton would not have such a great effect and does not agree that night flight restrictions would restrict passengers, noting that Manston is some 45 to 50mins closer to Europe than Exeter, making equivalent operating windows half an hour later in the morning and earlier in the evening [[REP9-006](#), response to ND.4.31].
- 5.6.152. The Applicant also states that small numbers of military and humanitarian operations may also be possible / attainable at Manston, at similar levels to as before when the airport was last in operation (circa 50 a year) [[APP-085](#)].

- 5.6.153. York Aviation provide a timetable of Ryanair UK flights in the week commencing 24 June 2019 [REP9-129], detailing that across the UK 6% of all departing flights were between 09:00 and 12:00, and for smaller airports of a similar scale 19% of all departures between same times. Imposing a night flight restriction as proposed in their view would have significant impacts on airlines being able to schedule, and such constraints would also increase the likelihood of needing arrivals after 23:00 to attain full utilisation of aircraft across the day. They also note that at airports of the size of Manston operators such as KLM have a heavy reliance on slots between 09:00 and 12:00 so as to feed into Schiphol long haul departures.
- 5.6.154. The Proposed Development would clearly offer a useful service to people in Kent and the Thames Estuary for passenger flights. However, it is also clear that the passenger aviation market has a great deal of competition and for some catchment areas the proposed development would be competing with competitors at Gatwick, Stansted and Southend airports. The night flight restrictions and further agreed proposed morning restriction times would not help in this regard and therefore the full extent of the Azimuth forecasts would be difficult to reach. The cited accounts of Southend [REP7-014] also suggest that to achieve such levels of passenger throughput costs would have to be extremely competitive.

5.7. CONCLUSIONS

- 5.7.1. The ExA is mindful that the ANPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Northwest Runway at Heathrow and associated proposals for new and reconfigured terminal capacity and, therefore, the application is examined under s105 of the PA2008.
- 5.7.2. Nevertheless, the ANPS remains an important and relevant consideration in the determination of such an application, particularly where it relates to London or the South East of England.
- 5.7.3. Government policy states that the Government is minded to be supportive of all airports which wish to make best use of their existing runways, including those in the South East (ANPS paragraph 1.39).
- 5.7.4. The ExA considers that the Applicant's forecasts, when seen in the light of the historical performance of the airport seem ambitious. Previously the airport did not go above around 50,000 tonnes of cargo and 200,000 passengers a year, compared to the 340,000 tonnes and 1.4mppa forecast now.
- 5.7.5. The ExA accepts in this context that the investment levels proposed for the airport are at a different level to that previously spent on the site and notes anecdotal evidence that British Airways was previously in discussion with Infratil but pulled out due to a lack of investment and failure of the operator to provide a state-of-the-art facility. However,

conversely SHP make reference to Wiggins Group investing £6 to 7m on new aprons and taxiways to increase freight capacity to 200,000 tonnes per annum [[REP5-028](#)].

- 5.7.6. Although to a certain extent it may be a cause and effect situation, it is also reasonable to suggest that the previous operators of the airport, either Wiggins Group (of which one member of the Applicant's team was also involved) or Infratil, an experienced airport operator, would have invested more heavily had there been a reasonable prospect of this investment being repaid through increased traffic levels. While at this time the new integrators were not around, Heathrow and Gatwick were at similar levels of constraint.

Capacity

- 5.7.7. The third runway would clearly add to capacity substantially at London Heathrow. The ANPS states that the Government estimates that a new runway at Heathrow would result in an additional 43,000 long haul flights. This would provide more space for cargo, a greater frequency of services, and boost trade and GDP. It appears to the ExA that Heathrow would be able to accommodate the projected 3m tonnes of air freight per annum in due course and that more markets would likely be served by routes from the Northwest Runway at Heathrow, should demand exist. Heathrow is the dominant airport in the UK for air freight, and the proposed third runway would build upon this, providing significant new opportunities for bellyhold freight via new long-haul routes. While the 3m tonnes of freight would not be achieved overnight it would be a substantial uplift from the almost 1.7m tonnes carried in 2017 and supply could rise roughly with demand.
- 5.7.8. London Stansted has reached agreement, subject to the signing of a Section 106 Agreement with Uttlesford DC, to increase caps on the airport from 35mppa and 274,000 air movements including 20,500 air cargo movements, to 44.5mppa and 285,000 movements respectively. While a substantial part of the business at Stansted is passenger focused, the Airport clearly provides an important base for freight, with capacity for both integrator traffic (Fed-Ex) and general freight. The Applicant's view is that Stansted airport has made a strategic choice to prioritise passengers over freight but this is not objectively supported by the evidence.
- 5.7.9. Stansted is clearly a busy airport and becoming busier. However, from the evidence provided there appears to be a degree of capacity left at the airport, including for freight movements with the airport forecasting a growth to some 376,000 tonnes per year by 2028 from a level of 236,892 tonnes in 2017, involving 16,000 cargo movements a year (from 10,126 in 2017) and an increasing amount of bellyhold cargo alongside the predicted growth in passenger numbers.
- 5.7.10. EMA is a major integrator hub with significant growth potential. Given levels of passenger throughput at the airport, it is unlikely that there will be significant strategic conflicts between passenger and cargo traffic. The ExA does not consider that there is 'substantial circumstantial evidence'

that there is likely to be little if any scope for general cargo operators to stay overnight at EMA and it appears that the airport seeks to attract both integrator and general freight traffic. Evidence is also noted of germinative Amazon Air operations at the airport (via DHL), and the substantial new warehouse and sorting centre adjacent to the airport [[REP05-029](#)].

Demand and forecasts

- 5.7.11. The ExA does not agree that zero growth forecast by the DfT is a pragmatic view due to lack of capacity; the Department does not claim to model freight in detail and have labelled it as an assumption. From the evidence provided there is no clear view of the levels that demand for air freight may grow, but levels of growth that do occur are likely to be accommodated by the proposed new runway at Heathrow, should this occur.
- 5.7.12. Should this not occur, there may be more demand available elsewhere, although given the preponderance of facilities in northern Europe it may be that this increases trucking levels rather than leading to a substantial growth in levels of freight being handled at other UK airports. Furthermore, growth in bellyhold at Gatwick and at other airports outside the South East may occur.
- 5.7.13. The Applicant's Azimuth Report [[APP-085](#)] is a comprehensive document but the weight that the ExA can place on its forecasts is reduced by the lack of interview transcripts available, and of the size and sample frame of many of the interviewees, when considering the size of the forecasts that are generated and there is little evidence that academic and industry experts have validated the approach of the Azimuth Report. Furthermore, there is little evidence that capacity available elsewhere such as at EMA, or the impact of the proposed Northwest Runway at Heathrow have been taken into account in the production of the forecasts.
- 5.7.14. The Northpoint Report [[REP4-031](#)] provides a valuable alternative source to 'back up' the Azimuth Report. However, the limitations identified within its model, particularly those considering the scope for migrating between types of carrier and the impact of price (particularly when considering differences between bellyhold and pure freight, and trucking) appear to the ExA to be substantial limitations in the case of the Proposed Development and a more detailed model assessing such variables was not available to the ExA.
- 5.7.15. The forecasts of Boeing and Airbus are useful in terms of noting overall levels of global air cargo growth and provide support for the Northpoint analysis. The ExA do note however the previous considerable overestimation of the number of freighters by these aircraft manufactures.
- 5.7.16. The Avia Solutions Report forecast [[REP3-276](#)] provides a comprehensive view of the viable potential of Manston Airport. The ExA note that this report is independent; the brief from TDC did not indicate any desired outcome and required an independent assessment advising whether or

not it is possible to run a viable and economically sustainable free-standing airport operation from Manston. While the report was written in 2016 this remains relatively recent and it concludes that, even with a generous assumption over air freight captured from trucking, airport operations at Manston are very unlikely to be financially viable in the longer term, and almost certainly not possible in the period to 2031.

- 5.7.17. While the Avia Solutions Report's conclusions were based on viability, this arises in the report from the authors' assessment of potential and forecasts for the airport – in other words, the need for the development. Also of note is that the report considered capacity squeezes and a major retail group, akin to Amazon basing themselves at the airport; neither possibility led to a different conclusion. Due to the independence and depth of this report, the ExA place significant weight on its findings.
- 5.7.18. On the basis of the evidence provided, the ExA considers that the predominance of bellyhold freight in the UK market as opposed to pure freight is to a large extent a by-product of the dominance of Heathrow in the UK aviation market. The effect of the size of Heathrow, and the vast range of destinations that are available from this hub airport have led to the strength of bellyhold freight for UK purposes, particularly when coupled with the relative ease of access to the large hub airports and pure freight airports in northern Europe. Trucking is a necessary mechanism to complete this overall market pattern and allows access to the population and manufacturing capacity of northern Europe. In the ExA's view air freight would still primarily be attracted to the airports with the widest possible global networks for reasons of economies of scale.
- 5.7.19. It also appears logical to the ExA that bellyhold freight would be significantly cheaper than pure freight and that this in itself also helps to explain the dominance of bellyhold over pure freight, with much pure freight dedicated to express integrators who can charge more for express delivery times.
- 5.7.20. The Applicant considers that Manston could act in a complementary role to bellyhold freight at Heathrow and integrator freight at EMA.
- 5.7.21. However, the ExA's analysis of the predominance of bellyhold freight in the UK (above) suggests that there is little complementary role to be had – while some oversized freight items may be too large or bulky for bellyhold travel, the vast majority of general freight can be carried in bellyholds.
- 5.7.22. A useful point is made by the Applicant noting that the cargo industry is fundamentally changing, and that this change needs an innovative response which cannot be provided at constrained South East airports. However, the change proposed by the Applicant appears to be largely based on new integrators who would offer similar comprehensive delivery patterns and structures to established integrators but with less strict time restrictions. In the view of the ExA then the likely locations for such integrators are likely to be closer to the centre of the country than

Manston. While Manston can clearly offer good quick access to London and much of the South East, a more central positions within the UK offers more potential customers than just London and the South East can provide; within a three hour drive from Manston only the South East and parts of the East of England can be reached, whereas most of England and Wales is within three hours of EMA.

Summary

- 5.7.23. The ExA is not convinced that there is a substantial gap between capacity and demand for general air freight within the South East at present. Capacity is available or could be available at other airports within the South East or at other airports within reach of the South East should the demand exist, and such capacity could largely be achieved relatively simply through permitted development rights or existing facilities.
- 5.7.24. The ExA is of the opinion that general air freight would continue to be well served in the UK with spare capacity at Stansted in the short term (to 2030) and the proposed Northwest Runway at Heathrow in the longer term, and that new integrators are more likely to wish to be sited in a more central location. If constructed and operated then the Proposed Development could carry out a role within the market focused on perishables and oversized niche freight as previously but it seems unlikely that tonnage achieved will be significantly more than previously handled. Without the proposed Northwest Runway at Heathrow more demand may be available but the ExA's conclusions relating to new integrators, that is that they would be more likely to base themselves in a more central location to their other logistical operations, remain valid.
- 5.7.25. The Applicant argues that price is not the only determinant in where freight business may go – factors such as facilities, speed, handling efficiency and location all count too. While the ExA agree with this view, it seems logical to assume that price is the main component in any decision made and that bellyhold freight will generally be cheaper. If demand were present, then facilities could be constructed at other airports where speed and handling efficient could be largely matched to the Applicant's plan and the ExA is not convinced that the location of the Proposed Development is entirely favourable.
- 5.7.26. In terms of passenger traffic, the full extent of the Azimuth Report forecasts [[APP-085](#)] may be difficult to reach. However, the ExA considers that there would be a market for passenger traffic from the airport although the extent to which such traffic would be viable for the airport operators has not been assessed in depth.
- 5.7.27. GA was not examined in depth in the Examination, and the Azimuth Report [[APP-085](#)] does not cover the subject in detail. Nevertheless, the ExA notes the support for GA facilities in the APF and the NPPF (paragraph 104) and the representations received on this matter.
- 5.7.28. Appendix 1 of the Applicant's Overall Summary of Need Case [[APP11-013](#)] states that little weight should be afforded to the submissions of SHP given the withdrawal of this company's objection to the Proposed

Development. In this context however the ExA note the comments of York Aviation, which states that they strongly refute criticism of their work by the Applicant in its written answers and consider that they have “*provided substantial and well evidenced responses throughout the process*” [[REP11-070](#)].

Given all the above evidence, **the ExA concludes that the levels of freight that the Proposed Development could expect to handle are modest and could be catered for at existing airports (Heathrow, Stansted, EMA, and others if the demand existed). The ExA considers that Manston appears to offer no obvious advantages to outweigh the strong competition that such airports offer. The ExA therefore concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports.**

6. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES

6.1. INTRODUCTION

6.1.1. This chapter sets out the ExA detailed examination of the planning issues. It is structured by topic area, as follows:

- 6.2: Air quality
- 6.3: Archaeology and the historic environment
- 6.4: Biodiversity
- 6.5: Climate change
- 6.6: Ground conditions
- 6.7: Landscape and visual impact
- 6.8: Noise
- 6.9: Operations
- 6.10: Socio-economics
- 6.11: Traffic and transport
- 6.12: Water resources

6.1.2. Each section is structured to include the Applicant's approach; issues arising within the topic; relevant policy considerations; and the findings and subsequent conclusions, including recommendations, of the ExA.

6.1.3. The planning issues in this chapter are approached in alphabetical order, therefore no order of importance is established.

6.2. AIR QUALITY

Introduction

6.2.1. This section of the Recommendation Report considers the impact of air emissions from construction and operation activities arising from the Proposed Development. It also considers human health effects relating to air quality.

6.2.2. TDC's LIR [[REP3-010](#)] highlights that the proposed fuel farm and outfall pipeline are in the Thanet Urban AQMA, designated in 2011. The flight paths of the planes will cross this AQMA when landing on Runway 28 or taking off from Runway 10.

Issues

6.2.3. The ExA identified as Principal Issues, in the Rule 6 letter notifying of the PM, that air emissions during the construction and operation of the Proposed Development would be an area that was both important and relevant in the examination of the application. This was specifically noting the potential for cumulative effects of road and air traffic, including ground-based operations and the effects on the Thanet Urban AQMA and designated sites.

6.2.4. A number of the RRs received raised air quality as an issue. These included but were not limited to:

- Andrea Slaughter [[RR-0073](#)];
- Ann Mary Lister [[RR-0115](#)];
- Sherlock Aaron Oldale [[RR-1809](#)];
- James Booth [[RR-0718](#)];
- Keith Taylor MEP [[RR-0964](#)];
- PHE [[RR-1608](#)]; and
- Thanet Green Party [[RR-1942](#)].

Assessment

- 6.2.5. TDC highlights the TDC (2017) Air Quality Annual Status Report (ASR) – June 2017, which the Applicant should consider. The Applicant responded in their comments on the LIR, noting that this document was not available when the original modelling was undertaken but that it had since reviewed the documents and the information included had not changed the conclusions of the assessment [[REP4-028](#)].
- 6.2.6. TDC in its LIR highlighted the link between air quality and health of people living in the area [[REP3-010](#)].
- 6.2.7. CCC in its LIR stated [[REP3-246](#)]:
- "4.1.2 CCC's Environmental Health team have commented that the air quality assessment submitted with the application does not identify any human receptors within CCC's district and raise no objections to the application on air quality grounds."*
- 6.2.8. The Applicant agreed with CCC on this matter in their response to the LIRs [[REP4-028](#)].
- 6.2.9. The ExA queried from the outset, the use of ADMS-Roads model rather than ADMS-Airports model for modelling emissions and probed the modelling of the interrelationships between the air quality modelling for road traffic and aircraft. A number of questions relating to such matters were put to the Applicant in the ExQ1 [[PD-007](#)].
- 6.2.10. During the Examination, following further traffic modelling undertaken by the Applicant, the assessment methodology for the air quality assessment was also questioned, leading to a further air quality assessment to be submitted. This is examined in full and documented in the findings sub-section of this section.

Impacts on designated sites

- 6.2.11. The ExA identified, due to the geographical proximity of the Proposed Development, the potential for impacts from air quality on designated nature sites.
- 6.2.12. Natural England in its WR [[REP3-089](#)] raised a number of more detailed issues relating the assessment of effect on designated sites, including but not limited to: How the assessment study area had been determined; the approach to predicting in-combination effects; choice of receptors; and choice of designated sites.

6.2.13. Natural England go on to note, that they agree with some of the conclusions in the ES relating to air quality. Despite this, they also state: *"However Chapter 7, Section 10 assessment of air quality impacts on designated sites needs to be completely revisited."* [[REP3-089](#), section 3.4]

6.2.14. The ExA noted this and considered this matter further in the Examination.

Mitigation measures

6.2.15. TDC in its LIR [[REP3-010](#)] set out a number of mitigation measures, specifically referencing a guidance document produced by TDC 'Thanet District Council's Air Quality Technical Planning Guidance (2016)' (the AQ Technical Planning Guidance), that it wished to see incorporated and secured in the dDCO to ensure delivery. The mitigation measures included electric charging points for vehicles and other matters set out in Table 3 of the guidance noted above. Furthermore, TDC requested dispersion modelling to be undertaken to demonstrate the effectiveness of the mitigation proposed. The LIR goes on to discuss the monitoring it sought to be undertaken and funded by a s106 Agreement.

6.2.16. TDC also notes:

"The ES does not include measures designed to "cancel out air quality impacts" in accordance with TDC's Air Quality Planning Guidance and both existing policy EP05 and proposed policy SE05."

6.2.17. The Applicant responded providing reasoning for this however also agreed to implement the *"standard mitigation"* from the AQ Technical Planning Guidance 2016. TDC also raised compliance of the CEMP with Institute of Air Quality Management (IAQM) guidance which the Applicant committed to in response [[REP4-028](#)].

6.2.18. TDC in its LIR [[REP3-010](#)] notes that they are in agreement with the Applicant and their conclusions of no likely significant effects on air quality *"except for the forecast increase in air pollution in the Thanet urban AQMA"*.

6.2.19. The Applicant has, in terms of mitigation, set out measures in a CEMP [[REP9-017](#)]; OEMP [[REP9-011](#)]; and REAC [[REP11-009](#)]. Whilst TDC's LIR [[REP3-010](#)] notes the inclusion by the Applicant of these documents and the mitigation therein, it went on to request further mitigation be considered in line with IAQM guidance.

6.2.20. In relation to air quality matters, the Environment Agency, in its RR confirmed that it did not have any comments to make on the methodology of the assessment or on the securing of the mitigation in the CEMP, OEMP, Dust Management Plan (DMP) or REAC [[RR-0538](#)].

6.2.21. The Applicant on the final day of the Examination 9 July 2019 submitted a s106 UU aimed at securing additional mitigation and monitoring [[AS-584](#)].

- 6.2.22. The ExA note the request from TDC and agreement by the Applicant in the SoCG [REP6-011] relating to the use of a s106 contribution to secure funding for a monitoring station and associated maintenance and operation.
- 6.2.23. Having reviewed the UU [AS-584], the ExA notes the securing of funding for such monitoring. The UU does not however secure any mitigation, by virtue of the fact that it does not secure the measures to be undertaken as a result of the findings of the monitoring.
- 6.2.24. As such, whilst the ExA acknowledges the content of the UU and appreciates the benefits to TDC of securing funding for monitoring, the presence of the UU does not weigh into the balance of the consideration of air quality effects.

Other related matters

Conservation Area and AQMA⁵³

- 6.2.25. Since December 1997 each local authority in the UK has been carrying out a review and assessment of air quality in their area. This involves measuring air pollution and trying to predict how it will change in the next few years. The aim of the review is to make sure that the national air quality objectives⁵⁴ will be achieved throughout the UK by the relevant deadlines.
- 6.2.26. These objectives have been put in place to protect people's health and the environment. If a Local Authority finds any places where the objectives are not likely to be achieved, it must declare an AQMA there. This area could be just one or two streets, or it could be much bigger. Then the local authority will put together a plan to improve the air quality - a Local Air Quality Action Plan.
- 6.2.27. TDC in its LIR [REP3-010] raised concerns regarding the impact on the Conservation Area as a result of increase of air pollution within the AQMA, in particular the High Street, St Lawrence.
- 6.2.28. TDC in its LIR [REP3-010] states:

"4.4.5 A small part of the proposed development (fuel farm and outfall pipeline) is located within the Thanet Urban Air Quality Management Area (AQMA) which was designated in 2011. The flight paths of the planes will cross this AQMA when landing on Runway 28 or taking off from Runway 10. This AQMA is the largest in Kent and covers the majority of the built-up areas of the District. Any adverse impacts on this AQMA will cause significant affects for those living and working in this area and particularly at High Street St Lawrence, Ramsgate where baseline levels are relatively high."

⁵⁴ Available at: https://uk-air.defra.gov.uk/assets/documents/National_air_quality_objectives.pdf

Relevant policy considerations

Airports National Policy Statement

- 6.2.29. The ANPS provides the primary basis for decision making on development consent for a Northwest Runway at Heathrow Airport and is an important consideration with regard to other applications for runways and airport infrastructure in London and the South East (paragraph 1.12 of ANPS).
- 6.2.30. The ANPS states that the Applicant should undertake an assessment of the project in the ES. This should assess:
- *"Existing air quality levels for all relevant pollutants referred to in the Air Quality Standards Regulations 2010 and the National Emission Ceilings Regulations 2002 (as amended) or referred to in any successor regulations;*
 - *Forecasts of levels for all relevant air quality pollutants at the time of opening, (a) assuming that the scheme is not built (the 'future baseline'), and (b) taking account of the impact of the scheme, including when at full capacity; and*
 - *Any likely significant air quality effects of the scheme, their mitigation and any residual likely significant effects, distinguishing between those applicable to the construction and operation of the scheme including any interaction between construction and operational changes and taking account of the impact that the scheme is likely to cause on air quality arising from road and other surface access traffic."*
- 6.2.31. The ANPS goes on to set out that mitigation measures put forward should be acceptable and may affect the project design, layout, construction and operation. The mitigation measures should also be subject to consultation with local communities and relevant stakeholders. This will ensure that the most effective measures are taken forward.
- 6.2.32. The ExA considers that the ANPS is important and relevant.

The Air Quality Standards Regulations 2010

- 6.2.33. The Air Quality Standards Regulations 2010 came into force on 11 June 2010 and transpose Directive 2008/50/EC into UK legislation. The limit values in Directive 2008/50/EC are transposed into the Regulations with attainment dates in line with the Directive. The limit values in the Air Quality Standards Regulations 2010 are generally referred to as Air Quality Standards (AQS).
- 6.2.34. AQSs are legally binding limits on concentrations of pollutants in the atmosphere which can broadly be taken to achieve a certain level of environmental quality. The standards are based on the assessment of the effects of each pollutant on human health including the effects of sensitive groups or on ecosystems.

National Emissions Ceiling Regulations 2018

- 6.2.35. These Regulations implement, in the United Kingdom, Directive 2016/2284/EU of the European Parliament and the Council relating to national emission ceilings for certain atmospheric pollutants, which implements at the EU level obligations under the United Nations Economic Commission for Europe 1979 Convention on Long-Range Transboundary Air Pollution and its 1999 Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, which was revised in 2012.

Clean Air Strategy, 2019⁵⁵

- 6.2.36. The Clean Air Strategy sets out the comprehensive action that is required from across all parts of government and society to meet air quality goals. New legislation will create a stronger and more coherent framework for action to tackle air pollution. This will be underpinned by new England-wide powers to control major sources of air pollution, in line with the risk they pose to public health and the environment, plus new local powers to take action in areas with an air pollution problem. These will support the creation of Clean Air Zones to lower emissions from all sources of air pollution, backed up with clear enforcement mechanisms.

The Air Quality Strategy for England, Scotland, Wales and Northern Ireland 2011

- 6.2.37. The 2011 Air Quality Strategy for England, Scotland, Wales and Northern Ireland provides a framework for improving air quality at a national and local level and supersedes the previous strategy published in 2007. It imposes a number of obligations on local authorities to manage air quality. It does not directly impose obligations on developers.
- 6.2.38. Central to the Air Quality Strategy are health-based criteria for certain air pollutants; these criteria are based on medical and scientific reports on how and at what concentration each pollutant affects human health. The Air Quality Objectives (AQO) derived from these criteria are policy targets often expressed as a maximum ambient concentration not to be exceeded, either without exception or with a permitted number of exceedances, over a specified averaging period. At paragraph 22 of the 2007 Air Quality Strategy, the point is made that the objectives are:
- "...a statement of policy intentions or policy targets. As such, there is no legal requirement to meet these objectives except where they mirror any equivalent legally binding limit values..."*
- 6.2.39. The AQOs, based on a selection of the objectives in the Air Quality Strategy, were incorporated into UK legislation through the Air Quality (England) Regulations 2000.

⁵⁵ Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf?_ga=2.214236564.2034795591.1566640361-889884401.1550681991

- 6.2.40. Compliance with the AQOs should focus on areas where members of the general public are regularly present over the duration of the concentration averaging period specific to the relevant AQO.

WHO Air Quality Guidelines for Europe

- 6.2.41. The aim of the World Health Organisation (WHO) guidelines is to provide a basis for protecting public health from the adverse effects of air pollutants and to eliminate or reduce exposure to those pollutants that are known or likely to be hazardous to human health or well-being. These guidelines are intended to provide guidance and information to international, national and local authorities making risk management decisions, particularly in setting AQS.

Environmental Assessment Levels

- 6.2.42. The Environment Agency guidance note 'Air emissions risk assessment for your environmental permit' contains long and short-term Environmental Assessment Levels (EALs) for releases to air derived from a number of published UK and international sources. For the pollutants considered in this study, these EALs are equivalent to the AQS and AQOs set in force by the Air Quality Strategy for England, Scotland Wales and Northern Ireland.
- 6.2.43. The guidance note includes two additional EALs of relevance to this assessment. The first is a limit of 75 $\mu\text{g m}^{-3}$ on the maximum daily mean NO_x at ecological receptors. In general, current conditions in the UK are such that elevated concentrations of O_3 or SO_2 can exacerbate NO_x effects; but such occurrences are rare. As such, it is considered that 200 $\mu\text{g m}^{-3}$ is the more appropriate assessment level for daily mean NO_x .

IAQM / Environmental Protection UK (EPUK) Guidance for Human Receptors

- 6.2.44. Although no official procedure exists for classifying the magnitude and significance of air quality effects from a new development for EIA purposes, guidance issued by the IAQM and EPUK suggests ways to address the issue. In the IAQM / EPUK guidance, the magnitude of impact due to an increase / decrease in annual mean NO_2 and PM_{10} is described as "*negligible*", "*slight*", "*moderate*" or "*substantial*", taking into account both the change in concentration at a receptor brought about by a new development as a percentage of the assessment level, and the actual concentration at that receptor.

Environment Agency Guidance for Human Receptors

- 6.2.45. Environment Agency guidance gives criteria for screening out, source contributions in the context of environmental permit applications. Although intended for use in evaluating permit applications, it is often used for planning applications where no better guidance is available (particularly for ecological receptors). This guidance suggests applicants first perform a screening assessment and, if the results of that do not

meet the screening-out criteria, then perform a detailed modelling assessment.

6.2.46. This guidance also introduces the terms 'process contribution' (PC), meaning the concentration or deposition rate resulting from the installation activities only, excluding other sources, and 'predicted environmental concentration' (PEC), meaning the total modelled concentration, equal to the PC plus the background contribution.

6.2.47. For human receptors, there is no need for further assessment if the screening calculation finds that:

- Both the following are met:
 - The short-term PC is less than 10% of the short-term air quality assessment level (AQAL); and
 - The long-term PC is less than 1% of the long-term AQAL;
- Or both the following are met:
 - The short-term PEC is less than 20% of the short-term AQAL; and
 - The long-term PEC is less than 70% of the long-term AQAL.

National Planning Policy Framework and Planning Policy Guidance

6.2.48. The revised NPPF was published in February 2019. Paragraph 170.e of the NPPF states that:

"...Planning policies and decisions should contribute to and enhance the natural and local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans." And that: "The environmental impact of the Proposed Development will be a material consideration during the planning process."

6.2.49. Paragraph 181 of the NPPF states that:

"Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in ARPs and Clean Air Zones is consistent with the local air quality action plan."

6.2.50. The ExA considers that the NPPF is important and relevant.

6.2.51. Planning Policy Guidance (PPG) on air quality sets out details relating to information that is available about air quality, when consideration of air quality is relevant to a planning decision, the detail expected in an air quality assessment and mitigation amongst others.

6.2.52. The ExA considers that the PPG is important and relevant.

Air Quality Technical Planning Guidance (August 2016), in conjunction with the Kent and Medway Air Quality Partnership

6.2.53. The Kent and Medway Air Quality Partnership has prepared AQ Technical Planning Guidance aimed at Local Authorities, developers and consultants. The document pulls together planning policy and guidance, summarises the information that is required to support an application, describes the air quality assessment process, and discusses approaches to mitigation. It has no legal status but acts as a guidance note summarising requirements and best practice for managing air quality within the planning process.

Thanet Local Plan 2006 'Saved' Policies [[REP3-010](#) and [REP3-143](#)]

6.2.54. Policy EC2 - Kent International Airport:

"Proposals that would support the development, expansion and diversification of Kent International Airport will only be permitted subject to the following requirements: [...]"

"An Air Quality Assessment in compliance with Policy EP5, to demonstrate that the development will not lead to a harmful deterioration in air quality. permission will not be given for development that would result in national air quality objectives being exceeded."

6.2.55. Policy EP5 - Local Air Quality Monitoring:

"Proposals for new development that would result in the national air-quality objectives being exceeded will not be permitted. Development proposals that might lead to such an exceedance, or to a significant deterioration in local air quality resulting in unacceptable effects on human health, local amenity or the natural environment, will require the submission of an air quality assessment, which should address:

- *the existing background levels of air quality;*
- *the cumulative effect of further emissions; and*
- *the feasibility of any measures of mitigation that would prevent the national air quality objectives being exceeded, or would reduce the extent of air quality deterioration."*

6.2.56. The ExA considers that the saved policies of the LP are important and relevant and carry significant weight.

Emerging Draft Thanet Local Plan to 2031 Policies [[REP3-010](#) and [REP3-143](#)]

6.2.57. Policy SE05 – Air Quality states:

"All major development schemes should promote a shift to the use of sustainable low emission transport to minimise the impact of vehicle emissions on air quality, development will be located where it is accessible to support the use of public transport, walking and cycling.

New development must ensure that users are not significantly adversely affected by the air quality and include mitigation measures where appropriate.

All developments which either individually or cumulatively are likely to have a detrimental impact on air quality, will be required to submit an Air Quality and/or Emissions Mitigation Assessment, in line with the Air Quality Technical Planning Guidance 2016 and any subsequent revisions.

The Air Quality Assessment should address the cumulative effect of further emissions.

The Emission Mitigation Assessment should address any proposed mitigation measures through good design and offsetting measures that would prevent the National Air Quality Objectives being exceeded or reduce the extent of the air quality deterioration. These will be of particular importance within the urban AQMA, associated areas and areas of lower air quality.

Proposals that fail to demonstrate these will not be permitted."

- 6.2.58. The ExA is mindful that the eLP is currently being examined and whilst it is at an advanced stage of production, the above policies could be subject to change. Nonetheless, the ExA considers the policies important and relevant.

Findings

Assessment methodology, study area and necessary restrictions

- 6.2.59. The Applicant in Chapter 6 of the ES [[APP-033](#)] outlines the relevant policy, legislation and guidance that has informed the assessment (Section 6.2) and the data gathering methodology that was adopted as part of the assessment (Section 6.3). This leads on to a description of the scope of the assessment (Section 6.4), the overall baseline conditions (Section 6.5 and Appendix 6.2 [[APP-044](#)]), the environmental management measures incorporated into the Proposed Development (Section 6.6) and the assessment methodology (Section 6.7 and Appendix 6.3 [APP-044](#)). The chapter discusses and concludes with the results of the assessment (Sections 6.8 to 6.13) and a summary of the significance of the Proposed Development's air quality impacts (Section 6.14). Chapter 6 is supported by figures 6.1 to 6.22 [[APP-040](#)]. ES Chapter 6, paragraph 6.1.6 sets out the limitations to the assessment.
- 6.2.60. The Applicant's assessment calculated rates of emissions of air NO₂, PM₁₀ and PM_{2.5} pollutants from the principal sources of air quality impacts, namely:
- Plant and equipment used during the construction phase;
 - road traffic generated during the construction phase;

- aircraft and airside plant and equipment during the operation phase; and
- road traffic generated during the operation phase.

The Applicant used a dispersion model [[APP-040](#), figures 6.10 to 6.21 for NO₂, PM₁₀ and PM_{2.5}] to calculate the resulting ground-level concentrations of air pollutants, averaged over both short and long-term periods for the receptors identified in figures 6.1 to 6.6 [[APP-040](#)]. These concentrations were then evaluated for significance in relation to the AQS and assessment levels set in legislation and in Government and international guidance [[APP-033](#)].

- 6.2.61. Updates and iterations of the ES topic chapter and assessments are discussed below. The documents are to be read alongside the documents listed in paragraphs 5.2.56 and 5.2.57 above as comprising the EIA relating to air quality:
- Addendum to ES Chapter 6 [[APP-033](#), [REP6-016](#)];
 - RIAA Appendix I – Modelling and Assessment of Nitrogen and Acid Deposition [[REP7a-014](#)];
 - Air Quality and Road Traffic Model Inputs [[REP8-020](#)];
 - Manston Noise and Air Quality Flows – KCC Model Year 2 [[REP8-021](#)];
 - Road Traffic Model Inputs [[REP8-022](#)]; and
 - Noise and Air Quality Traffic Flows KCC Model [[REP8-023](#)].
- 6.2.62. In addition to the above, the Applicant’s environmental management of the construction works associated with the Proposed Development will be delivered via the implementation of the CEMP [[REP9-017](#)]. It outlines the environmental procedures that require consideration throughout the construction process in accordance with legislative requirements and construction industry best practice guidance. This is secured via Requirement (R) 6 in the dDCO.
- 6.2.63. The Applicant’s environmental management measures associated with the operation of the Proposed Development will be delivered via the implementation of a separate OEMP [[REP9-011](#)]. The only mitigation measures related to the operation of the Proposed Development included in the CEMP are those which are relevant to parts of the Proposed Development which will be operational before construction is completed. This is secured via R7 in the dDCO.
- 6.2.64. The REAC [[REP11-008](#)] summarises the Applicant’s committed mitigation measures for air quality effects. Cross-references are provided to the ‘Requirements’ that will secure the commitments in the dDCO. Table 2.1 contains the actions and commitments relating to construction of the Proposed Development and Table 3.1 contains those relating to the operation of the Proposed Development. Appendix A details the management plans which will be in place during construction and operation of the Proposed Development, to enforce the mitigation measures listed within the REAC. Table 2.1 at pages 2 and 3 details specific air quality control measures during construction and Table 3.1 at pages 48, 49 and 50 details specific noise control measures during operation [[REP11-008](#)]. The REAC is secured via R7 in the dDCO.

Air quality modelling and assessment

6.2.65. PHE in its RR stated [[RR-1608](#)]:

"3) Emissions to Atmosphere

We agree with the rationale that the major pollutants of concern are nitrogen dioxide (NO₂) and particulate matter of 10/2.5 µm diameter and smaller (PM₁₀/PM_{2.5}).

We note the inclusion of an odour assessment at the request of both Thanet District Council and the Planning Inspectorate. The current assessment appears to focus predominantly on odour from fuel and aircraft emissions. We request confirmation that potential odour from groundworks in /remediation of historically contaminated land will be addressed either via the CEMP or a similar mechanism.

We welcome the inclusion of an assessment of the impact of road transport on local air quality and are satisfied with the methodology employed to undertake the assessment and the conclusions drawn".

6.2.66. PHE in its RR [[RR-1608](#)] went on to identify that ES Chapter 6, Section 6.4.3 concludes *"effects only occurring at high concentrations of NO₂ applies only to effects of short-term exposures"*.

6.2.67. PHE requested that:

"...the applicant should demonstrate that the EU limit value for short term average concentrations (200 µg m⁻³ as a 1-hour average) [Redacted] will not be exceeded. WHO (2006) noted a meta-analysis indicating effects at levels exceeding this concentration."

6.2.68. PHE in the same representation highlights the methodology used in ES Volume 13 - Appendix 14.1 to 17.3 (paragraph 6.35) and suggests *"An assessment based on the HRAPIE [Health Risks of Air Pollution in Europe] approach would therefore be expected to over-estimate effects associated with NO₂ emissions and thus it can be considered to be conservative and protective of health"*.

6.2.69. The Applicant instead of HRAPIE has used Committee on the Medical Effects of Air Pollutants (COMEAP) to inform their health assessment. This matter was not raised again in the WR and, therefore, was not responded to by the Applicant in its response to the comments raised in WRs [[REP4-025](#)].

6.2.70. Natural England in its WR [[REP3-089](#)] raised the following concerns and request additional information relating to the air quality assessment methodology:

- The incorrect method of assessment adopted to the in-combination assessment – where it is the Process Contribution that must be assessed in combination with other plans or projects;

- the presentation of the 1% screening criterion used in the assessment, which should be rounded and not used to decimal point accuracy;
- the approach to calculation of the background contributions to emissions, and specifically that an updated air quality assessment should ensure that any approved development that has been built since 2015 is added to the Air Pollution Information System (APIS) stated background, to ensure that the background is up to date;
- provision of contour plots to clearly show where the Process Contribution of NO_x is more than 1% (or relevant proxy) where the background is at or over 100% of the critical level, overlain with habitat data to illustrate the potential effects on designated sites; and
- an updated assessment of the impact of NO_x from construction and operation phase effects for years 2, 6 and 20.

6.2.71. Natural England went on to state:

"Where Defra maps are used instead for near roadside locations, we welcome the use of a model adjustment factor to correct possible under prediction from Defra maps and also that the most sensitive habitat has been considered at the designated sites. We also welcome the use of conservative assumptions and the CURED model."

6.2.72. Natural England summarise its position in the WR as agreeing with the conclusions on:

- Acidity levels on ecological receptors;
- nutrient nitrogen deposition on all years modelled for major receptors; and
- daily mean NO_x (short-term) on ecological receptors.

6.2.73. However, Natural England raised concerns on annual mean impacts not all having undergone further assessment and need for remodelling in relation to ES Chapter 7, section 10 in relation to designated sites, concluding:

"Until the further information requested in the above paragraphs have been presented, Natural England's view is that a conclusion of no adverse effect on the integrity of the designated sites from air quality impacts is premature."

6.2.74. In response to the comments raised by Natural England in its WR [[REP4-025](#)], the Applicant in its comments on WRs at D4 noted:

"The road traffic data uses Temprow factors and also takes into account the effects of the Local Plan on traffic growth. These traffic flows are used for the future baseline scenario and are also included in the With-Development scenario. Therefore, the air quality impacts of future traffic growth are not included in the PC results presented in the ES, but are included in the PEC." [...]

"The use of 1.5% rather than 1.0% as a threshold is based on IAQM guidance quoted in paragraph 6.2.40 of the ES [APP-033]. Although this guidance predates the Wealden case there is nothing in the judgement which contradicts the reasoning behind this guidance."

- 6.2.75. The Applicant also clarified, that in its view, the APIS model that it had used in its assessment is conservative and that *"No other plans or projects have been identified that are likely to generate enough emissions to overturn this conclusion."*
- 6.2.76. The Applicant also provided commentary on why contouring had not been provided for the road transport, in that effects are *"normally confined to receptors within a few tens of metres of the road, contour plots are harder to read and of less value for road sources than they are for extensive area sources such as the airport"*.
- 6.2.77. The Applicant submitted at D3, attached to its covering letter [[REP3-188](#)], Enclosure 2 with a link to [[APP-044](#)], an errata submission stating:

"Appendix 6.5: In the first spreadsheet (Concentrations at receptors_Year2), the annual mean NO_x at receptor E24 should be a process contribution of 0.25 µg m⁻³ and a predicted environmental concentration of 26.15 µg m⁻³."
- 6.2.78. The ExA notes the Applicant's responses to all of the points made by Natural England in its comments on WRs [[REP4-025](#)]. However, following the submission by the Applicant of updated documentation relating to traffic and transport, further queries were raised with regard to this information and its relationship with the air quality assessment, noting comments by Natural England and PHE specifically. This particular inter-relationship point is discussed in detail below under the sub-heading 'Inter-relationship between the transport and the air quality modelling'.
- 6.2.79. Whilst noting the inter-relationship, the ExA continued to probe the air quality assessment noting Natural England's and PHE's continued concerns as the statutory consultees to Government. PHE submitted a SoCG at D5 [[REP5-017](#)] which did not reference air quality, nor did its D7a response to written questions [[REP7a-039](#)]. These included queries regarding the number and mix of aircraft used in the air quality assessment to ensure a worst-case scenario and how this is related to the noise assessment, inclusion of road traffic in the NO_x emissions, any impact on the AQMA following the submission of the updated information and how the assessment as accounted for changes in ground transport fleet through the time periods assessed. The ExA required responses to a number of points for D6.
- 6.2.80. In response, the Applicant notes differences between the number and mix of aircraft used in the air quality and noise assessments however concludes that this does not affect the conclusions of the assessment. In terms of GA movements, the Applicant confirmed that 38,000 movements have been modelled. In response to the other matters and to ensure consistency with the latest TA submitted by the Applicant, an updated air quality assessment was submitted to the Examination [[REP6-](#)

[016](#)]. The Applicant confirmed that this document aimed to address comments made above in relation to the methodology and assessment and concludes there are:

"No exceedances of any air quality objectives for human health are forecast within the Thanet AQMA or at any other modelled receptor location, in any of the modelled scenarios."

6.2.81. At the same deadline, Natural England's noted [[REP6-048](#)], following the submission by the Applicant of an updated Transport Assessment (TA), the following as being required:

- An updated air quality assessment taking account of the updated transport modelling that has been carried out, and including an in-combination assessment of the Process Contributions (PC) from the proposal and other plans or projects;
- the updated air quality assessment should ensure that any approved development that has been built since 2015 is added to the APIS stated background - this is necessary so that the background that is being used in the air quality modelling is up to date;
- contour plots to clearly show where the PC of NO_x is more than 1% (or relevant proxy) where the background is at or over 100% of the Critical Level - this should be overlain with habitat data to clearly illustrate the potential effects on designated sites; and
- an updated consideration of the impact of NO_x from construction and operation phase effects for years 2, 6 and 20 on designated sites.

6.2.82. Some of this information was provided at D6 as discussed above, in the form of an updated air quality assessment [[REP6-016](#)]. The ExA, in considering the information submitted by the Applicant, and the views of Natural England, published the ExQ3. Ec.3.3 queried the challenge by Natural England that PC had been incorrectly assessed in relation to future traffic growth. The Applicant [[REP7a-002](#)] confirmed that this was addressed in the updated air quality assessment submitted at D6 [[REP6-016](#)]. The representation goes on to explain how this was achieved. In relation to the use of the APIS model, the Applicant confirmed that:

"No plans or projects have been identified, including in the Thanet Draft Local Plan, which will significantly increase background deposition rates, except through an increase in road traffic. Increases in road traffic have been taken into account in the forecast modelling by using traffic flows from the revised Transport Assessment [[REP5-021](#)], which includes growth associated with the Local Plan and other plans and projects from the TSTM. This ensures that other plans and projects are appropriately addressed in the in-combination assessment."

6.2.83. The Applicant also provided Figure 4.5 as part of [[REP6-016](#)]:

"...indicating where the AQAL (30 µg m⁻³) and 70% of the AQAL (21 µg m⁻³) contours fall in relation to designated sites at which these thresholds are met or exceeded. This contour plot presents the data in accordance with the assessment approach adopted for the NO_x assessment submitted at Deadline 6 [[REP6-016](#)]'.

- 6.2.84. The Applicant also provided “An updated consideration of the impact of NO_x from construction and operation phase effects for years 2, 6 and 20 on designated sites” as part of [REP6-016].
- 6.2.85. Natural England at D8 [REP8-028] confirmed that the revised air quality assessment [REP6-016] “is acceptable” relating to the concerns raised above.
- 6.2.86. In concluding on the appropriateness of the air quality assessment methodology, the ExA has considered both air quality assessments and supporting documents. The ExA considers that the methodology used by the Applicant in the revised air quality assessment (including the link road), which addresses the concerns raised by Natural England, is acceptable.
- 6.2.87. The Applicant has acknowledged the original air quality assessment was not updated to reflect Natural England’s comments and **the ExA concludes that both assessments, taken together, comprise an air quality assessment which can be relied upon as providing an assessment of the worst-case scenario. The ExA however recommends that the assessment would be more robust if the Applicant had also addressed the comments made by Natural England in the original assessment, noting that such updates were unlikely to materially change the conclusions of the original assessment. The SoS may wish to request this update.**
- 6.2.88. **The ExA concludes that in terms of meeting the 2017 EIA Regulations, the Applicant has undertaken an assessment into the likely significant effects.**

Inter-relationship between the transport and the air quality modelling

- 6.2.89. Noting the conclusions above, the ExA asked a number of questions in ExQ1 [PD-007] in relation to the modelling used to model the air quality effects, the transport modelling used and the inter-relationship between the two. The Applicant responded at D3 [REP3-195] to explain that contours, when effects are within tens of metres of the road are difficult to plot and read and therefore it was not possible to correlate the impacts of the airport (with which contour mapping had been provided) with traffic effects. The Applicant went on to note that traffic effects on air quality were concluded to be negligible everywhere within the AQMA. Furthermore, the Applicant was confident that any assumptions were worst-case and therefore the concluded effect would be over-estimated.
- 6.2.90. ES Chapter 6 [APP-033] was informed by the TA prepared in support of ES Chapter 14: Traffic and Transport [APP-034]. During the Examination however and following the development by KCC of a SATURN strategic highway model (the Thanet Strategic Transport Model (TSTM)) and the request from the ExA to ensure robust modelling, the Applicant submitted at D3 a revised TA and updated ES chapter using the TSTM.

- 6.2.91. Subsequently, the Applicant prepared an addendum to the ES in relation to air quality [[REP6-016](#)]. This document was prepared and submitted at D6 to address issues raised by IPs and summarise the implications of the latest transport model on the air quality assessment impact in relation to annual mean NO_x and daily mean NO_x concentration. This formed an addendum to the ES [[APP-033](#), [APP-034](#) and [APP-035](#)].
- 6.2.92. The Applicant concluded in Table 4.15 [[REP6-016](#)]:
- "There are no new or existing predicted exceedances of the AQAL at receptors around the airport. The impact is classified as moderate under IAQM/EPUK criteria at some properties close to the airport and also fronting onto roads, but properties are below the AQAL. In view of the conservatism of the modelling, this impact is considered to be of low to medium significance.*
- At receptors where the existing concentrations of NO₂ are high, around High Street St. Lawrence and The Square Birchington, the modelled contribution from the airport is no more than 0.6µg m⁻³, which is classified as a slight impact under the IAQM/EPUK criteria. However, this assumes that there is no reduction from current levels, whereas the current trend is for concentrations to fall by approximately 0.4µg m⁻³ per year, and a drop of just 1µg m⁻³ in background concentrations will reduce the impact classification to negligible. This impact is therefore not considered significant."*
- 6.2.93. In addition to this, at D7a, the Applicant produced at Appendix I of the RIAA, a note to inform the implications for nitrogen and acid deposition [[REP7a-014](#)]. Following the submission of these two documents, Natural England at D10 [[REP10-007](#)] confirmed that it was satisfied in relation to NO_x assessment.
- 6.2.94. Natural England at D9 [[REP9-025](#)] confirmed that the revised air quality assessment addressed the previous concerns relating the Applicant's approach to in-combination assessment. Natural England stated:
- "We understand from the Applicant that they are relying on the in combination assessment for NO_x, set out in [[REP6-016](#)] and the in combination assessment for nitrogen and acid deposition set out in Appendix I [[REP7a-014](#)] for the RIAA. Natural England agrees with this approach."*
- 6.2.95. However, the revised TA is based on a scenario where an alternative link road (the Manston-Haine link road) is implemented. The implementation of this road is not included in the dDCO and therefore cannot be guaranteed by the Applicant or the ExA. Discussion relating to the TAs undertaken and the robustness of the approach can be found in that section of this chapter that deals with traffic and transport and are not rehearsed here.
- 6.2.96. In ExQ4 the ExA asked [[PD-020](#), Ec.4.5] for the Applicant to clarify which of the two air quality assessments carried out by the Applicant should be

relied upon in ensuring potentially significant effects are assessed as part of the ES.

6.2.97. The Applicant's response confirms that:

"The RIAA [REP7a-014] relies on the air quality assessment contained within the ES addendum submitted at Deadline 6 [REP6-016] for NO_x, and Appendix I to the RIAA [REP7a-014]) for nitrogen deposition and acid deposition."

6.2.98. To ensure a full understanding, the ExA also requested in Ec.4.5 [PD-020] an explanation as to whether the original air quality assessment addresses Natural England's concerns raised in previous representations. This was directed at the Applicant and Natural England. Natural England responded stating that:

"...if the Applicant now wishes to rely on the original Transport Assessment which did not include a Manston-Haine link road, then Natural England's view is that the air quality assessment would have to be re-done. This is because the original air quality assessment contained numerous inaccuracies and did not contain an in combination assessment" [REP9-025]

6.2.99. The Applicant went on to state [REP9-010] that:

"The original air quality assessment, reached similar conclusions to those reported in the ES Addendum. It was not updated to take into account Natural England's comments as the revised TA and data associated with the Thanet Strategic Transport Model had, by then become the primary basis for assessment. Nonetheless, it may be necessary to make minor updates to the air quality assessment contained in the original ES to be certain that NE would be completely satisfied. Given the similarity of results between the two assessments, this would seem entirely unnecessary. As has been noted in other parts of the Applicant's submission, the original TA (and any results associated with it) should be considered as a highly robust sensitivity test for issues such as this and not as a limitation to the assessment."

6.2.100. The Applicant did not, during the Examination, update the original air quality assessment based on the original TA to address ExA's and Natural England's comments regarding the robustness of the assessment. As such the ExA is left in the situation where both air quality assessments submitted to the Examination contain uncertainties.

6.2.101. Noting, the conclusions above in terms of the methodology used in both the original and revised air quality assessments, the ExA considered the inputs used for those assessment in relation to ground based traffic and transport following the submission of an updated TA. The ExA acknowledges the changes in overall emissions from the revised TA (including the link road) compared to that in the original air quality assessment are predicted to be limited and the additional contributions from road traffic are not significant in EIA terms as confirmed by both the Applicant and Natural England. Furthermore, the ExA understands the

need to assess both scenarios as the Applicant is not in control of which scenario will be present.

- 6.2.102. Therefore, **the ExA concludes that both assessments are required to be understood together, concluding that the Applicant's assessment has been conservative and is adequate for the purposes of the EIA.**

Effects on designated sites

- 6.2.103. The ExA raised a number of queries to the Applicant from its own reading of the application documents and following representations made by IPs.
- 6.2.104. Following comment from the Planning Inspectorate on the Scoping Report that "*The Applicant should set out in the ES any proposals for long term air quality monitoring of airport-related activities*", the Applicant, in Table 6.2 of ES Chapter 6: Air Quality [APP-033] noted that "*The previous airport operator funded TDC to operate a continuous monitor near the airport...*". Natural England in its WR [REP3-089] highlight that Table 6.2 in response to a comment from Natural England states "*No information on impacts of previous airport use is available...*". As such, in their WR they request further information on this contradiction.
- 6.2.105. Natural England in its WR also query the distance criteria used by the Applicant in its air quality assessment, noting that Environment Agency guidance is 2km and Natural England guidance is 5km. The Applicant, in its methodology had adopted the Environment Agency guidance. In its response to the WR [REP4-025], the Applicant stated that it was not aware of any Site of Special Scientific Interest (SSSIs) within the 2km to 5km area of the Proposed Development. Furthermore, Natural England went on to request that the Applicant ensure that the more sensitive habitat at the designated sites had been considered.
- 6.2.106. In terms of the assessment of NO_x on designated sites, Natural England in its WR notes that the Applicant identifies the worst receptors but asserts that all receptors where the PC is more than one of the Critical Load (Cle) and the background is close to / or over the Cle "*must be considered against the relevant interest features of the designated sites rather than just the worst receptors*".
- 6.2.107. Natural England's WR goes on to state that "*The ecological effects of annual mean NO_x on designated sites (6.11.22 – 6.11.25) [APP-033] have not been fully assessed.*" Natural England go on to set out in the WR how it would like the assessment amending along with further discrepancies in the document being highlighted.
- 6.2.108. As noted above, the Applicant provided a revised air quality assessment. Natural England at D8 confirmed that the revised air quality assessment [REP6-016] addressed the previous concerns relating the Applicant's approach to in-combination assessment.

6.2.109. Further considerations of points raised in relation to air quality and the impact on designated sites, as a result of the inherent links to both the biodiversity section of this chapter and to Chapter 7 of this report and are not rehearsed here.

Effects on health

6.2.110. The ExA throughout the Examination was alive to the issue of health and its relationship with air quality. The ExA notes the submission by the Applicant of a Health Impact Assessment (HIA) [[APP-034](#) and [APP-058](#) Appendix 15.1]. As the statutory advising body to the Government, the ExA were keen to understand the views of PHE.

6.2.111. PHE in its SoCG state [[REP5-017](#)]:

"4.1.5 PHE notes that the quantitative exposure response health assessment for changes in air quality applies higher risk ratios than typically applied in the UK, offering a conservative assessment, protective of health. On this basis the parties agree that potential health outcomes from changes in air quality have been addressed."

6.2.112. TDC in its LIR [[REP3-010](#)] at paragraph 4.4 state that:

"A Health Impact Assessment (HIA) has been provided in Appendix 15.1 of the ES and appears adequate in its assessment. Where necessary, the HIA has drawn on data and effects from the relevant chapters in the EIA. Whilst the dDCO does not contain any references to health and wellbeing it is acknowledged that the factors that affect health and wellbeing, such as noise and air quality, have been assessed with mitigation proposed in their standalone chapters and have been included in Requirements in the dDCO which have been discussed in the relevant sections of this document."

6.2.113. The Applicant pointed out that consideration of air quality effects of the Proposed Development on human health is given in Chapter 15: Health and Wellbeing of the ES [[APP-034](#)] and an assessment of whether climate change will exacerbate air quality effects is provided in Chapter 16: Climate Change of the ES [[APP-034](#)].

6.2.114. The ExA agrees with PHE that the air quality assessment can be considered to be conservative and protective of public health and notes the comments made by TDC in its LIR. Therefore, **the ExA concludes that the air quality modelling and assessment has adequately assessed health effects.**

Mitigation during all phases of the Proposed Development

6.2.115. The ExA recognises that the Applicant proposes a number of mitigation measures in the form of plans secured by Requirements in the dDCO. The ExA is reporting on these as a suite of Requirements as they are drafted with that intention and the Examination therein. Discussion of the Requirements in general is included in Chapter 10 of this report. This section of Chapter 6 aims to set out discussion and changes made to the relevant Requirements relating to air quality and its impacts.

- 6.2.116. The Applicant provided as part of the submission a REAC [[APP-010](#)]. This details all of the environmental commitments, setting out what mitigation is secured, where, for what impact. For air pollutant control, the document specifically lists the CEMP, which in turn secures a DMP secured through R6 and for operation, the OEMP secured through R7. The REAC was updated six times during the Examination.
- 6.2.117. The structure of the document was revised at D4 [[REP4-020](#)]. Commitments during construction are set out in Table 1.1 and operation in Table 1.2. During the Examination the document was not materially updated in relation to air quality mitigation. Where updates were made to the CEMP and the OEMP, these are discussed below.
- 6.2.118. The ExA notes that a number of environmental mitigation plans have been drafted and / or discussed by the Applicant as part of the application that have an impact on the air quality such as the traffic management plans and site safety plans however these, whilst relevant, are discussed in other sections of this report and therefore the purpose, appropriateness and deliverability of these are not re-rehearsed here

Requirement 6 - Construction environmental management plan

- 6.2.119. This secures the Mitigation and Habitat Creation Plan (MHCP) and plans to mitigate dust, noise and vibration and drainage impacts.
- 6.2.120. The Environment Agency in its RR stated [[RR-0538](#)]:
- "We agree with this requirement as outlined. We welcome the overarching outlining of mitigation measures in document 2.5 Register of Environmental Actions and Commitments and as required by Requirement 7(2) (d) of the DCO."*
- 6.2.121. In its WR, the Environment Agency [[REP3-217](#)] confirmed that it was content with the drafting of R6 in the dDCO as submitted with the application [[APP-006](#)].

Requirement 7 – Operational environmental management plan

This secures the provision of environmental management plans, including for noise, air quality, wildlife management and water and drainage for approval by the relevant planning authority.

- 6.2.122. PHE in its SoCG states [[REP5-017](#)]:
- "4.1.4 PHE notes the inclusion of an odour assessment which focuses predominantly on odour from fuel and aircraft emissions. The parties agree that potential odour from groundworks in / remediation of historically contaminated land will be addressed either via the CEMP or a similar mechanism."*
- 6.2.123. TDC in its LIR [[REP3-010](#)] states:

"It is considered that the risk of odours has been adequately addressed in the ES. Appropriate mitigation should be included in the OEMP, and secured via a DCO requirement, potentially by specifying the required mitigation, such as proposed in DCO Schedule 2 article 7(2)(a)(viii)."

- 6.2.124. TDC in its LIR [[REP3-010](#)] requested that the Requirement include that mitigation is secured to ensure that measures are adopted to cancel out air quality impacts via R7(2)(a)(viii) on air quality management.
- 6.2.125. Both PHE's and TDC's concerns are addressed in R6 and R7.
- 6.2.126. PHE in its WR [[REP3-070](#)] requested the inclusion of other opportunities to include mitigation for air quality impacts. Appendix ISH7 – 52 of [[REP8-017](#)] provided an updated Car Park Management Strategy (CPMS) to include commitments for 'Blue Badge', electric vehicle and staff parking arrangements. KCC confirmed in its response to TR.4.51 [[REP9-024](#)] that it was content with these changes and the ExA see no reason to disagree.

Requirement 14 – Traffic management

- 6.2.127. The Requirement governs routing of construction and operational traffic with potential to give rise to noise disturbance and emissions to air.
- 6.2.128. R14 was examined under the heading of traffic and transport and as such is discussed in that section of this chapter.

Requirement 23 – Monitoring

- 6.2.129. This prevents operation until a monitoring, auditing and reporting plan for the REAC has been submitted and approved in writing by TDC following consultation with the Environment Agency and Natural England.
- 6.2.130. During the Examination, the ExA, in its second dDCO [[PD-018](#)] proposed a new R23:

"No part of the authorised development is to begin operation until a monitoring, auditing and reporting plan for the register of environmental actions and commitments has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the highway authority, the Environment Agency, Historic England, the Civil Aviation Authority and Natural England to the extent that it relates to matters relevant to their function."

- 6.2.131. The ExA set out in its second dDCO [[PD-018](#)] the reasoning for this as being:

"In order to reinforce the establishment of a robust monitoring, auditing and reporting regime for the Proposed Development in line with Schedule 4, Section 7 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The Applicant agrees with this amendment."

6.2.132. In the response to the ExA's second dDCO, the Applicant [[REP6-014](#)] agreed to this new Requirement and the ExA considers that this provides greater clarity in securing such mitigation.

Mitigation: Air emissions during construction including ground-based emissions

6.2.133. A number of IPs raised the issue of air quality during construction predominately in relation to dust emissions. Whilst noting this, the ExA also noted the conclusions in the ES of no likely significant effects on air quality as a result of construction. This conclusion was also reflected in the updated air quality assessment [[REP6-016](#)], as discussed above.

6.2.134. PHE responded to AQ.1.11 [[REP3-070](#)] stating:

"We have reviewed the table and the supporting text and are satisfied with the identification of potential sources of air pollution and human health receptors. During the construction phase, control and mitigation measures will be embedded into the CEMP and DMP and we understand that further development of these plans will occur post granting of the DCO. Therefore, we recommend that the final plans are completed to the agreement of Thanet District Council who are responsible for local air quality management."

6.2.135. TDC in its LIR [[REP3-010](#)] noted:

"The Construction Environmental Management Plan (CEMP) (ES Appendix 3.2) and proposed Dust Management Plan identifies a range of measures to mitigate the potential air quality impacts during construction. Further measures consistent with the relevant IAQM guidance should be incorporated in the Dust Management Plan to ensure that the risk of significant dust impacts is fully mitigated. This should be secured via a DCO requirement, potentially by specifying the required mitigation in a CEMP, such as proposed in DCO Schedule 2 articles 6 and 7(2)(a)(viii)."

6.2.136. The ExA noted that the Applicant, in terms of mitigation, had submitted with the application a CEMP [[APP-011](#)] which in turn secures a DMP, noting the requirement for further discussions with IPs and certification of documents post-consent. Table 5.1 of the CEMP sets out the air quality measures to be incorporated during construction into the CEMP. This document was revised at D6 [[REP6-025](#)] and again at D7 [[REP7a-008](#)], however there were no changes made to the air quality section in either version.

6.2.137. The ExA set out a number of questions [[PD-020](#), eg EC.4.1 and AQ.4.2] regarding dust monitoring as set out in the REAC [[REP11-008](#)] and DMP. The ExA questioned the 'suitable locations' at which monitoring would be undertaken and the triggers to be used for the Osiris monitoring. Furthermore, clarity was requested in relation to the remedial action that would be taken as a result of the monitoring demonstrating that trigger levels had been exceeded. The ExA felt that such information was required for the planning decision to have confidence in the mitigation being relied upon.

6.2.138. In its response [[REP9-006](#)] the Applicant confirmed that such monitoring details would be included in the DMP as specified in R6 and to be agreed with the LPA and will take into account best practice for construction projects:

“Suitable locations for dust gauges are likely to include places where there are sensitive receptors within 350m of construction activity”.

6.2.139. In relation to trigger levels, the Applicant confirmed that there is no defined trigger level for Osiris monitoring but that this will be reviewed by the LPA. Despite confirming that there are no defined trigger levels, the Applicant went on to note that:

“In the event of trigger levels being exceeded, procedures set out in the Pollution Incident Control Plan will be implemented (see Section 4.3 of the CEMP [[REP7a-008](#)]).”

6.2.140. The Pollution Incident Control Plan (PICP) is detailed in the CEMP. The detail of of the PICP was updated at D9 [[REP9-017](#), section 4.3].

6.2.141. The ExA then requested comments on this document among others for D11. No further comments were received by the TDC or the Environment Agency on this matter.

6.2.142. Noting the comments above on suitable locations and trigger levels, **the ExA concludes that the mitigation measures in the CEMP and REAC, and secured via R6 and R7 in the dDCO, will adequately mitigate air quality effects during construction.**

Mitigation: Air emissions during operation including ground-based emissions

6.2.143. ES Chapter 6 [[APP-033](#)] and the updated air quality ES chapter and assessment [[REP6-016](#)] conclude no likely significant effects on air quality during operation. Furthermore the Applicant, in the response to ExQ1 [[REP3-195](#)] clarifies that *“our assessments show that it would operate within the prescribed limits and not breach any thresholds”* (in relation to the EU AQD).

6.2.144. PHE’s response to AQ.1.11 [[REP3-070](#)] noted:

“During the operational stage there may be opportunities for further mitigation such as the use of low emission fleet vehicles, encouragement of the use of sustainable transport modes for workers which could additionally be explored. Reducing public exposures to pollutants such as particulate matter and nitrogen dioxide, even when air quality standards are not exceeded, is expected to have public health benefits. We support approaches which minimise or mitigate public exposure to air pollutants, address inequalities (in exposure), and maximise co-benefits (such as physical exercise) and encourage their consideration during development design, environmental and health impact assessment, and development consent.”

- 6.2.145. Such opportunities were explored during the Examination. The ExA in the AQ.2.4 queried the reference in the REAC to 'Bans on dirtier aircraft'. In response, the Applicant [[REP6-012](#)] explained that the ban relates to CO₂ emissions and the standards that the airport will be required to adhere to. The standards become applicable from 2020. The ExA notes that the response appears to have no bearing on the damage to habitats or impacts on human health criteria and that the ban is linked to in the REAC. The ExA reiterated the question in ExQ4 [[PD-020](#), AQ.4.1] seeking confirmation on the aircraft that would be banned, how such a ban would be applied and how this would be secured in the dDCO.
- 6.2.146. The Applicant responded [[REP9-006](#)] providing greater detail in relation to banned aircraft being restricted through Chapter 3 of Part II, Volume 1 of Annex 16 to the Convention on International Civil Aviation. The Applicant went on to explain that this convention prohibits certain aircraft from operating within European airspace, including aircraft such as the Boeing 747-200. In relation to securing the convention in the dDCO, the Applicant confirmed that:
- "The ban on older, dirtier aircraft is secured through Requirement 7, the Register of Environmental Actions and Commitments (REAC) and ultimately through the Operational Environmental Management Plan (OEMP). Further controls are secured through the NMP [[REP8-004](#)] and associated Quota Count which are secured through Requirement 9 of the dDCO. which previously used Manston Airport but will not be able to under the Applicant's proposals.*
- In addition, certain aircraft are effectively banned through the noise Quota Count system and the Noise Mitigation Plan (NMP) [[REP8-004](#)]. Whilst these measures are focussed on noise, aircraft with the greatest air quality impacts will also be captured by the provisions of those documents."*
- 6.2.147. The ExA and other IPs did not raise any further comments on this matter.
- 6.2.148. TDC in its LIR [[REP3-010](#)] noted the conclusions in the ES Chapter 6 that the Proposed Development would result in an increase in air pollution in the AQMA and that the ES in its view, *"does not include measures designed to 'cancel out air quality impacts' in accordance with Thanet District Council's Air Quality Planning Guidance and both existing policy EP05 and proposed policy SE05."*
- 6.2.149. Furthermore, a small part of the Proposed Development (fuel farm and outfall pipeline) is located within the Thanet Urban AQMA which was designated in 2011. The flight paths of the planes will cross this AQMA when landing on Runway 28 or taking off from Runway 10. This AQMA is the largest in Kent and covers the majority of the built-up areas of the district [[APP-040](#), figures 6.3 and 6.4]. Any adverse impacts on this AQMA will cause significant affects for those living and working in this area and particularly at High Street St Lawrence, Ramsgate where baseline levels are relatively high [[REP3-010](#)].

- 6.2.150. In response to the LIRs [[REP4-028](#)] the Applicant asserted that the impact at High Street St Lawrence is classified as slight which they set out as being a conservative assumption and therefore would, in a more realistic assessment, conclude negligible impacts. The Applicant would therefore not provide mitigation for a negligible impact. Nonetheless the Applicant goes on to commit to implementing 'standard mitigation' from AQ Technical Planning Guidance 2016.
- 6.2.151. The ExA deem that the ES should assess a potential worst-case scenario and as such provide and secure mitigation to mitigate such a case.
- 6.2.152. Following this exchange, the Applicant updated its air quality assessment as a result of updated transport information. In response to AQ.2.5 the Applicant confirmed no exceedance of air quality objectives for human health.
- 6.2.153. Despite this, the Applicant and TDC agreed in their SoCG [[REP6-011](#)] that continuous monitoring will be undertaken at a monitoring station, secured through a s106 Agreement or UU. Whilst a s106 Agreement was drafted during the Examination, this was not signed and therefore remained in draft. Furthermore, shortly after a third draft s106 Agreement was submitted to the Examination, the Applicant provided a UU to secure monitoring and subsequent mitigation. The UU reflected the content of the draft s106 Agreement and the REAC in setting out measures that will be implemented should the monitoring demonstrate the need for further mitigation in relation to operational air quality. Financial contributions were attributed to each commitment.
- 6.2.154. This monitoring and subsequent commitments provide the ExA with additional confidence of no likely significant effects on the local area including the AQMA.
- 6.2.155. TDC in its written summary of oral representations at ISH6 [[REP8-029](#)] noted:
- "TDC noted that not all the mitigation that TDC would normally expect had been agreed or secured, in particular electric car charging points, as per Table 3 of TDC's Air Quality Technical Planning Guidance. In response, the Applicant has included a commitment to install electric vehicle charging points and to undertake an emissions mitigation assessment. Both of these commitments have been included within the Register of Environmental Actions and Commitments which is submitted with reference TR020002/D8/2.5."*
- 6.2.156. The Applicant amended the REAC [[REP8-019](#)] at page 48 securing the provision of electric car charging points. The ExA notes this new commitment.
- 6.2.157. TDC in the signed SoCG stated [[REP6-011](#)] that risk of odours is adequately addressed through the OEMP. However, in relation to air quality monitoring to determine mitigation requirements, the following was noted:

"3.3.2 [...] it is unclear whether the OEMP will provide sufficient mitigation and how that would be controlled. It is envisaged that a Section 106 agreement would secure funding for a continuous air quality monitoring stations and the use of dispersion modelling to ensure the proposed mitigation measures are effective."

6.2.158. The UU in favour of TDC includes monthly and annual financial contributions for monitoring [AS-584]. However, this document was not commented on by TDC due to the timing of its submission to the Examination. The ExA however notes that the content of the UU mirrors, less the financial sums, that of the draft s106 Agreement [REP11-010].

6.2.159. The Applicant, in response to TDC requests at paragraph 4.4.15 of the LIR [REP3-010], provided for the following in the draft s106 Agreement [REP11-010]:

"2.1 To pay Tranche 1 and Tranche 2 of the Air Quality Station ZH3 Contribution in full to the District Council prior to the coming into Operation of the Project.

2.2 Not to cause permit or allow the Project to come into Operation until Tranche 1 and Tranche 2 of the Air Quality Station ZH3 Contribution has been paid in full to the District Council.

2.3 To pay Monthly Payment 1 and Monthly Payment 2 in full to the District Council for the lifetime of the operation of Manston Airport pursuant to the DCO (unless agreed otherwise in writing with the District Council) on a monthly basis with the first payments to be made at the end of the first month following the installation of Air Quality Station ZH3.

2.4 To pay the Annual Payment of the Air Quality Station ZH3 Contribution in full to the District Council for the lifetime of the operation of Manston Airport pursuant to the DCO (unless agreed otherwise with the District Council) on each anniversary of the installation of Air Quality Station ZH3.

6.2.160. The financial sums attributed to each of the tranches are set out in the first Schedule of [REP11-010]. The wording of the draft s106 Agreement was replicated in the UU in favour of TDC. TDC did not however comment on or sign either document. As such, the SoS should seek the views of TDC on the sums proposed.

6.2.161. The ExA notes that the UU in favour of TDC which includes monthly and annual financial contributions for monitoring [AS-584]. This is in addition to the Applicant committing to implementing 'standard mitigation' from AQ Technical Planning Guidance 2016. **The ExA concludes that this commitment will ensure that air quality in Thanet AQMA will not be negatively impacted on by the Proposed Development.**

6.2.162. **The ExA concludes that the mitigation measures in the REAC and secured via R7 in the dDCO, will adequately mitigate air quality effects during operation.**

ExA's conclusions

- 6.2.163. The ExA has had due regard to TDC's [[REP3-010](#)] and CCC's [[REP3-246](#)] LIRs in reaching its conclusions.
- 6.2.164. The ExA concludes that whilst the original air quality assessment was not revised in light of comments made by Natural England, the addition of the revised air quality assessment provides the ExA with the information required to understand the worst-case scenario in line with the EIA regulations and IAQM guidance. The ExA does however note that the assessment would have been more robust had the Applicant provided, in addition to the revised air quality assessment, an updated original air quality assessment to address concerns raised by Natural England.
- 6.2.165. The ExA acknowledges the changes in overall emissions in the air quality assessment as a result of the revised TA with the addition of the Manston-Haine link road are predicted to be limited, as confirmed by Natural England.
- 6.2.166. The ExA concludes that the mitigation measures in the CEMP and REAC, and secured via R6 and R7 in the dDCO, will adequately mitigate air quality effects during construction in terms of UK AQS. Furthermore, the ExA concludes that the mitigation measures in the REAC and secured via R7 in the dDCO, will adequately mitigate air quality effects during operation.
- 6.2.167. The ExA notes the Applicant produced a draft unsigned s106 Agreement and then a UU in favour of TDC, which includes monthly and annual financial contributions for monitoring [[AS-584](#)].
- 6.2.168. The Applicant has made a commitment to implementing 'standard mitigation' from AQ Technical Planning Guidance 2016. This is secured in R7(2)(a)(viii) - Air Quality Management Plan which will be subject to consultation and approval by TDC.
- 6.2.169. The ExA concludes that, with the various safeguards proposed through mitigation, the Proposed Development, through the control of the dDCO, would not lead to new breaches of UK AQS.
- 6.2.170. Following the ExA's amendments of the dDCO related to the control of air emissions and appropriate mitigation endorsed by the Environment Agency, PHE and TDC, and given the evidence presented, the Proposed Development generally accords with the ANPS, NPPF paragraphs 170 and 181 and policy in the LP with respect to KIA (EC2) and Local Air Quality Monitoring (EP5). The ExA concludes that the mitigation measures as provided for in the rdDCO provided at Appendix D to this report will mitigate and minimise air quality effects adequately.
- 6.2.171. The ExA concludes that there are no air quality matters which would weigh against the granting of development consent.

6.3. ARCHAEOLOGY AND THE HISTORIC ENVIRONMENT

Issues

- 6.3.1. The ExA's IAPI prepared in accordance with s88 of the PA2008 and Rule 5 of the EPR was published with the Rule 6 letter [[PD-005](#)]. The ExA had regard to the application documents and the RRs received in formulating this list. The Rule 6 letter made it clear that the list was not a comprehensive or exhaustive one and that regard would be had to all important and relevant matters in reaching a recommendation after the conclusion of the Examination.
- 6.3.2. Archaeology and the historic environment was considered in the Rule 6 letter under the overarching heading of Landscape, design, archaeology and heritage. In relation to archaeological and historic environment matters, this heading contained the following issues:
- The effect on Conservation Areas, including Acol and Minster;
 - the effects on Scheduled Monuments;
 - the effects on Listed Buildings;
 - the effects on heritage assets within the airport site; and
 - the management and mitigation of impacts on archaeological features.
- 6.3.3. An ISH (ISH4) considering landscape, design, archaeology and heritage [[EV-019](#), [024](#), [024a](#)] was held on the afternoon of Monday 3 June 2019. Within the subjects of archaeology and heritage, the agenda for ISH4 considered a range of issues including archaeology; heritage policy; noise and heritage; visual effects and heritage; and non-designated heritage assets. Such issues drew on various questions contained in ExQ1 [[PD-007](#)] and various questions within ExQ2, ExQ3 and ExQ4 [[PD-010b](#), [PD-014](#), [PD-020](#) respectively] followed on from the similar themes.
- 6.3.4. Within the overall agenda for ISH4 the issues were broken down further, as follows;
- Archaeology
 - Views of KCC and Historic England on draft Written Scheme of Investigation (WSI)
 - Heritage – Policy
 - Heritage – Noise
 - The use of the Aviation Noise Metric (ANM) Study
 - Potential effects of noise upon heritage assets, including the setting of Listed Buildings and the character of Conservation Areas
 - Any effects of the scheme on the Ramsgate Heritage Action Zone (HAZ)
 - Landscape and heritage – visual effects
 - The visual effects of aircraft on the built environment and on relevant heritage assets, including the character and appearance of Conservation Areas and the setting of Listed Buildings
 - Heritage – non-designated assets

Issues arising in Local Impact Reports and Written Representations

- 6.3.5. Detailed comments relating to the historic environment were made by TDC and KCC in their LIRs. These are summarised below, along with comments made in other LIRs and WRs. Some WRs are referred to directly in the Findings section below.

Thanet District Council Local Impact Report [[REP3-010](#)]

- 6.3.6. TDC noted that whilst no designated heritage assets are directly affected by the Proposed Development, it is likely that non-designated heritage assets could be affected, and that any undeveloped areas of the site are likely to be of most archaeological value, in particular in the NGA.
- 6.3.7. For indirect effects, it stated that these are likely to affect heritage assets outside the site boundary and in particular where these are situated in the flightpath; the noise and vibration impacts arising from the flightpaths can affect the setting of designated heritage assets including the Conservation Areas of Ramsgate, Broadstairs, Minster and Acol. This was highlighted as a particular concern as the NMP [[APP-009](#)] proposes to provide noise insulation for buildings to overcome significant effects, however, Listed Buildings in the flight path may be unable to make alterations such as changes to windows to provide additional alleviation from aircraft noise without potential harm to the significance of the asset.
- 6.3.8. TDC noted that designated and non-designated heritage assets affected by noise will need assessing to ensure that the noise and vibration impacts on these heritage assets can adequately mitigate any negative effects and that, if not, further mitigation would be required that is specific to designated and non-designated heritage assets.
- 6.3.9. TDC noted that “*no additional information regarding archaeological investigation appears to have occurred since previous consultations*” and were of the view that trial trenching should be carried out prior to commencing construction. TDC noted that the ES [[APP-033](#)] states that such trenching would be carried out but TDC were unclear whether this could respond to the discovery of a feature of high significance to allow preservation in situ.
- 6.3.10. Overall, TDC considered the local impact on the historic environment to be negative on the basis of the drafting of the application version of the dDCO [[APP-006](#)] due to uncertainty about potential impacts on archaeology on the NGA.
- 6.3.11. Noise effects on Conservation Areas, Listed Buildings and non-designated heritage assets are considered below, as are archaeological considerations relating the proposed development site.

Kent County Council Local Impact Report [[REP3-143](#)]

- 6.3.12. KCC initially noted that Thanet is generally very rich in archaeology stating that its location as a ‘gateway’ to the country since prehistoric times has left a legacy of extensive buried archaeological landscapes,

with remains regularly found that are unique in character and of regional and national importance. They stated that this rich archaeological landscape extends into the former airfield, as can be seen recorded in the Kent Historic Environment Record and in the published results of archaeological work on sites adjacent to and within the airfield. KCC also noted that the archaeology and built heritage of the airfield contains significant evidence of its use as a military and civil airfield since WWI.

- 6.3.13. KCC noted limitations relating to access to the site but welcomed that the results of the geophysical survey and the evaluation trenching undertaken by SHP on the main part of the airport became available to the Applicant, although they raised concerns that such information was not included fully within the ES. They also noted that the SHP works were tailored to assess the SHP proposals as opposed to the Proposed Development and that the NGA was not included, and other areas proposed for development by the Applicant had limited survey coverage or none at all.
- 6.3.14. KCC state that due to the rich archaeological potential of the site any planning decision should be informed by the results of appropriate geophysical survey and targeted evaluation trenching, in accordance with policy so that where appropriate the preservation in situ of archaeological assets can be fully considered. KCC accepted that areas such as the NGA have not been accessible to the Applicant for the necessary field survey and evaluation but consider that there is a need to survey and evaluate such areas prior to development. KCC accept that this can be achieved post-determination, as long as there is sufficient - and perhaps substantial - flexibility in the development design to enable preservation to be achieved. In this respect KCC welcomed the intention to agree a WSI for future archaeological investigations; however, they have concern relating to the how a substantial area or feature of high significance would be accommodated in development planning if found, noting that archaeology could be shallow buried and would be vulnerable to forms of development that includes car parking and other external works as well as building construction.
- 6.3.15. KCC agree that that there are substantial areas of the SHP findings that can be mitigated through investigation and recording, but that there are also areas identified for preservation in situ including a WWII anti-aircraft battery, the remains of a Roman enclosure possibly associated with the Caesar invasions and the barrow cemeteries on Telegraph Hill, noting that the significance of such features needs to be highlighted so that they are considered as plans evolve.
- 6.3.16. KCC also note that a draft R16 for dealing with archaeological remains has been provided by the Applicant but have concerns over the wording of the draft Requirement, including timing provisions and provision for protecting remains found during construction works. As above, they note that they look forward to discussing a WSI and outline details of details which should be provided in such a document, including the protection of such remains.

- 6.3.17. KCC raise concerns over which built heritage assets will be affected by the present plans and what may be retained, noting that such assets within the airport contribute to the historic sense of place of the airfield and should be retained as far as possible.
- 6.3.18. Finally, KCC welcomed the intention to retain the museums and memorial gardens and support any enhancement opportunities that can be delivered, noting that the connection of these to the built heritage in a holistic way to ensure the historic sense of place of the airfield is important. It stated that in this respect within the present Masterplan [[APP-079](#)] the visual relationship of the museum area and the runway will be severed by the proposals with the construction of the cargo hangers and open aspects to the north and east lost through the construction in the NGA.
- 6.3.19. The issues raised by KCC are considered within the Findings section below.
- Dover District Council Local Impact Report* [[REP3-227](#)]
- 6.3.20. DDC relies on the expertise of KCC Heritage Conservation and Historic England in assessing the potential impact of the Proposed Development on the historic environment.
- Canterbury City Council Local Impact Report* [[REP3-246](#)]
- 6.3.21. The CCC LIR does not refer to archaeological or historic environment issues.
- Historic England*
- 6.3.22. Historic England notes in its RR [[RR-0676](#)] that it provided pre-application advice to the Applicant during its consultations but considered that the archaeological potential of the NGA was not well enough understood to effectively avoid harm by design. Historic England welcomed the intention to adopt a “worst-case scenario” approach to assessment of archaeological potential, and to undertake investigation to inform the design when access becomes available and considered that flexibility to redesign the scheme should be allowed so that if archaeological remains of equivalent significance to scheduled monuments are discovered they can be preserved.
- 6.3.23. In the view of Historic England, there will be considerable harm to the heritage significance of unlisted historic buildings within the airfield as a result of their demolition or changes to their setting. It considers that further investigation and assessment of historic structures is needed to ascertain their importance and condition, and subsequently whether it is desirable and feasible to preserve them and their settings.
- 6.3.24. Historic England considered that the ES did not adequately describe the historic character of the airfield and that the open grassland character evokes the wartime airfield use and contributes to the heritage significance of the wartime buildings, the museums and the memorial garden. It was of the view that the Proposed Development would be very

harmful to historic character so considered that the potential to reduce harm by amending the design should be explored. In this respect, Historic England was of the view that the ES did not provide sufficient detail about design flexibility to give it confidence that major harm to important heritage assets would be avoided, noting that, for example, the ES did not adequately describe the likely extent and depth of ground disturbance, the worst possible effects on heritage significance or the provision for flexibility in the quantum of development, design and construction methods.

6.3.25. Historic England also considered that there will be some harm to some Listed Buildings as a result of increases in aircraft noise and stated that noise impacts should be reduced as far as possible. The comments of Historic England are considered within the overall Findings below.

6.3.26. Various comments were made in RRs and later written submissions concerning matters of historic heritage, including from the Ramsgate Society, NNF and other individuals [including but not limited to [REP4-061](#), [REP4-062](#), [REP3-008](#), [REP3-283](#), [REP4-087](#) and [REP4-090](#)]. Such comments are covered and addressed within the Findings section below.

Structure of this chapter

6.3.27. Issues and comments raised in LIRs, RRs and in later written submissions did not raise wider matters to those covered in the ISH4 agenda.

6.3.28. To cover such issues, this chapter will firstly consider policy, before assessing the baseline conditions and contents of the ES [[APP-033](#)], then considering the effects of the Proposed Development on designated heritage assets, archaeology and non-designated heritage assets.

Relevant policy considerations

The Infrastructure Planning (Decisions) Regulations 2010

6.3.29. These regulations state that when deciding an application which affects a Listed Building or its setting, a Conservation Area, or which is likely to affect a Scheduled Monument or its setting, the decision-maker must have regard to:

- The desirability of preserving the Listed Building or its setting or any features of special architectural or historic interest which it possesses;
- the desirability of preserving or enhancing the character or appearance of the Conservation Area; or
- the desirability of preserving the Scheduled Monument or its setting.

ANPS

6.3.30. The ANPS notes that the construction and operation of airports and associated infrastructure has the potential to result in adverse impacts on the historic environment above and below ground (paragraph 5.187). Such elements of the historic environment are called 'heritage assets', and may be buildings, monuments, sites, places, areas or landscapes, or any combination of these. The sum of the heritage interests that a

heritage asset holds is referred to as its significance. Significance derives not only from a heritage asset's physical presence, but also from its setting (paragraph 5.189).

- 6.3.31. Officially designated heritage assets include Scheduled Monuments, Listed Buildings, and Conservation Areas, but non-designated heritage assets of archaeological interest that are demonstrably equivalent to Scheduled Monuments should be considered subject to the policies for designated heritage assets (paragraphs 5.190 to 191). The ANPS states that the "*Secretary of State will also consider the impacts on other non-designated heritage assets on the basis of clear evidence that the assets have a significance that merits consideration in that decision, even though those assets are of lesser value than designated heritage assets*" (paragraph 5.192).
- 6.3.32. The ANPS states that as part of the ES:
- "...the applicant should provide a description of the significance of the heritage assets affected by the proposed development, and the contribution of their setting to that significance. The level of detail should be proportionate to the asset's importance, and no more than is sufficient to understand the potential impact of the proposal on the significance of the asset. Consideration will also need to be given to the possible impacts, including cumulative, on the wider historic environment."* (paragraph 5.193)
- 6.3.33. In determining applications, the SoS will seek to identify and assess the particular significance of any heritage asset that may be affected by the Proposed Development (including by development affecting the setting of a heritage asset), and must comply with the regime relating to Listed Buildings, Conservation Areas and Scheduled Monuments set out in The Infrastructure Planning (Decisions) Regulations 2010 (paragraphs 5.196 to 197).
- 6.3.34. When considering the impact of a Proposed Development on the significance of a designated heritage asset, the SoS will give great weight to the asset's conservation. The more important the asset, the greater the weight should be (paragraph 5.200). Once lost, heritage assets cannot be replaced, and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Given that heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (paragraph 5.201)
- 6.3.35. Substantial harm to or loss of a Grade II Listed Building or a Grade II Registered Park or Garden should be exceptional. Substantial harm to or loss of designated sites of the highest significance, including World Heritage Sites, Scheduled Monuments, Grade I and II* Listed Buildings, Protected Wreck Sites, Registered Battlefields, and Grade I and II* Registered Parks and Gardens should be wholly exceptional (paragraph 5.202). Where the Proposed Development will lead to substantial harm to or the total loss of significance of a designated heritage asset, the SoS

will refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm (paragraph 5.204)

- 6.3.36. Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss (paragraph 5.203). Where the Proposed Development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 5.205).

NPPF and PPG

- 6.3.37. The relevant sections of the 2019 NPPF are largely mirrored in the ANPS as stated above. The NPPF states that:

"...when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance." (paragraph 193).

- 6.3.38. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (paragraph 194).
- 6.3.39. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset (paragraph 197).
- 6.3.40. The glossary to the NPPF defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. This definition is repeated as footnote 210 in the ANPS. The glossary also defines heritage significance as the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
- 6.3.41. PPG relating to the historic environment was last updated on 23 July 2019. The PPG notes that the NPPF sets out a clear framework for both plan-making and decision-making in respect of applications for planning permission and Listed Building consent to ensure that heritage assets are

conserved, and where appropriate enhanced, in a manner that is consistent with their significance and thereby achieving sustainable development (paragraph 002, Reference ID: 18a-002-20190723)

- 6.3.42. PPG states that 'significance' is important in decision-making as heritage assets may be affected by direct physical change or by change in their setting, and that being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals (paragraph 007, Reference ID: 18a-006-20190723).
- 6.3.43. The guidance notes that "*all heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not*", and notes that "*although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places*". PPG states that the "*contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting*" and that developments which materially detract from an asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation (paragraph 013, Reference ID: 18a-013-20190723),
- 6.3.44. PPG also notes that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the NPPF. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit (paragraph 020, Reference ID: 18a-020-20190723).

Thanet Local Plan 2006 'Saved' Policies

- 6.3.45. The ExA considers that the policies that are most relevant to this issue in the LP [[REP3-010](#)] are the following.
- 6.3.46. Policy HE11 – Archaeological Assessment:
- "In order to determine planning applications, the district council may require the developer/applicant to provide additional information, in the form of an assessment of the archaeological or historic importance of the site in question and the likely impact of development. In certain cases such assessment may involve fieldwork or an evaluation excavation.*
- Where the developer/applicant is not prepared to arrange such an assessment voluntarily, the district council will use its powers to direct that such information be supplied. planning permission will be refused without adequate assessment of the archaeological implications."*
- 6.3.47. Policy HE12 – Archaeological Sites and Preservation:

"Archaeological sites will be preserved and protected. on those archaeological sites where permanent preservation is not warranted, planning permission will only be granted if arrangements have been made by the developer to ensure that time and resources are available to allow satisfactory archaeological investigation and recording by an approved archaeological body to take place, in advance of and during development. No work shall take place until the specification and programme of work for archaeological investigation, including its relationship to the programme of development, has been submitted and approved."

6.3.48. The ExA considers that the saved policies of the LP are important and relevant.

Emerging Draft Thanet Local Plan to 2031 Policies [[REP3-010](#) and [REP3-143](#)]

6.3.49. Policy SP34 - Conservation and Enhancement of Thanet's Historic Environment:

"The Council will support, value and have regard to the historic or archaeological significance of Heritage Assets by:

- 1) protecting the historic environment from inappropriate development,*
- 2) encouraging new uses where they bring listed buildings back into use, encouraging their survival and maintenance without compromising the conservation of the building or its historical or archaeological significance,*
- 3) requiring the provision of information describing the significance of any heritage asset affected and the impact of the proposed development on this significance,*
- 4) facilitating the review of Conservation Areas and the opportunities for new designations,*
- 5) recognising other local assets through Local Lists,*
- 6) offering help, advice and information about the historic environment by providing guidance to stakeholders, producing new guidance leaflets, reviewing existing guidance leaflets and promoting events which make the historic environment accessible to all,*
- 7) issuing Article 4 Directions which will be introduced and reviewed as appropriate,*
- 8) supporting development that is of high quality design and supports sustainable development.*

All reviews and designations will be carried out in consultation with the public in order to bring a shared understanding of the reasons for the designation and the importance of the heritage asset."

6.3.50. Policy HE01 – Archaeology:

"The Council will promote the identification, recording, protection and enhancement of archaeological sites, monuments and historic landscape

features, and will seek to encourage and develop their educational, recreational and tourist potential through management and interpretation

Developers should submit information with the planning application that allows an assessment of the impact of the proposal on the significance of the heritage asset. Where appropriate the Council may require the developer to provide additional information in the form of a desk-based or field assessment. Planning permission will be refused without adequate assessment of the archaeological implications of the proposal.

Development proposals adversely affecting the integrity or setting of Scheduled Monuments or other heritage assets of comparable significance will normally be refused.

Where the case for development which would affect an archaeological site is accepted by the Council, preservation in situ of archaeological remains will normally be sought. Where this is not possible or not justified, appropriate provision for investigation and recording will be required. The fieldwork should define:

- 1) The character, significance, extent and condition of any archaeological deposits or structures within the application site;*
- 2) The likely impact of the proposed development on these features;*
- 3) The means of mitigating the effect of the proposed development.*

Recording should be carried out by an appropriately qualified archaeologist or archaeological contractor and may take place in advance of and during development. No work shall take place until a specification for the archaeological work has been submitted and approved by the Council. Arrangements must also be in place for any necessary post-excavation assessment, analysis and publication of the results, and deposition of the archive in a suitable, accessible repository."

6.3.51. Policy HE03 – Local Heritage Assets:

"The Council supports the retention of local heritage assets, including buildings, structures, features and gardens of local interest. Local heritage assets will be identified in a local list as part of the Heritage Strategy.

Proposals that affect non-designated heritage assets, will be assessed on the scale of harm, both direct and indirect, or loss and the significance of the heritage asset. Proposals will only be permitted where they retain the significance, appearance, local distinctiveness, character or setting of a local heritage asset."

6.3.52. The ExA is mindful that the eLP is currently being examined and whilst it is at an advanced stage of production, the above policies could be subject to change. Nonetheless, the ExA considers the policies important and relevant.

Relevant case law

- 6.3.53. The *Barnwell Manor Wind Energy Ltd [East Northamptonshire, English Heritage and The National Trust v. Secretary of State for Communities and Local Government and Barnwell Manor Wind Energy Ltd.]* Court of Appeal (CoA) judgment⁵⁶ has wider applicability than simply to wind turbines and is cited below in this chapter of the Recommendation Report. The CoA held that a decision-maker, having found harm to a heritage asset, must give that harm “*considerable importance and weight*”. This test goes further than simply balancing the effect on a Listed Building and its setting, or on the character or appearance of a Conservation Area, against the benefits of a Proposed Development, and less than substantial harm should not be equated with a less than substantial objection.

Historic England Good Practice Advice in Planning Note 3: The Setting of Heritage Assets⁵⁷

- 6.3.54. This Historic England note provides general advice on understanding setting and how it can contribute to the significance of heritage assets and allow that significance to be appreciated, as well on how views can contribute to setting. The note provides a staged approach to taking decisions on setting.
- 6.3.55. It states that setting is not itself a heritage asset or designation; its importance lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance (paragraph 9). The contributions made by the setting of heritage assets to their significance varies. The note states that many settings may be enhanced by development but that not all settings have the capacity to accommodate change without harm to the significance of the heritage asset or the ability to appreciate it (paragraph 17).

Policy discussion

- 6.3.56. Discussion took place during the Examination around the application of weight to be given to ‘Substantial’ and ‘Less than substantial’ harm, as defined in the ANPS and NPPF, as well as the issue of cumulative effects in terms of harm.
- 6.3.57. The Applicant [[REP6-012](#), response to HE.2.1] acknowledged that considerable importance and weight should be given to any harm, in accordance with the Barnwell case, and considered judgement of weight to be case specific. In such a way it considered that it is possible that cumulative ‘Less than substantial harm’ to multiple heritage assets could be less overall than a hypothetical harm to one asset. The Applicant also noted that it is clear that there is a scale of harm to be considered, with the ANPS setting out that “*Any harmful impact [...] should be weighed against the public benefit of development, recognising that the greater the harm [...] the greater the justification that will be needed for any*

⁵⁶ *Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137*

⁵⁷ Available at: <https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/>

loss”, and that some harm can be minimised, as PPG states that “for some developments good design may reduce or remove the harm or provide enhancement”. At ISH4 [EV-019] the Applicant acknowledged that this would not be possible in this case for indirect offsite harm.

- 6.3.58. IPs also made reference to the Barnwell judgement [REP4-048], noting that this found that decision makers should give “*considerable importance and weight*” to the desirability of preserving the setting of Listed Buildings.
- 6.3.59. The Applicant summarised its view following ISH4 [REP8-014] that “*within the category of less than substantial harm, it is appropriate to consider greater and lesser harms to assets, i.e. a judgment must be made as to the scale of harm within the less than substantial category*”, considering that there is a “*common-sense distinction between very minor effects, which would arise through change to setting alone, and greater effects which may still fall short of substantial harm such as those which could result from inappropriate alteration*”.
- 6.3.60. The Applicant considers that these distinctions are reflected in the criteria set out in the ES [APP-033] and the Heritage Assets and Public Benefit paper in Appendix HE.1.2 of the Applicant’s responses to ExQ1 [REP3-187] which sets out a list of 15 designated heritage assets that would be affected by the Proposed Development. Of these, four are stated to be affected to a negligible magnitude, nine to a low magnitude and two to a medium magnitude, and “*none of the heritage assets of the highest significance would be affected to more than a low magnitude of adverse change*”. The Applicant notes that a negligible magnitude of change is defined in the ES at Table 9.13 [APP-033] as ‘Minor and short term or reversible change to setting which does not affect the significance of the asset’; a low magnitude of change is defined in the ES at Table 9.13 as ‘Minor and short-term changes to setting which do not affect the key characteristics and in which the historical context remains substantially intact’; and a medium magnitude of change is defined as ‘Change to the key characteristics of an asset’s setting, which gives rise to harm to the significance of the asset but which still allows its archaeological, architectural or historic interest to be appreciated’.
- 6.3.61. With reference to the setting of a heritage asset, the ExA considers that the definition in the NPPF (and as footnote 10 in the ANPS as stated above) is very useful and has therefore considered ‘setting’ within this chapter according to that definition.
- 6.3.62. While noting the ES magnitude of change categorisations, the ExA notes that as the first consideration The Infrastructure Planning (Decisions) Regulations 2010, as stated above, direct that when deciding an application which affects a Listed Building or its setting, the decision-maker must have regard to the desirability of preserving the Listed Building or its setting or any features of special architectural or historic interest which it possesses; that for an application which affects a Conservation Area the decision maker must have regard to the desirability of preserving or enhancing the character or appearance of the

Conservation Area; and finally when considering an application which is likely to affect a Scheduled Monument or its setting, a decision maker must have regard to the desirability of preserving the Scheduled Monument or its setting.

- 6.3.63. The Barnwell case held that harm to a heritage asset must be given “*considerable importance and weight*”, and therefore less than substantial harm should not be equated with a less than substantial objection. While there is logically a scale of harm within the framework of ‘Less than substantial harm’, and it may be that harm can be considered ‘de minimis’ as too small to be meaningful or taken into consideration or immaterial, any harm which falls within the criteria of less than substantial harm must be given considerable importance and weight.

FINDINGS

Baseline

- 6.3.64. Chapter 9 of the ES [APP-033] selected a study area of 1km radius around the Order Limits, with further heritage assets beyond the 1km radius which may experience an effect as a result of the Proposed Development identified through consultation. The ES noted that this process of identification was informed by a Zone of Theoretical Visibility (ZTV). Within the ZTV there are no World Heritage Sites (WHS). The nearest, Canterbury Cathedral, St. Augustine’s Abbey and St. Martin’s Church in Canterbury, is located 16km southwest of the study area (paragraph 9.4.12).
- 6.3.65. There are two Scheduled Monuments within the study area, which are both relatively close to the site, recorded in paragraph 9.4.13 of the ES [APP-033]: An Anglo-Saxon Cemetery south of Ozengell Grange, sited around 100m to the east of the site, and an Enclosure and ring ditches sited 180m east-northeast of Minster Laundry. The ES [APP-033] notes two further heritage assets beyond the study area which merit consideration (paragraph 9.4.14), being the Scheduled Monument of Monastic Grange and pre-Conquest nunnery at Minster Abbey, some 1.3km to the south of the site, and the Saxon Shore fort, Roman port and associated remains at Richborough, located around 5km to the south of the site.
- 6.3.66. There are 24 Listed Buildings within the 1km study area and one Conservation Area (Acol) which is partially within the 1km area [APP-033]. In terms of non-designated heritage assets, there are over 800 archaeological features within the site and 1km study area. Extant non-designated built heritage assets primarily comprise airfield structures [APP-033, paragraph 9.4.22].
- 6.3.67. Chapter 9 of the ES [APP-033] concludes (paragraph 9.6.6) that direct effects on heritage assets would only result from assets which may be physically disturbed as part of the Proposed Development and enabling works. Indirect effects may happen to heritage assets whose significance is affected by the proposed development, usually through change to settings of such assets.

- 6.3.68. Chapter 9 of the ES [[APP-033](#)] identifies potential receptors within the site in the form of archaeological remains, including from Palaeolithic and Mesolithic periods, Prehistoric times, Roman, Anglo-Saxon, Medieval, Post-Medieval, and from the previous use of the Airport in WWI, WWII, and from the interwar and Cold War periods. The ES also notes that overall, the evidence indicates a long history of human activity and occupation both on the site and within the study area, from earliest prehistory to the modern period, but also notes that 20th and 21st century development of the site, in addition to heavy bombing during the wars and crash sites caused by emergency landings, will have disturbed and truncated archaeologically sensitive levels in some areas of the site but that substantial buildings have been largely limited to the sides of the site, with the runway area to the south and centre portion of the northern area experiencing less development due to the nature of its use as an airfield.
- 6.3.69. Finally, Chapter 9 of the ES considers that with the exception of the NGA, areas where development is proposed are focused primarily on areas where there has already been a significant degree of disturbance from existing development. In terms of the NGA, the ES states (paragraph. 9.4.50) that there is some evidence for disturbance of the NGA, comprising modern hard standings and buildings around the WWII control tower, but acknowledges that the majority of this area has not previously been disturbed. This view was shared by Historic England [[RR-676](#)] and KCC [[REP3-143](#)].

Assessment methodology

- 6.3.70. In terms of indirect effects, the assessment of visual change to setting considered change to "*all possible views of and from the relevant assets which may contribute to adverse change*" [[APP-033](#), paragraph 9.6.19]. For the assessment of noise and potential effect on heritage assets, methodology outlined in the ANM by Historic England was used [[REP6-014](#), Appendix He.2.2].

The Aviation Noise Metric

- 6.3.71. This methodology is based on the magnitude and frequency of noise as expressed through absolute measures of noise equalised over time (LAeq) and frequency of maximum noise exceeding a 60dB threshold (N60 x 20). Heritage assets were identified which were present within a noise envelope based on number of exceedances of a 60dB noise threshold and average aviation noise above 54dB [[APP-033](#), paragraphs 9.6.20 to 9.6.21]. Chapter 9 of the ES [[APP-033](#)] notes that firstly, the N60 contour was used as there is no aviation noise currently from the site (para 9.6.22). Secondly, the heritage assets chosen within this contour were those whose significance derives partially from the sound environment:
- "*A: solitude, embedded with quietness, is intrinsic to understanding the form, the function, the design intentions and the rationale for the siting of a heritage asset;*

- *B: a non-quiet and specific existing soundscape forms part of the functional understanding of the heritage asset;*
- *C: the abandonment of a heritage asset; a monument, building or landscape, in antiquity (or more recently), has created a perceived 'otherworldly romanticism' enabled by the absence of anthropogenic sounds (quietness); or*
- *D: the absence of 'foreign (modern) sounds' allow an asset to be experienced at 'a very specific point in time' that is intrinsic to understanding the heritage assets significance."*

6.3.72. Within such categories, further assessment was carried out in areas below 54dB LAeq for the most sensitive heritage assets (categories A, C and D), between 54dB and 57dB LAeq for category B, between 57dB and 60dB LAeq in rural areas and all heritage assets in areas above 60dB LAeq, in line with the ANM.

6.3.73. The Ramsgate Society and Ramsgate Heritage and Design Forum [[REP3-017](#), [REP4-061](#)] raise concerns that the ANM is designed and used for situations where aircraft noise is already present. They consider that the metric relates to the expansion of existing airports in use and was developed specially to cover the assessment of indirect effects of aircraft noise in respect of Heathrow's Northeast Runway proposal. They are of the view that, correctly applied, the metric would require a site-specific assessment of each historic asset and consideration of absolute noise impact, rather than noise and annoyance averaged out over 16 and eight hour periods and consider that Historic England lack technical expertise in the area of aircraft noise modelling to challenge and test the Applicants' conclusions.

6.3.74. Historic England [[REP4-058](#)] note that the ANM recommends that designated assets are scoped-out during the first stage of desk-top assessment if they are outwith defined noise contours or sifted out during the second stage of desk-top assessment if they are not considered potentially sensitive to the anticipated noise change. The remaining heritage assets, which are considered to be potentially sensitive to the anticipated noise change, are then visited and assessed in detail. It is of the view that the approach taken within the ES complies with the ANM but is unsure of the 'scoping out' of some heritage assets.

6.3.75. The Applicant states that [[REP4-025](#)] the ANM is the only adopted guidance for the assessment of change to setting arising from aviation noise and has been adopted by Historic England as best-practice guidance, and also refer to the ES [[APP-033](#), paragraph 9.6.22]: "As the site is currently not operational it is not subject to aviation noise currently and so the N60 contour was used to initially identify heritage assets", stating that assessment was therefore carried out against the existing baseline of no flights, and no regard has been had in this assessment to any previous aviation noise baseline. Furthermore, they state that the key metrics used in the ANM are the N60 (identifying numbers of exceedances of a 60dB noise level) and LAeq (measurement of noise equalised over time), which have been used in the assessment.

- 6.3.76. **The ExA concludes and recommends that while developed for consideration of the proposed third runway at Heathrow, the ANM is fit for purpose for examining noise effects on heritage assets where there is no aircraft noise at present, due to its use of the N60 metric. In coming to this view the ExA note that the ANM was originally produced under the instruction and direction of Historic Environment.**

Assessment of effects

- 6.3.77. Chapter 9 of the ES [[APP-033](#)] considered the magnitude of change on heritage assets in EIA terms by one of four classes: High, medium, low, and negligible. It also categorised the significance of heritage assets themselves into similarly named classes (with for instance designated heritage assets being rated 'high' significance). These classes then form the 'x' and 'y' axis for a significance assessment matrix, with for example a medium magnitude of change and a high receptor heritage significance providing significance effects. Table 9.14 of the ES [[APP-033](#)] shows this matrix.
- 6.3.78. While useful in EIA terms, the outputs of this matrix were not clearly defined in terms of effects as stated in the ANPS and the NPPF ie in terms of substantial and less than substantial harm. Amongst others, questions HE.1.2 and HE.1.6 [[PD-007](#)] on this subject led to the submission of a Heritage Assets and Public Benefit paper [[REP3-187, Appendix HE.1.2](#)] by the Applicant to consider such levels of harm.
- 6.3.79. Chapter 9 of the ES [[APP-033](#)] came to the conclusion (Table 9.15) that the Proposed Development would cause effects which would be 'Not Significant' in EIA significance terms on three Scheduled Monuments, two Conservation Areas and two Listed Buildings, and a significant effect on two Listed Buildings identified within the study area.
- 6.3.80. The Heritage Assets and Public Benefit paper [[REP3-187](#)] considered the Proposed Development would cause less than substantial harm to 15 heritage assets.

Site inspections

- 6.3.81. The ExA viewed many of the heritage assets listed below, where publicly visible, during its USI [[EV-004](#)]. As part of the ASI [[PD-008, EV-003](#)], members of the Ramsgate Society assisted in pointing out to all those present buildings and areas of historical interest within Ramsgate, including areas of the Ramsgate Conservation Area.

Effects

Conservation Areas

- 6.3.82. Chapter 9 of the ES [[APP-033](#)] identifies a not significant effect on Acol and Minster Conservation Areas. The Heritage Assets and Public Benefit paper [[REP3-187, Appendix HE.1.2](#)] states that harm caused to these two assets would be less than substantial.

Acol Conservation Area

- 6.3.83. Chapter 9 of the ES [[APP-033](#)] considers the significance and contribution of setting at Acol Conservation Area, stating that the village derives its historic character from its relationship to 'The Street', the main road which runs north-south through the village and the surrounding agricultural land. The ES notes that there is discernible modern noise from traffic passing through the village and from nearby major roads.
- 6.3.84. From the USI, the ExA considers that Acol is a small linear village, with development focused on The Street, largely from its junction with Plumstone Road in the south to junctions with Margate Hill and Crispe Road in the north. The boundaries of the Conservation Area encompass the junction with Plumstone Road but stop short of the northern roads.
- 6.3.85. The Street is narrow, with significant sections having no footpath with properties and mature landscaping set close to the highway edge in a central section. This tight-knit nature adds to the character of the Conservation Area, with predominately plum coloured brick boundary walls and the dense landscaping all adding to the significance of the Conservation Area. The tightness of the road both in width terms and due to the lack of space on the sides of the road did appear to lead to minor issues of traffic congestion during the ExA's ASI, and this adversely affects the character and appearance of the Conservation Area.
- 6.3.86. Acol lies to the north of the airport and so would not be under flight paths from the Proposed Development. The ES [[APP-033](#)] notes that projected noise levels are below those at which the ANM identifies potential qualitative change to setting to occur but that the asset has been considered because of its sensitivity and the relatively high N60 value which derives from proximity to the northern approach path, considering that sustained noise levels would not be sufficient to give rise to any discernible change to historic character or significance, and any effect would be of negligible magnitude.
- 6.3.87. While the introduction of aircraft noise would be a new addition to the noise environment, **the ExA concludes and recommends that the essential character of the Conservation Area would be retained and agree with the Applicant's Heritage Assets and Public Benefit paper [[REP3-187](#), Appendix HE.1.2] that the proposed development would have a less than substantial effect on the heritage asset.**

Minster Conservation Area

- 6.3.88. The ES [[APP-033](#)] states that this heritage asset comprises the historic core of the village of Minster and is focused on the Abbey and Church of St Mary Magdalene. The ES considers that the Conservation Area is generally inward focused, with the underlying topography, built development and tree planting restricting views outwards to the north, and draws significance from historic and architectural interests from views within the Conservation Area, and notes that the village centre is

quite densely occupied and is frequently busy, with buildings to either side of Church Street, though pockets of green space within the former Abbey and in the churchyard of St Mary Magdalene provide a contrast to the more densely packed houses within the village.

- 6.3.89. The ExA agrees generally with this assessment of the character of the Minster. The Conservation Area is drawn tightly to the centre of the village with the open spaces surrounding the church and Abbey, the buildings themselves, and the range and attractiveness of many of the domestic buildings within the Conservation Area adding substantially to the significance of the Conservation Area. There was little evidence during the ExA's USI of the village centre being busy and given its location away from main roads it seems fairly unlikely that this would be the case.
- 6.3.90. The ES [[APP-033](#)] states that projected noise levels are below those at which the ANM identifies potential qualitative change to setting to occur but this asset has been considered because of its sensitivity and the relatively high N60 value, noting that sustained noise levels would not be sufficient to give rise to any discernible change to historic character or significance, and any effect would be of negligible magnitude. While the ExA considers such an effect may be more 'negligible' it agrees that harm caused to the setting of the Conservation Area would be less than substantial.
- 6.3.91. **The ExA concludes and recommend that the projected noise levels would result in less than substantial harm to the character of the Conservation Area.**

St Nicholas at Wade Conservation Area

- 6.3.92. St Nicholas at Wade Conservation Area lies to the west of the Proposed Development and would be located close to aircraft flight paths when descending from the west and landing at the Proposed Development. From the USI, the ExA considers that the settlement is an attractive linear village, based upon Court Road / The Street / The Length, and is dominated by the Grade I Listed Church of St Nicholas at the west end of the village. Despite some more recent infill development within the Conservation Area, there are a range of attractive older properties lining the main road and the village has a peaceful, rural feel, whose character is added to by the quality of many of the individual properties within the village, strong boundaries, mature trees, and the vista up the main street towards the castellated tower of the church.
- 6.3.93. The ExA questioned the Applicant over any effect of the Proposed Development upon the significance of the Conservation Area [[PD-010b](#), question HE.2.4] in terms of visibility of aircraft. The Applicant is of the view [[REP6-012](#)] that visibility of aircraft would be infrequent and transient in overall experience and would often be screened, so not likely to affect significance of the Conservation Area. A later question [[PD-014](#), HE.3.1] referred to the Applicant's view that potential clustering of flights may occur before and after the proposed night flight ban, to which the Applicant confirmed their view [[REP7a-002](#)] that aircraft movements

would be transient and intermittent, and that clustering would result in more frequent visibility during specific times of the day but reduction at other times, providing no adverse effects.

6.3.94. The main road within St Nicholas at Wade runs roughly from the North West to the South East and is not significantly different in orientation from the runway of the Proposed Development. From the indicative maps provided [[APP-040](#)] aircraft approaching the runway from the west to land would not track directly above the main street of the village but would not be far away. While noting that aircraft would be transient and intermittent, the forecasts [[APP-085](#)] predict enough planes for them to be a fairly regular occurrence above the village. The visual effect of such aircraft above the peaceful tranquil settlement would appear out of place and have an adverse visual effect upon the character and appearance of the Conservation Area.

6.3.95. **The ExA concludes and recommends that such an effect would cause less than substantial harm.**

Ramsgate Conservation Area

6.3.96. Ramsgate Conservation Area covers a large part of the central area and seafront of Ramsgate. The Conservation Area contains a large number of Listed Buildings.

6.3.97. Given the size of the Conservation Area, it is difficult to summarise the character and appearance of the area; it covers the majority of the town centre from the top of the High Street to the Pugin-designed Grange in the west and the Winterstoke Gardens to the east. The Conservation Area also includes the impressively scaled, detailed and sited Royal Harbour, dating from 1750 and designed to create a harbour to offer refuge for sailing vessels caught from storms in the English Channel. Although bustling along some of the busy thoroughfares, the Conservation Area also contains areas of relative peace and quiet visited by the ExA such as Albion Place Gardens, to the north of the Harbour, Liverpool Lawn, set above the Harbour and the area surrounding the Bandstand adjacent to Wellington Crescent.

6.3.98. Various IPs, including the Ramsgate Society, Ramsgate Heritage and Design Forum and various individuals [including [REP3-017](#), [REP4-061](#), [REP4-048](#)] consider that the Proposed Development would have a harmful effect on the heritage assets of Ramsgate, including the Conservation Area, both in terms of noise and visual effects.

6.3.99. In terms of noise impacts upon the Conservation Area, the Applicant points [[APP-051](#), [REP3-195](#)] to the use of the ANM, considering that increased noise at the levels predicted within the Conservation Area would not affect a receptor's ability to understand or appreciate the heritage interests of the Conservation Area. It notes that it is only where the significance of a heritage asset is sensitive to noise change that an adverse effect would arise, and that no harm would arise and the character of the Conservation Area would be preserved. It notes that in the majority of the Conservation Area the existing soundscape is

provided largely by traffic noise with occasional noise from harbour and marina operations, which reinforce the area's historic and functional links with the sea, and is of the view that the majority of this area is not sensitive to altered levels of background noise.

- 6.3.100. NNF [[REP7a-038](#)] state that planes landing from the east and taking off into the east are at a few hundred feet over Ramsgate, and that when the airport was operating as a commercial airport, at a far lower level of activity than the applicant is projecting, aviation noise did give rise to adverse perceptual change in the setting of the area and adverse effects were experienced. In support of this view they provide a copy of a 2009 TCPA1990 planning consent for a housing development in Ramsgate which required noise attenuation due to the previous operations of Manston Airport [[REP6-049](#)], considering that the larger operation now planned by the Proposed Development would have to have a noise effect on the Conservation Area.
- 6.3.101. Notwithstanding any effect on Listed Buildings within Ramsgate or the Ramsgate HAZ, which are considered below, despite the presence of small oases of calm within the Conservation Area the **ExA agrees that in the majority of the Conservation Area its soundscape is provided by its bustling nature, through the noise of traffic, people and harbour activities.**
- 6.3.102. In this context therefore **the ExA concludes and recommends that noise created by the Proposed Development would not cause harm to the character and appearance of the Conservation Area.**
- 6.3.103. The 2009 housing planning permission relates to the view at that time of TDC over the noise effects of the airport and living conditions of the future residents of the proposed house, rather than any effect on the significance of the Conservation Area.
- 6.3.104. Further detailed consideration of the ANM in relation to Listed Buildings within Ramsgate is considered below.
- 6.3.105. The Ramsgate Society considers [[REP4-062](#)] that the issue of visual effects has nothing to do with the appearance of the airport site which is not visible from the Ramsgate Conservation Area, but rather, in its view, is about the impact of low flying aircraft, landing and taking off from the airport, given the direction of the eastern flight path which cuts across the Conservation Area, considering there to be a significant negative visual impact given the proximity of the airport to the Conservation Area and the intensity of ATMs forecast at Year 20. Videos and photographs were produced in evidence of the previous effect of aircraft transiting over Ramsgate Royal Harbour [[REP3-283](#) 'NNF09 ref Photos and Map', [REP4-087](#), [REP4-090](#)].
- 6.3.106. The Applicant's view of any visual effects upon Ramsgate Conservation Area are the same as their view on any effect on the St Nicholas at Wade Conservation Area; that the visibility of aircraft would be infrequent and transient in the overall experience of the Conservation Area and would

often be screened, and that clustering of aircraft may result in more frequent visibility during specific times of the day but a reduction at other times, therefore providing no adverse effects.

6.3.107. It is true that aircraft transiting over the Ramsgate Conservation Area may often be screened, depending on where the receptor may be within the Area and the angle of view of the flightpath. However, the Conservation Area boundary encompasses the full extent of the Royal Harbour, including the east and west piers. For receptors stood within the Royal Harbour, on some of the higher roads overlooking the Harbour such as Royal Parade and Prospect Terrace, a clear view of aircraft arriving or leaving the airport over the harbour would be visible. While such aircraft may be relatively infrequent, the frequency would increase over time based on the Applicant's forecasts. The aircraft would represent a change to the setting of the Conservation Area, and one that draw the eye away from the Royal Harbour, having an adverse effect on the character and appearance of the Conservation Area.

6.3.108. **The ExA concludes and recommends that visual effects of the Proposed Development would cause harm to the Ramsgate Conservation Area and that such harm would be less than substantial.**

Broadstairs Conservation Area

6.3.109. TDC raise the issue of Broadstairs Conservation Area within its LIR. Appendix E to Appendix 9.1 of the ES [[APP-052](#)] states that this Conservation Area lies entirely outside of the $n60 > 20$ and 54dB LAeq contours. The appendix notes that the area comprises a busy town to which specific sounds or absence of sound does not specifically contribute to heritage significance, and concludes that consequently this area is not particularly sensitive to altered levels of background noise, which would in any case be very limited.

6.3.110. Given the forecast noise contours, indicative flight paths, and distance of the aircraft from the Conservation Area that would arise from the Proposed Development **the ExA does not conclude or recommend that the Proposed Development would cause harm to the setting of this Conservation Area, in noise or visual terms.**

Listed Buildings and Scheduled Monuments

6.3.111. The ES [[APP-033](#)] came to the conclusion that the Proposed Development would not have a significant effect on three Scheduled Monuments and two Listed Buildings, and a significant effect on two Listed Buildings identified within the study area.

6.3.112. The Applicant's Heritage Assets and Public Benefit paper [[REP3-187](#)] considered the Proposed Development would cause less than substantial harm to 10 Listed Buildings and three Scheduled Monuments. The names of such Listed Buildings, combined with the ES assessment of magnitude of harm and harm levels from the Heritage Assets and Public Benefits paper [[REP3-187](#)] have been combined by the ExA for ease of reference

in the table below (Table 3.1). This list includes the Scheduled Ancient Monument (SM) at Minster Grange due to its overlap with Listed Buildings on the site.

Heritage asset	ES assessment of magnitude of change	Magnitude of harm
Chapel House	<p>Heritage significance: High for architectural and historic interest</p> <p>Magnitude of change: Low – limited increase in noise may affect contribution of rural setting to asset</p> <p>EIA Significance: Not significant</p>	Less than substantial harm
Cleve Court and Cleve Lodge	<p>Heritage significance: High for architectural and historic interest</p> <p>Magnitude of change: Medium – while setting is not dependent on tranquillity, noise levels would present a qualitative change to setting and could detract from historic interest</p> <p>EIA Significance: Significant</p>	Less than substantial harm
Prospect Inn	<p>Heritage significance: High for architectural and historic interest</p> <p>Magnitude of change: Low – setting makes limited contribution to significance and does not depend on tranquillity. Existing setting already has relatively high noise levels and the site is associated with aviation.</p> <p>EIA Significance: Not significant</p>	Less than substantial harm
Way House and Wayborough House, and garden wall attached	<p>Heritage significance: High for architectural and historic interest</p> <p>Magnitude of change: Medium – limited increase in noise would affect contribution of rural setting to asset</p> <p>EIA Significance: Significant</p>	Less than substantial harm
Monastic grange and pre-Conquest nunnery at Minster Abbey (SM)	<p>Heritage significance: High for architectural, archaeological and historic interest</p> <p>Magnitude of change: Low – while tranquillity contributes to setting, anticipated noise levels would present only a limited change.</p>	Less than substantial harm

	EIA Significance: Not significant	
Minster Abbey	Heritage significance: High for architectural and historic interest Magnitude of change: Low- while tranquillity contributes to setting, anticipated noise levels would present only a limited change. EIA Significance: Not significant	Less than substantial harm
Barn about 30 metres North East of Minster Abbey	Heritage significance: High for architectural and historic interest Magnitude of change: Low - while tranquillity contributes to setting, anticipated noise levels would present a limited change. EIA Significance: Not significant	Less than substantial harm
Gates and Walls to Minster Abbey	Heritage significance: High for architectural and historic interest Magnitude of change: Low - while tranquillity contributes to setting, anticipated noise levels would present a limited change. EIA Significance: Not significant	Less than substantial harm
Wall and Gate Lodge East of Minster Abbey	Heritage significance: High for architectural and historic interest Magnitude of change: Low - while tranquillity contributes to setting, anticipated noise levels would present a limited change. EIA Significance: Not significant	Less than substantial harm
Laundry about 15 metres West of Minster Abbey	Heritage significance: High for architectural and historic interest Magnitude of change: Low - while tranquillity contributes to setting, anticipated noise levels would present a limited change. EIA Significance: Not significant	Less than substantial harm
Enclosure and ring ditches sited 180metre-northeast of	Heritage significance: High for archaeological interest Magnitude of change: Low - setting makes limited contribution to	Less than substantial harm

Minster Laundry	significance and does not depend on tranquillity. EIA Significance: Not significant	
Anglo-Saxon cemetery S of Ozengell Grange	Heritage significance: High for archaeological interest Magnitude of change: Negligible – setting makes limited contribution to significance and does not depend on tranquillity EIA Significance: Not significant	Less than substantial harm
Saxon Shore fort, Roman port and associated remains at Richborough	Archaeological significance: High for architectural archaeological and historic interest Magnitude of change: Negligible – minimal increase in noise would present little or no discernible change to setting EIA Significance: Not significant	Less than substantial harm

Chapel House

6.3.113. The Grade II listed Chapel House is located some distance to the North East of Minster, and south of the Proposed Development site. The listing notes that the former chapel dates from the 14th Century and was built as a private chapel for Thorne Manor (demolished). The property was converted into a house in the mid-19th century. The dwelling is located in a rural area where the noise impacts of the Proposed Development would alter the setting of the Listed Building. The ES [APP-033] states that noise at the projected level may become intrusive at particularly quiet periods, but sustained noise exposure would not be of a sufficient magnitude to give rise to a qualitative change to the perception of the asset as a rural farmhouse. No evidence was submitted to the Examination that countered this assessment.

6.3.114. **The ExA concludes and recommends that harm caused to this heritage asset would be less than substantial.**

Cleve Court and Cleve Lodge

6.3.115. The Grade II* listed Cleve Court and Cleve Lodge are located to the South East of Acol and are close to the North West boundary of the Proposed Development site. The attractive façade of two-storey plum brick Cleve Court has a distinctive central Venetian window at first floor level and central raised door with bracketed moulded cornice. The listing notes that the house was occupied for many years by Lord Carson.

6.3.116. The property faces directly onto Minster Road and the ExA agree that the setting of the property is not dependent on tranquillity but that the proximity of the heritage asset to the Proposed Development would have significant effects. While the change to the setting of the asset that the

Proposed Development would cause would not affect the architectural quality or historic fabric of the building and hence harm would not be substantial, the proximity of the building and change to its setting would result in an adverse effect on the heritage asset.

- 6.3.117. **The ExA concludes and recommends that the Proposed Development would have an effect upon the heritage asset at the higher levels of less than substantial harm.**

Prospect Inn

- 6.3.118. The Prospect Inn is located adjacent to the dual carriageway of the A299 to the South West of the Proposed Development site. The inn is now occupied by a hotel, and is a distinctive building designed in the streamline moderne / international style by Oliver Hill. The two-storey rear residential block has a noticeable glazed staircase light.
- 6.3.119. It is likely that the design of the property was partly influenced by the presence of the airport and the building is located in an area with existing levels of fairly high noise.
- 6.3.120. **The ExA has considered the Applicant's assessment and has taken account of this in coming to its conclusion and recommendation that the harm caused to the property would be less than substantial.**

Way House and Wayborough House, and garden wall attached

- 6.3.121. The Grade II listed Way House and Wayborough House are located to the south of the Proposed Development on the quiet lane of Wayborough Hill. The listing notes that the two houses were formerly one, and date from the 17th century or earlier and notes the architectural detailing of the properties. The setting of the property is enhanced by the tranquil rural surroundings and substantial mature landscaping along Wayborough Hill. The ES considers that the magnitude of change to the heritage asset would be medium and no evidence was submitted to the Examination to counter this assessment.
- 6.3.122. **The ExA has considered the Applicant's assessment and has taken account of this in coming to its conclusion and recommendation that the Proposed Development would cause less than substantial harm to the Listed Building.**

Minster Abbey; Monastic grange and pre-Conquest nunnery at Minster Abbey; Gates and Walls to Minster Abbey; Wall and Gate Lodge East of Minster Abbey (SM); Laundry about 15 metres West of Minster Abbey; Barn about 30 metres North East of Minster Abbey

- 6.3.123. The above Listed Buildings and SM have been grouped together for the purposes of brevity. Minster Abbey is a Grade I listed abbey, with buildings dating from, according to the listing, the 11th and 12th century, and is constructed in rubble and flint with dressed stone details. The

listing notes that the Abbey was originally built around three sides of a courtyard, with a chapel on the south side, domestic and offices on the west and north sides.

- 6.3.124. The Abbey has been used by Benedictine Nuns since the 1930s and was built on the site of the Abbey of St Peter and St Paul. The Scheduled Monument listing notes that the monastic grange at Minster Abbey survives exceptionally well and is a rare early type of this type of monument, retaining the 11th and 12th century buildings of high architectural quality, and states that the grange is the most important and one of the best surviving examples of a group of contemporary Benedictine monastic granges which cluster on the Isle of Thanet.
- 6.3.125. The other Listed Buildings (Gates and Walls, Wall and Gate Lodge, Laundry, and Barn) are all listed Grade II and all share the flint-based construction materials of the Abbey.
- 6.3.126. It is clear that the Abbey is of great importance, as indicated by its Grade I listed status. The Applicant considers that the Proposed Development would cause less than substantial harm to the heritage assets.
- 6.3.127. **The ExA agrees with this view and concludes and recommends that while it is clear that solitude is intrinsic to understanding the form, the function, the design intentions and the rationale for the siting of the Abbey, and that the extensive history of the place contributes to this understanding, the distance of the Abbey from the Proposed Development and its siting south of the airport, away from any possible flight paths means noise levels produced by the Proposed Development would not have a substantial effect upon the heritage asset.**

Enclosure and ring ditches sited 180m east-northeast of Minster Laundry (SM)

- 6.3.128. This SM is located close to Way House and Wayborough House, and is directly south of the A299 which forms the southern boundary of the Proposed Development site. The features recorded as crop marks on aerial photographs represent the surviving ditches of a Romano-British and Iron Age settlement. The ES notes that the SM is primarily of significance for archaeological interests, deriving from the informative potential of surviving below ground remains. Its setting is influenced by its location on a south-facing slope with views south toward the River Stour, and also by the busy A299.
- 6.3.129. **The ExA concludes and recommends that the setting of the SM does not make a significant contribution to its significance and although some harm would be caused to the significance of the SM by the proximity of the Proposed Development, such harm would be limited and less than substantial.**

Anglo-Saxon Cemetery south of Ozengell Grange

6.3.130. This SM is sited around 100m to the east of the site. Partial excavation since the mid-19th Century has recorded over 100 Anglo-Saxon burials, many with grave goods, on or in the vicinity of the site. The ES notes that the site will contain archaeological information and environmental evidence relating to the cemetery, the material culture of those buried and the landscape in which the cemetery was created, considering that the SM is primarily of significance for archaeological interests, deriving from the informative potential of surviving below ground remains. Its setting is influenced by its location on a ridge with views south and east toward the sea and also by its modern-day location adjacent to the A299.

6.3.131. As above, **the ExA concludes and recommends that the setting of the SM does not make a significant contribution to its significance and although some harm would be caused to the significance of the SM by the proximity of the Proposed Development, such harm would be limited and less than substantial.**

Saxon Shore fort, Roman port and associated remains at Richborough

6.3.132. The Grade I listed Richborough Castle is located around 5km to the south of the Proposed Development and takes the form of the remains of the Roman settlement Rutupiae. The site covers some 40ha and the castle is sited on a high point where views from towards the north clearly take in the ridgeline of the Proposed Development site across the valley of the River Stour. The listing provides a detailed history of the site detailing how the site, which overlooked the old Wantsum Channel dividing the Isle of Thanet from the rest of Kent was the landing site for part of the Roman invasion in AD 43.

6.3.133. Due to the distance of the castle from the Proposed Development site, noise increases at the heritage asset caused by the proposal would be minimal. Aspects of the Proposed Development, including built development and potentially planes and lighting would also be visible within the wider setting of the castle.

6.3.134. However, given the distance between the two sites **the ExA concludes and recommends that harm caused to the heritage asset would be limited and less than substantial.**

Other Listed Buildings

6.3.135. The Ramsgate Society [[REP4-061](#)] note that none of the Listed Buildings referred to within the ES [[APP-033](#)] or the Heritage Assets and Public Benefit paper [[REP3-187](#)] lie within Ramsgate, despite the town's proximity to the airport and the line of the eastern flight path. They consider that substantial harm would be caused to a majority of the 456 Listed Buildings and structures within Ramsgate, and to its Conservation Areas, due to the intensity of aviation use.

6.3.136. Historic England does not consider that the heritage significance of heritage assets in Ramsgate are "*likely to be much harmed by operational aircraft noise*" [[REP3-162](#)]. In clarification [[REP4-058](#)] it states that there may be some harm caused to Listed Buildings in

Ramsgate by the Proposed Development. It considered during the Examination process that further information should be provided by the Applicant regarding its assessment following the ANM.

- 6.3.137. The Applicant provided [[REP6-012](#)] a list of seven heritage assets in Ramsgate which are in the categories identified within the ANM detailed above (categories A to D) and fell within the forecast N60 contours (number of occasions in a time period where noise exceeds 60dB LAmax) for 20 occurrences. These were: The Grade I listed Church of St. Laurence, Ramsgate and 25 associated Grade II listed headstones, mausolea and tomb groups; the Grade I listed Church of St. George, Ramsgate and four associated Grade II listed tomb groups and Grade II listed railings; the Grade II* listed Montefiore Synagogue and associated Grade II listed gatepiers and toilets; the Grade II listed St. Augustine's Abbey; the Grade I listed Church of St Augustine, St. Augustine's Road; the Grade II registered Park and Garden of Albion Place Gardens; and the Grade II listed Eastcliff Bandstand.
- 6.3.138. It notes that predicted noise levels at the Church of St. George, the Montefiore Synagogue, St. Augustine's Abbey and Church of St. Augustine are below 54dB LAeq,16hr in all assessment scenarios; below the level that the ANM notes at paragraph 5.4.4 that would be disturbing to otherwise quiet heritage assets and that noise would be unlikely to interfere with existing sounds that contribute to significance. These assets were consequently scoped out of detailed further assessment.
- 6.3.139. The ExA noted at ISH4 [[EV-019](#), [EV-024](#), [EV-024a](#)] that part of the Grade I listed Church of St. George and its southern area of graveyard fell within the 54dB LAeq,16hr contour. This church is located in the heart of Ramsgate, yet is in an area of relative seclusion, accessed via the quiet road of Church Hill.
- 6.3.140. The Applicant acknowledged that the Churchyard of St. George is located in a quieter area of the Ramsgate Conservation Area, and that the setting of the church and associated structures is a relatively tranquil area. However, it considered that the context of the churchyard remains a discernibly modern urban setting, and the viewer will be well aware of the modern urban environment around the church. They also noted that 54dB LAeq is the lowest level at which the ANM would anticipate a discernible effect for this category of asset and scoped the church out of detailed assessment in the understanding that it was located on the periphery of this 54dB LAeq,16hr contour and that noise from the Proposed Development would not alter the contribution of setting to the significance of the heritage assets.
- 6.3.141. The ExA considers that tranquil areas within the heart of urban settings can conversely be more important than in other settings, because of the respite they can give from the noise of modern urban life. However, it is acknowledged that only part of the church would fall within the 54dB contour under the worst-case scenarios modelled by the ES, and that this location on the periphery of the contours would mean that negligible

harm would be caused by noise from the Proposed Development to the significance of the heritage asset.

- 6.3.142. The Applicant states that the Grade II listed church of St. Lawrence, Ramsgate, is located adjacent to the A255 / B2014 junction, opposite a petrol station and the churchyard is within 300m of the Canterbury – Ramsgate railway, considering that the presence of modern traffic and rail noise is an existing and defining element of the setting of these assets, which are consequently not sensitive to the predicted change. At ISH4 [[EV-019](#), [EV-024](#), [EV-024a](#)] the Applicant was questioned over the associated headstones, mausolea and tomb groups, many of which are located in the rear graveyard, away from the road junction, but considered that the primary asset was the listed church, and that the associated groupings were listed due to their association with the church.
- 6.3.143. **The ExA notes such evidence and concludes and recommends that the existing noise environment at the church would not be adversely affected by the Proposed Development such that harm would be caused to the significance of the heritage assets.**
- 6.3.144. The Grade II registered Park and Garden of Albion Place Gardens was raised as a potential issue by the ExA during ISH4 [[EV-019](#), [EV-024](#), [EV-024a](#)] due to its location within the 54dB contour and proximity to the 57 dB contour. The Applicant notes that gardens fall within a class of assets identified by the ANM as potentially sensitive to change in noise environment, but is bounded by roads on all sides, including the B2054 Madeira Walk, which is the principal route through the town along the seafront and has car parking to two sides. It considers that any expectation of a quieter environment is relative to the soundscape of the surrounding streets, meaning that this asset would not be sensitive to the predicted change.
- 6.3.145. **The ExA notes such evidence and concludes and recommends that the Proposed Development would not cause harm to the significance of the Gardens due to its existing setting and surroundings.**
- 6.3.146. The Applicant also notes that the Grade II listed Eastcliff Bandstand derives significance from the audibility of specific soundscapes at specific times, but it is located within an urban area with a number of existing sources of noise, primarily arising from traffic movements on the adjacent B2054 Wellington Crescent and would not be sensitive to the predicted change.
- 6.3.147. **The ExA notes such evidence and concludes and recommends that the Proposed Development would not cause harm to the heritage asset.**

Visual effects upon listed heritage assets in Ramsgate

- 6.3.148. Above, the ExA considers that the Proposed Development would cause less than substantial harm to the character and appearance of the Ramsgate Conservation Area due to the visibility of aircraft arising from

the Proposed Development. However, the ExA does not consider that similar harm would be caused to Listed Buildings or similar assets in Ramsgate from the proposal.

- 6.3.149. The visibility of aircraft transiting such a large Conservation Area would take place over a relatively lengthy period in time when compared to the transitory effects over a single Listed Building, and would therefore have a wider effect upon the character and appearance of the Conservation Area than any visual effects on one individual Listed Building. In such a way the visual effect of aircraft would not harm the setting and significance of a Listed Building, but may have an effect on the character or appearance of a Conservation Area.

Buildings newly listed or listing changed during the Examination

- 6.3.150. During the course of the Examination nine further structures in Ramsgate were granted listed status. These structures are: Festival of Britain Fountain; Victoria Gardens Kiosk; Gateway to Barber's Almshouses; Clarendon House Grammar School; Augusta Villa; Aberdeen House; Castle Cottage; 51 Queen Street; and NatWest Bank, 53 High Street. A further building was upgraded (East Court) to Grade II* and a number of listings have been 'relisted' to provide extended descriptions and histories.

- 6.3.151. The Applicant assessed these buildings against the ANM criteria [[REP8-014](#), Appendix ISH4 - 5] and considered that, of the new listings, only the Festival of Britain Fountain on Victoria Parade was potentially sensitive to noise effects. It notes that the fountain is not operating at present, meaning that any audible contribution to its significance arising from the sound of running and splashing water is latent but that a restoration programme is underway and therefore this asset has been treated as sensitive. It states that the fountain is located adjacent to a bus stop on the B2054 Victoria Parade and is outside of the 54dB LAeq,16hr contour in all modelled scenarios and that consequently, no effect is anticipated.

- 6.3.152. Taking into account the evidence submitted **the ExA concludes and recommends that the buildings newly listed or with changed listing during the Examination would not be harmed by the Proposed Development.**

Listed Buildings and noise insulation

- 6.3.153. Both TDC in its LIR [[REP3-010](#)] and Historic England [[RR-0676](#)] raise the issue of the difficulty of providing noise mitigation to Listed Buildings in the flight path, such as changes to windows, without potential harm to the significance of the asset. Similar issues are also raised by IPs, including [[RR-0644](#), [RR-1626](#), [RR-1948](#)]
- 6.3.154. **The Applicant stated [[REP3-195](#)] that no Listed Buildings fell within the proposed Dwelling Noise Insulation Scheme (DNIS) and so mitigation against noise generated by the Proposed**

Development would not be required. On the basis of the proposed DNIS the ExA agrees with this conclusion.

Archaeology

- 6.3.155. Archaeology is clearly identified in the TDC and KCC LIRs as a key issue, given the richness of the archaeological environment and history in Thanet, and the relative undisturbed nature of much of the NGA and lack of previous archaeological work in this area.
- 6.3.156. The Applicant considered initially that the dDCO allowed for detailed archaeological investigation of the NGA to identify any archaeological remains and noted that a large proportion of the NGA would be taken up with museums and radar safeguarding zones where no construction activity was planned. It stated [REP3-195] that design and engineering measures would be further defined following a required site investigation and would be within the Rochdale Envelope, while acknowledging that in the event that significant archaeological remains were found then the site Masterplan needed to remain flexible, and stated that the remains of a Roman enclosure and barrow cemeteries identified by KCC would be largely retained, with works only required in connection with the refurbishment of approach lights.
- 6.3.157. TDC were of the view in their LIR that trial trenching should be carried out [REP3-010], noting that paragraph 9.3.12 of the ES [APP-033] states that the Applicant envisages further survey work, including trial trenching, will be undertaken as part of the DCO. TDC considered that R16 was adequate in securing the scheme as it also requires archaeological investigation prior to the commencement of a particular part of the Authorised Development, but raised concern that given the quantum of development which would be approved by the DCO on the NGA, it is unclear how the proposed layout could respond to the discovery of a feature of high significance in this area to allow for preservation in situ.
- 6.3.158. KCC also raised issues [REP3-139] concerning preservation in situ, considering that to achieve the levels that may be required, there would need to be sufficient flexibility within the parameters of development and to be sure that this would not counter the principle of the Proposed Development and make the requirement unworkable. KCC noted that incomplete archaeological surveys introduce an increased risk that important archaeology will be later found in the development site and that will not be able to be preserved within the agreed parameters of the development and its design, also stating that the significance and harm to the built heritage assets of the site were not fully set out and addressed in the DCO submission and potentially development could result in the loss of important built heritage assets.
- 6.3.159. In a similar vein Historic England understood the reasons why surveys had not been undertaken [REP3-162] but stated that the fact remains that there was inadequate understanding of the archaeological significance of the NGA and some areas of the proposed airside development to make informed decisions about the Proposed

Development. It also noted that given the potential for nationally important archaeological remains on the site it was important that sufficient flexibility in the Proposed Development quantum and design was retained for any such assets that may be discovered during the course of future surveys to be preserved as part of the scheme. It was concerned over the extent of development proposals for the NGA, considering that any buried archaeological remains in this area would be harmed by ground works, and that the greater the range and depth of these foundations and services, the more likely it will be that archaeological remains would be severely damaged or destroyed.

- 6.3.160. Partly in response to such concerns, the Applicant submitted a draft WSI for Archaeology [[REP4-019](#)]. The WSI is secured by R16 in the dDCO and sets out the standards and scope of archaeological works required for further investigation alongside mitigation via investigation and recording of archaeological remains.
- 6.3.161. Historic England was of the view [[REP6-042](#)] that the initial draft WSI did not make provision for preservation in situ of important remains and did not make it clear what process would ensure that such remains are preserved, considering that achieving preservation might entail alterations to the quantum and design of the development, which would be beyond the scope of a WSI. It also noted that in areas other than NGA no allowance was made for the preservation of important heritage assets should they be discovered. KCC however considered [[REP6-045](#)] that the draft WSI was satisfactory in general subject to detailed concerns, such as evaluation to inform whether the need for preservation is required with these to be clarified and accommodated in the WSI.
- 6.3.162. In response to these concerns the Applicant altered the draft WSI [[REP7a-003](#), Appendix HE.3.3] and stated that the preservation of significant archaeological remains would be achieved through the development of the Masterplan and detailed design, secured through R3 of the dDCO, with amendments made to this Requirement to take account of the views of Historic England [[REP7a-002](#)]. Alterations were also made to the draft WSI to consider control measures regarding contaminated land.
- 6.3.163. The reference in the WSI to dDCO R3 is made for particularly significant remains to be protected by avoidance or engineering solutions, placing the ultimate decision over the acceptability of loss or provisions for preservation with the LPA, in consultation with Historic England and KCC.
- 6.3.164. Further iterations and discussion on the issue of the WSI took place through the Examination, with alterations made to the WSI, which when combined with R3 and R16 of the dDCO resulted in Historic England stating that it did not object to the draft WSI [[REP9-022](#)]. The fourth version of the draft WSI was submitted at D9 [[REP9-008](#)].
- 6.3.165. KCC considered that the wording in dDCO R3 was satisfactory to “*allow the Masterplan to be informed by the archaeology and built heritage interests on the site*” and also noted that a smaller development footprint

due to archaeological finds may include a reduced quantum of development, noting that the Applicant had explained that "*the quantum proposed in the North Grass Area is to be regarded as a maximum*" [REP11-018].

- 6.3.166. KCC was also pleased that the majority of comments raised had been addressed within this WSI [REP11-018] and welcomed additional points on Buildings Assessment and Historic Character Assessment. Paragraphs 5.5.8 to 5.5.10 of the WSI concern post-excavation reporting, and states that initial geophysical survey results will be made available to the KCC Archaeologist within two weeks of the completion of the surveys, and that an interim report on trial trenching would be made available to Historic England and the KCC Archaeologist within two weeks of completion of the trenching, with any further reporting required to provide evidence to establish an assessment of potential national significance be produced within the stated timescale as at paragraph 5.5.9. Such timescales are put in place for interim and initial reporting so that the programme for submission of the revised Masterplan is not adversely affected.
- 6.3.167. KCC are of the view [REP11-018] that there may need to be higher level of reporting available to enable the KCC to provide a sufficiently informed view to the Secretary of State on the Masterplan, but note that they will consider options for expedited reporting to achieve an early view of the significance of archaeology where it is clearly demonstrated, but reporting should follow the process set out in Appendix B unless otherwise agreed with KCC.
- 6.3.168. KCC also notes that the final version of the WSI [REP9-008] reverts back to a previous version when considering the procedure for dealing with human remains. KCC is of the view that this may be overly onerous for remains which are clearly archaeological.
- 6.3.169. During the Examination an IP [Supporters of Manston Airport, AS-200] raised an apparent discrepancy in two of the Applicant's documents regarding military remains, noting that a draft version of the WSI [REP4-019] stated that there were no records of military vessels or aircraft having been lost within the site boundary, but also that there are records of military aircraft crash sites within the site, and that the Archaeological Desk Based Assessment [APP-049] states that there are 14 potential protected military remains within the study area, 11 of which are located within the Order Limits.
- 6.3.170. When questioned on this issue, the Applicant [REP9-006] stated that of the 11 crashes, seven were on or over the airfield, with four recorded as being recovered. Of the other three no records were found other than they had crashed in 1940. The Applicant was of the view that given the date of the crashes and management of sites in military use it was highly likely that any military remains remaining on the airfield were very limited. They considered that any risk of remaining military remains would be covered by the WSI plus the provisions of the Protection of Military Remains Act 1986. This Act makes it an offence to tamper with,

damage, move, remove or unearth remains if believing or having reasonable grounds for suspecting that any place comprises any remains of an aircraft which has crashed while in military service.

6.3.171. As covered in Chapter 9, below, in its question DCO.3.14, the ExA queried whether the Applicant considered that, in addition to the new Article 37, the Protection of Military Remains Act 1986 applies in this case and, if so, whether it should be referenced in the dDCO.

6.3.172. The Applicant's response [[REP7a-002](#)] stated that:

"The application of the Protection of Military Remains Act 1986 is unaffected by Article 37. Article 37 is intended to provide further protection in connection with human remains which do not receive protection under the Protection of Military Remains Act 1986. The Applicant is not aware of the presence of any military aircraft that would be protected under the Protection of Military Remains Act 1986".

6.3.173. Through the examination process the Applicant's proposals for archaeology have progressed significantly with the assistance of Historic England and KCC.

6.3.174. **The ExA concludes and recommends that the provisions now set out in the WSI [[REP9-008](#)], as secured through R3 and R16 of the rdDCO sufficiently provide the level of protection to any archaeology and archaeological remains which are found during pre-construction site investigation. The Requirements satisfactorily address the risk of potential harm and operational requirements through enforceable provisions for protection of particularly significant remains and mitigation of any potential loss, as evidenced by the satisfaction of Historic England over the provisions of the WSI and the Requirements.**

6.3.175. In relation to archaeology feeding into the Masterplan, the offer of KCC to consider options for expedited reporting to achieve an early view of the significance of archaeology where it is clearly demonstrated is welcomed. The ExA considers that the combined expertise of KCC and Historic England when commenting on the Masterplan will be sufficient in the time available to allow the SoS to make an informed decision on the Masterplan.

6.3.176. While noting KCC views on the potentially overly-onerous Article 37, provisions for archaeological human remains, it appears to the ExA that such a 'belt and braces' approach would not result in harm to archaeology and is recommended.

6.3.177. With regards to military crash sites, based on the evidence provided and the provisions of the WSI, which sets out that archaeological material which is normally subject to statutory protection under the Protection of Military Remains Act 1986, the Treasure Act 1996 and the Burial Act 1857 would remain subject to statutory protection, the ExA considers that this matter raised by the Supporters of Manston Airport has been satisfactorily dealt with.

Heritage Action Zone

- 6.3.178. Historic England designated a HAZ in Ramsgate in April 2017. Working with TDC, Ramsgate Town Council, Ramsgate Coastal Community Team and the Ramsgate Society, the HAZ seeks to achieve economic growth by using the historic environment as a catalyst, with an aim to grow Ramsgate into a prosperous maritime town where outstanding heritage and architecture coupled with new investment and development strengthens the economy for the benefit of the local community.
- 6.3.179. Various IPs [including [REP3-056](#), [REP3-017](#)] consider that the Proposed Development would have an adverse effect on the aims of the HAZ. The Ramsgate Society consider that due to the noise effects of aircraft that there would be a spiralling downward trend in terms of maintenance and improvement of heritage assets as the market popularity of Ramsgate rapidly declines.
- 6.3.180. Historic England initially stated [[REP3-204](#)] that it did not consider that the significance of heritage assets in Ramsgate were likely to be harmed by operational aircraft noise, and also that HAZ projects with which it is currently involved are likely to be undermined by such noise. It later clarified its views [[REP4-058](#)], considering that the aims of the HAZ programme would remain unchanged but noting that operational aircraft noise could have socio-economic impacts and that if the heritage significance of heritage assets, or the potential for this to be appreciated by people, is harmed this might make HAZ projects more difficult to deliver. It does not see such effects as exclusive to heritage assets.
- 6.3.181. The Applicant considers that the HAZ is an area where heritage assets are used as a focus for economic regeneration, noting that effects on heritage assets have been assessed in the ES [[APP-033](#)] in line with the agreed scope and methodology for historic environment assessment and no significant adverse effects were identified. It also considers that effects on the HAZ are most appropriately assessed in terms of effects on the local economy and tourism, which the ES concludes would be minor beneficial.
- 6.3.182. In the Socio-Economic section of this chapter, the ExA has concluded that the proximity of the airport and the orientation of its runway to Ramsgate means that there would be a negative effect on the tourism industry of Ramsgate resulting from the Proposed Development. This is a separate issue to that of noise from aircraft affecting the heritage significance of Listed Buildings in Ramsgate. However, the ExA can appreciate that if the Proposed Development has a harmful effect on tourism in Ramsgate, then it may have a knock-on socio-economic effect in terms of the regeneration, maintenance and re-use of heritage assets, for example as guest houses, hotels or restaurants.
- 6.3.183. The ExA recognises that it is difficult to fully quantify such effects, **but the ExA concludes and recommends that the Proposed Development would have an adverse effect on the aims of the HAZ for Ramsgate to grow into a prosperous maritime town where outstanding heritage and architecture coupled with new**

investment and development strengthens the economy for the benefit of the local community.

Non-designated assets

6.3.184. The Proposed Development site contains a number of non-designated heritage assets, associated with its wartime history. These are summarised by the ExA below, along with the Applicant’s view of their significance and proposals for them. Due to land ownership issues the Applicant was unable to survey the assets in depth.

Asset	Significance - Applicant	Proposal
T2 Hangar	Steel frame retained and could be considered of significance, particularly in a group value. Retained initially but would be demolished ultimately	Mitigated by recording
Civil Control Tower	Modern, will be demolished	Mitigated by recording
Crash Fire Station	Built by USAF, in poor condition, to be demolished	Mitigated by recording
Mechanical Transport Hangar	Built c. 1960, of little significance. Retained initially but ultimately demolished	Mitigated by recording
Dispersal Bay	Built 1940 and only concrete dispersal bay surviving at Manston, fragmentary survival and of limited significance, will be removed / demolished.	Mitigated by recording
Control Tower	Built c. 1941, significant due to connection with WWII use of airfield but diminished by recent changes	Retained
Office Building	c. 1980, to be demolished	Mitigated by recording
RAF Battle HQ	Relates to WWII use of site and is of historic significance	Retained
Civil Terminal	Built 1989, no significance, to be removed phase 1 or 2 for new terminal	Mitigated by recording
Royal Observer Corps Listening Post	Built 1962 to monitor nuclear fallout, of significance to Cold War use of the site	Retained

Runway	Historically significant	Will be re-laid and retained
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- 6.3.185. Historic England considers [REP3-162] that although it is understandable why surveys have not been undertaken the fact remains that the understanding of historic buildings is inadequate to make properly informed decisions about the Proposed Development. It states that further survey and assessment is needed to properly understand their significance, particularly of the T2 Hangar and WWII Dispersal Bay, and that the quantum and design of the development should be sufficiently flexible to allow for their preservation and sustainable use within the development scheme, should further assessment confirm that this is warranted.
- 6.3.186. The Applicant's Heritage Assets and Public Benefit Paper [REP3-187, Appendix HE.1.2] states that the T2 Hangar and WWII Dispersal Bay would be demolished, and that loss would be appropriately mitigated by recording of the structures. The paper considers harm arising from this would be less than substantial.
- 6.3.187. The Applicant notes that the T2 Hangar and the Dispersal Bay hold some significance but are much altered and isolated, with their significance reduced by successive phases of development. It notes that the 2017 Historic England Listing Selection Guide for Military Structures⁵⁸ states that outside key sites identified in the Historic Military Aviation Sites Guidance, it is only groups (of buildings, fighter pens and defences) and individual examples of strong intrinsic or associational importance, which would be considered to be of national significance, and that Manston Airport is not listed as a key site in the guide.
- 6.3.188. Historic England agreed that [REP7a-032] Manston is not among the most historically significant key military structures / sites and acknowledged that the Historic England guide states that outside of these sites groups of buildings and individual examples of strong intrinsic importance are recommended for protection. However, it was of the view that due to the inadequate surveying it was not possible to decide whether buildings have such importance and note that the ANPS states that impact of development on heritage assets should be avoided or minimised and that once lost heritage assets cannot be replaced.
- 6.3.189. The Supporters of Manston Airport [AS-200] also raised concerns over the potential loss of the Dispersal Bay, noting that it used to have at least five bays. They are of the view that the structure could provide opportunities for rebuilding or part rebuilding to illustrate their use and to be included in the wider story of the site.
- 6.3.190. The Applicant's Summary of ISH4 [REP8-014] states that the WWII T2 Hangar represents a much-altered example of a standardised pre-

⁵⁸ Available at: <https://historicengland.org.uk/images-books/publications/dlsg-military/>

fabricated type with the cladding and doors having been replaced, and considers that there are numerous better-preserved examples of T2 hangars, both individually and as groups within the UK, and that none appear to be listed, with listing focusing on earlier examples that are more evocative of architectural responses to changing aviation technology, or relate to specific technological developments in aviation. The Applicant considers that although the WWII T2 hangar holds generalised associations with military use of the site, it is unlikely to hold the demonstrable direct associations that would afford the level of value required for designation.

- 6.3.191. In relation to the WWII Dispersal Pen, the Applicant states [[REP8-014](#)] that this is the sole survivor of a group of at least three in this part of the airfield and note that some dispersal bays have been listed at other airfields, such as Catterick and Coltishall, but only where coherent groups of dispersals and/or other related features survive. Although the feature holds generalised associations with military use of the site, it is unlikely to hold the demonstrable direct associations that would afford the level of value required for designation.
- 6.3.192. The WSI was amended [[REP9-008](#)] to state that a detailed assessment of the T2 Hangar and Dispersal Pen will be undertaken, including a Level 2 drawn and photographic record as set out in Historic England guidance and a Statement of Significance be drafted. This Statement of Significance will set out a brief narrative of the historical use and alterations to these structures, set out the significance of these buildings to allow informed decision-making during masterplanning and identify any further requirements for recording. The Statement of Significance will be produced within two weeks of the completion of fieldwork and will have regard to Historic England guidance.
- 6.3.193. The Applicant also considers that given the location of the Dispersal Bay in the middle of the airport, it would not be possible to rebuild or retain the bay to show the wider story of the site, considering this would be impractical to allow visitor access.
- 6.3.194. The ExA agrees that the retention of the Dispersal Bay would be impractical in the middle of a busy working airport and that other structures on the site which will be lost as part of the Proposed Development, with recording, would not cause harm.
- 6.3.195. On the weight of the evidence provided, **the ExA concludes and recommends that the Applicant's proposals for non-designated heritage assets on the site appear reasonable. The detailed recording proposed for the loss of the T2 Hangar and Dispersal Bay would mitigate to a certain degree the removal of these assets, although the ExA agrees with the Applicant that less than substantial harm would remain from the loss of the structures.**

Historic character

- 6.3.196. Historic England [[RR-0676](#)] raised concern over the development of the site and loss of airfield character, considering that the open grassland

character evokes the wartime airfield use, constitutes an historic area in its own right and contributes to the heritage significance of the wartime buildings, the museums and the memorial garden.

- 6.3.197. The Applicant considers that the setting of the non-designated heritage assets on site is defined by the piecemeal alterations arising from the gradual transition of the airfield from a military grass-strip to a modern civilian airport, and that retention of the airfield in active aviation use would retain and reinforce the associative links with past aviation use. The buildings that would be retained would remain in a clearly historic area of the site where some of the core military structures survive and other WWII buildings are already in use for museums activity. Direct physical links with the modern Spitfire and Hurricane Museum and the Memorial Garden would further reinforce these associative links, allowing the historic interest of these assets to be more fully realised. While loss of intervisibility between the runway and the ATC tower would be an adverse change, this would be outweighed by the positive aspects set out above and would not be a significant adverse effect.
- 6.3.198. The WSI [[REP9-008](#)] allows for more detailed assessment of the historic character of the airfield within the Order Limits, comprising a Level 2 Historic Area Assessment as set out in Historic England's Understanding Place: Historic Area Assessments⁵⁹. The WSI states that this assessment will be used to allow informed decision-making during masterplanning proposals and reporting will be produced within two weeks of the completion of fieldwork.
- 6.3.199. The Applicant considers that the retention of the airfield as part of the Proposed Development, retaining the key element of the runway and providing single ownership of the site would result in a public benefit of the scheme in heritage terms.
- 6.3.200. **The ExA concludes and recommends that the Proposed Development would not cause harm in relation to heritage to the character of the airfield; while clearly the Proposed Development would result in significant development, it would retain the airfield in active aviation use.**
- 6.3.201. The removal of the museums from the CA request means that the linkages to these facilities could not be used in justification for mitigation but the presence and retention of the WWII Battle HQ and Control Tower would retain a link to the past.
- 6.3.202. However, this would not generate a public benefit in heritage terms. With the purchase of the land at end of the Examination stage from SHP, there appears to be no other proposals for the use of the land, and while the Proposed Development would retain the runway, other aspects of the Proposed Development, such as the removal of the T2 Hangar and WWII

⁵⁹ Available at: <https://historicengland.org.uk/images-books/publications/understanding-place-historic-area-assessments/heag146-understanding-place-haa/>

dispersal bay, and by development of much of the grassland airfield character of the site would negate the benefits in heritage terms of the re-use of the runway.

- 6.3.203. **The ExA therefore concludes and recommends that while, as above, the proposal would not cause harm to the historic character of the site, neither would the Proposed Development consist of a public benefit in historic character terms.**

ExA's conclusions

- 6.3.204. The Heritage Assets and Public Benefit paper [[REP3-187](#), Appendix HE.1.2] states that less than substantial harm would be caused by the Proposed Development to three Scheduled Monuments, 10 Listed Buildings and two Conservation Areas, and the Applicant acknowledges [[REP6-013](#)] that considerable importance and weight should be given to any harm to designated heritage assets caused by the construction or operation of the Proposed Development, referring to the Barnwell case.
- 6.3.205. For the reasons given in previous parts of this section of Chapter 6, the ExA agrees with the above assessment; that the Proposed Development would cause less than substantial harm to 15 heritage assets. Furthermore, it considers that the Proposed Development would also cause limited harm to the character of the Conservation Areas in St. Nicholas at Wade and Ramsgate due to the visual effects of aircraft. The proposal would be contrary in this respect to Policy SP34 of the eLP.
- 6.3.206. There is no visual effect of aircraft on the two Conservation Areas at present, and the reopening of the airport would alter this. St. Nicholas at Wade Conservation Area is a largely tranquil, rural Conservation Area. The reopening of the airport would see aircraft approaching Manston Airport over the village, roughly following the line of the High Street from west to east, marking a change to the rural character of the village. Furthermore, the proposed preferential runway proposals, likely to be in effect during the early years of operation, would direct more planes to approach Manston over the village (in order to lessen noise effects on Ramsgate). To receptors in the village planes would be seen above and have an adverse effect on the character and the appearance of the Conservation Area. Such harm would be at the lower end of less than substantial harm; nevertheless harm would still occur.
- 6.3.207. Videos and photographs were produced in evidence of the previous effect of aircraft transiting over Ramsgate Royal Harbour [[REP3-283](#) 'NNF09 ref Photos and Map', [REP4-087](#), [REP4-090](#)]. Aircraft would be clearly visible to residents and visitors to the town, and clear views would be experienced above the openness of the Royal Harbour. While the ExA agrees that, in line with the ANM, this would not have a harmful effect in noise terms on the Conservation Area, there would be a visual effect. The juxtaposition of aircraft in the sky set against the Royal Harbour would have a harmful effect. As with St Nicholas at Wade such harm would be at the lower end of less than substantial, but harm would still occur. Some harm may also occur to the aims of the Ramsgate HAZ.

- 6.3.208. The provisions set in the final WSI [[REP9-008](#)] are generally agreed with KCC and are agreed with Historic England. The provisions would allow for the preservation of any significant archaeological remains found which would be achieved through the development of the Masterplan and detailed design. With the WSI in place, the ExA does not consider that harm would be caused by the Proposed Development in terms of archaeology. As such, the Proposed Development would comply with policies HE11 and H12 of the LP, and Policy HE01 of the eLP.
- 6.3.209. The Proposed Development would have the effect of removing two non-designated heritage assets; that of the T2 Hangar and the WWII Dispersal Bay. The Applicant considers that the loss could be appropriately mitigated by recording of the structures meaning residual harm would be less than substantial. The revised WSI notes that further survey and assessment of these structures would take place prior to development, and Historic England guidance effectively agrees that Manston is not among the most historically significant key military sites. Based on the evidence provided and the changed nature of the T2 Hangar and the partial nature of the WWII Dispersal Bay, the ExA agrees that further survey and assessment and the reporting of such works would be satisfactory measures to partially mitigate against harm caused by their proposed demolition. The less than substantial harm caused by their demolition weighs against the Proposed Development and the Proposed Development would be contrary to Policy HE03 of the eLP.

Summary

- 6.3.210. The Infrastructure Planning (Decisions) Regulations 2010 state that when deciding an application which affects a Listed Building or its setting, a Conservation Area, or which is likely to affect a Scheduled Monument or its setting, the decision-maker must have regard to the desirability of preserving the Listed Building or its setting or any features of special architectural or historic interest which it possesses, to the desirability of preserving or enhancing the character or appearance of the Conservation Area, or to the desirability of preserving the Scheduled Monument or its setting.
- 6.3.211. The ExA considers that the Proposed Development would cause less than substantial harm to three Scheduled Monuments, ten Listed Buildings and four Conservation Areas by adversely affecting the setting of the Listed Buildings and the Scheduled Monuments and by neither preserving nor enhancing the character or appearance of the stated Conservation Areas.
- 6.3.212. The ExA gives considerable importance and weight to such harm. Harm would also be caused by the demolition of the T2 Hangar and WWII Dispersal Bay, and to the aims of the HAZ. This assessment, aside from the demolition of the non-designated heritage assets on site is based upon the ES and the Applicant's forecasts. The Applicant has asserted [[REP11-014](#)] that if such forecasts were not to be achieved then lesser harm would be caused to the identified heritage assets, but examination has not taken place of 'tipping points' by either the Applicant or the ExA.

- 6.3.213. The ANPS states that when considering the impact of a Proposed Development on the significance of a designated heritage asset, the SoS will give great weight to the asset's conservation, and that given that heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 6.3.214. Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss. Where the Proposed Development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.3.215. Public benefits of the Proposed Development are summarised in the Applicant's Heritage Assets and Public Benefit Paper [[REP3-187](#), Appendix HE.1.2]. These include heritage benefits (via the reuse of the airport and maintenance of historic character); GA benefits; benefits in terms of need for airport capacity; transport; employment; economic growth and regeneration benefits; education and training; leisure and tourism; social / community; environmental improvements and health and wellbeing. Aside from heritage benefits, which the ExA has considered above to be neutral, the other stated benefits are considered in the relevant sections of this chapter, and in Chapter 5 dealing with need.

Chapter 5 concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports, and Chapter 6.2 dealing with traffic and transport concludes that the Proposed Development will result in some significant adverse effects and that the ExA is unable to find that the Proposed Development appropriately promotes sustainable modes of transport. Minimal public benefits therefore arise from the Proposed Development from these issues. Chapter 6.10, which deals with socio-economics, states that the ExA considers that the Proposed Development would generate a socio-economic benefit to Thanet and East Kent, but such benefits are substantially lower than that forecast by the Applicant, also noting that such benefits are also dependent on the need for the Proposed Development; without the need and the forecasts based on this need, socio-economic benefits (aside from the education, training and skills commitments) would reduce further. Chapters relating to environmental issues do not consider that the Proposed Development would generate public benefits.

- 6.3.216. In essence therefore the harm caused by the Proposed Development to heritage assets should be weighed against the socio-economic benefits of the Proposed Development. The ExA has considered this matter carefully and concludes that such public benefits would outweigh the harm caused by the Proposed Development to heritage assets, to which the ExA has ascribed considerable weight.

- 6.3.217. In coming to this view the ExA notes that the socio-economic benefits of the Proposed Development would reduce were the need to be not as forecast by the Applicant but acknowledge in this respect that were such need to be reduced then harm caused to heritage assets would also be reduced (aside from the harm to the non-designated heritage assets on the development site).
- 6.3.218. The ExA also notes that the results of this balancing exercise result purely from weighing the public benefits of the Proposed Development against any heritage harm; such a balancing exercise does not take into account harm that may be caused by the Proposed Development to other planning matters, which will be considered in the overall planning balance.
- 6.3.219. Furthermore, given the conclusions of Chapter 5, that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports, and noting that heritage assets are irreplaceable, the ExA is also of the view that clear and convincing justification for the harm that the Proposed Development would cause to heritage assets has not been demonstrated by the Applicant.

6.4. BIODIVERSITY

Introduction

- 6.4.1. This section of the Recommendation Report considers the impacts on biodiversity from construction and operation activities arising from the Proposed Development.
- 6.4.2. There are no statutory designated sites for nature conservation on or adjacent to the Proposed Development site. ES Table 7.6 [[APP-033](#)] lists statutory designated sites within the potential zone of influence of the Proposed Development as: Thanet Coast and Sandwich Bay SPA and Ramsar; Thanet Coast SACs; Sandwich Bay SAC; Stodmarsh SAC; Margate and Long Sands SAC (identified in the ES as an SCI); Stodmarsh SSSI; Outer Thames Estuary SSSI; Thanet Coast SSSI; Sandwich Bay to Hacklinge Marshes SSSI; Stodmarsh SSSI; and Sandwich and Pegwell Bay National Nature Reserve (NNR).
- 6.4.3. Figure 7.1 [[APP-040](#)] highlights all designated sites within the study area.
- 6.4.4. Natural England's RR [[RR-1408](#)] states that the sites of relevance to the application are:
- Thanet Coast and Sandwich Bay SPA and Ramsar;
 - Sandwich Bay SAC;
 - Sandwich Bay to Hacklinge Marshes SSSI; and
 - Thanet Coast SSSI.
- 6.4.5. During construction, the Proposed Development has potential to impact these sites during the proposed repair and maintenance works to the

drainage outfall, discharges into Pegwell Bay and through noise and disturbance on designated bird species in areas of functionally linked land adjacent to the Proposed Development site.

- 6.4.6. During operation, the Proposed Development has potential to impact designated bird species through noise and visual disturbance impacts arising from aircraft overflying the Thanet Coast adjacent to Herne Bay and also Pegwell Bay to the south of Ramsgate.
- 6.4.7. The Applicant's description of the baseline [[APP-033](#), Section 7.4] describes the existing airport site as comprising abandoned airport buildings and large areas of grassland with a mixture of urban and agricultural land in the surrounding area, with potential to support a variety of species and habitats (including bats, breeding birds, reptiles, invertebrates and rare plant species). Direct impact on species may occur during demolition and construction works on site. Disturbance effects may arise during operation on site and in land adjacent to the Proposed Development site.
- 6.4.8. The Applicant proposes to mitigate and compensate for the effects of the Proposed Development through the creation of a biodiversity area (BA) [[APP-046](#)] shown in Figure 2.2 of the MHCP.

Issues

- 6.4.9. The ExA's IAPI prepared in accordance with s88 of the PA2008 and Rule 5 of the EPR was published with the Rule 6 letter [[PD-005](#)]. The ExA had regard to the application documents and the RRs and Additional Submissions received in formulating this list.
- 6.4.10. The ExA identified that impacts on biodiversity during the operation of the Proposed Development would be an area that was both important and relevant in the examination of the application. 2052 RRs were received [[RR-0001 to RR-2052](#)]. A small number of these RRs raised operational effects on biodiversity as an issue, as such, whilst not identified as a Principal Issue, was still examined thoroughly.
- 6.4.11. The effects of the Proposed Development on European sites in the context of the Habitats Regulations are considered in Chapter 7 of this report. The biodiversity section considers other effects on protected species and habitats insofar as they relate to the EIA, although there is some overlapping content between the two parts of the Recommendation Report.
- 6.4.12. It is important to record that the ExA asked the Applicant and other IPs thirty-three written questions about the biodiversity effects of the Proposed Development in construction and operation in ExQ1 [[PD-007](#)]; ExQ2 [[PD-010b](#)]; ExQ3 [[PD-014](#)] and ExQ4 [[PD-020](#)]. The ExA held a one-day ISH (ISH6) at which biodiversity was an agenda item [[EV-021](#), [EV-027](#), [EV-027a](#)].

Biodiversity assessment

6.4.13. TDC in its LIR states [[REP3-010](#)]:

"4.9.9 According to the conclusion of the ES it is considered that there is likely to be a neutral local impact on biodiversity arising from the proposed development. Further detail upon the impacts on biodiversity will be provided by Natural England and KCC."

6.4.14. KCC states in its RR [[RR-0975](#)]:

"KCC would strongly encourage the applicant to ensure that consideration of biodiversity is also informed by other relevant chapters of the Environmental Statement e.g. air quality, noise and vibration, and traffic and transport."

6.4.15. KCC's WR [[REP3-137](#)] states:

"Further to KCC's previous comments, it is noted that there are a number of outstanding ecological surveys for bats, reptiles, breeding birds (including barn owls) and invertebrates. The County Council would expect that all ecological surveys are undertaken to fully inform any proposed mitigation or compensation measures. The proposed likely mitigation requirements (based on worse case scenarios) are extensive and robust. The County Council would raise concern around the deliverability of any off-site compensation measures for breeding birds and would expect to see further information demonstrating that the proposed measures are deliverable."

6.4.16. SHP, the owner of the airport site at the point of application, raised a number of comments in relation to the robustness of surveys and the Applicant's approach to land access under s53 of the PA2008. SHP's RR [[RR-1601](#)] stated:

"10.5 As the Examining Authority will also note, there are significant gaps in survey data which currently undermine the validity and robustness of the ES. These gaps were identified prior to submission by both SHP and the Planning Inspectorate and RSP has chosen to submit the Application without addressing those criticisms. A number of the missing surveys are seasonally sensitive, and will take some time to complete (the estimates in the chapter suggest that the various surveys will be undertaken over the period from December 2018 to September 2019)."

6.4.17. KWT [[RR-0978](#)] states that *"although there has been further survey, there remains insufficient information to reassure us that there will be no negative impact on these sensitive sites and their associated species."*

6.4.18. The Applicant's ES [[APP-033](#)] is supported by a range of baseline surveys and studies [[APP-044](#) and [APP-045](#)] but acknowledges the incomplete survey data ES paragraph 7.3.12 states that *"As is often the case, it was not possible to complete pre-application surveys, but further surveys will be undertaken to confirm the 'worst case scenario' assessment and to refine the detailed biodiversity mitigation schemes that will be submitted for approval."* The Applicant explains in footnote xv [[APP-033](#)] that it

was not possible to accomplish the full suite of planned surveys due to access restrictions to the site.

6.4.19. The Applicant [[APP-033](#)] explains that surveys in respect of bats, breeding birds, reptiles, terrestrial invertebrates, botanical interest, badgers and legally controlled species are required to be undertaken.

6.4.20. SHP [[RR-1601](#)] highlights that the Applicant has been refused access to the site in their control for the purpose of surveying:

"8.7 In SHP's direct experience, RSP has defaulted on payment of modest licence fees agreed for access to land, with these sums only paid following threat of a statutory demand being issued."

6.4.21. Natural England's RR [[RR-1408](#)] states that:

"...the documents presented to the Planning Inspectorate, to support the application for Development Consent, are generally of sufficient quality and detail to allow a considered assessment of the impacts on nature conservation issues in line with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and Conservation of Habitats and Species Regulations 2017."

6.4.22. However, Natural England [[RR-1408](#)] also identifies several nature conservation issues to be resolved including potential impacts on known bat roosts, which have not been surveyed due to access issues, limiting Natural England's ability to form a view on the acceptability of the precautionary mitigation and compensation package; the approach to in-combination assessment of emissions on designated sites; visual and noise disturbance for bird species, which are notified features of designated sites; and water quality impacts on designated nature conservation sites.

6.4.23. Natural England [[RR-1408](#)] also comments on proposed Requirements in the dDCO:

"7.1. Requirement 6 (construction environmental management plan) We support this requirement as outlined in order to avoid construction phase impacts on the designated sites. We may have further detailed comments to make on the construction environmental management plan itself in due course.

7.2 Requirement 7 (operation environmental management plan) We agree with this requirement as outlined.

7.3 Requirement 8 (ecological mitigation) This requirement currently requires the Secretary of State to consult with Natural England on all elements of on-site and off-site ecological mitigation. We would suggest this requirement may require re-wording as we do not intend to comment on any ecological mitigation unless it relates to either designated site interest features or EPS.

7.4 Requirement 12 (protected species) We agree with this requirement as outlined.

7.5 Requirement 13 (surface and foul water drainage) We are not yet fully satisfied regarding the potential impacts on designated sites from surface water drainage and reserve the right to comment further on this requirement in due course."

6.4.24. Echoing [[RR-1408](#)], Natural England's WR [[REP3-089](#)] identifies that disturbance to birds, surface water discharge, air quality impacts, protected species (bats) were the main or principal biodiversity issues of concern for examination.

6.4.25. Natural England's draft SoCG [[REP4-002](#)] with the Applicant states:

"EIA Approach and Method

3.1.1 Natural England acknowledges and agrees that the results of the EIA are appropriate, and in particular that:

(a) the assessment represents a reasonable "worst case" approach; and

(b) the mitigation measures outlined reflect and address the worst case scenario on Site.

3.1.2 Other than the issues set out below, Natural England has no further comments on the Environmental Statement submitted with the DCO Application.

Mitigation Measures

3.1.15 Natural England has reviewed the Mitigation and Habitat Creation Plan and has not raised any concerns.

Wildlife Hazard Management

3.1.16 Natural England acknowledges that the bird scaring methods to be employed at Manston will need to comply with those set out in the Civil Aviation Authority's CAP 772."

6.4.26. KWT raised similar issues in its RR [[RR-0978](#)] but also highlighted the potential for impacts on s41 species (brown hare) and issues with the approach to invertebrate surveys. KWT requested more detailed proposals regarding the biodiversity opportunity area (BOA).

6.4.27. The Royal Society for the Protection of Birds (RSPB) [[RR-1729](#)] identified the following bird survey issues:

- Winter surveys – buffer distance, lack of access to site and lack of survey comparability.
- Breeding surveys – survey duration.
- Barn owl survey – extent.
- Lack of night time surveys.

- 6.4.28. The RSPB highlighted concerns regarding the implications of the surveys for the conclusions regarding adverse effects on integrity of European sites, a matter dealt with in Chapter 7 of this report [[RR-1729](#)].
- 6.4.29. The ExA explored, in detail, those areas where there were differences of opinion about the robustness of the Applicant's methodology and findings for the biodiversity assessment as set out in [[APP-033](#), [APP-044](#), [APP-045](#) and [APP-046](#)].
- 6.4.30. Whilst the Examination dealt with a range of ecological issues, the ExA considered the following issues to be of principle concern:
- The implication of incomplete survey data for the assessment of effects and mitigation for bats, bird species (wintering birds, breeding birds, barn owl and SSSI waders; 13km bird strike surveys), reptiles and other species and habitat;
 - the approach to assessment of operational disturbance based on the application of a 70dB noise contour threshold for SSSI waders;
 - the implications of the Wildlife Hazard Management Plan (WHMP) for bird disturbance in a 1km zone around the airport;
 - the implementation of drainage attenuation and the impact of the drainage outfall during construction and operation; and
 - mitigation and compensation, including the calculation of net gain and the MHCP.

Relevant policy considerations

ANPS

- 6.4.31. The ANPS, which the ExA considers to be important and relevant, states in relation to decision making that:

"5.96 As a general principle, and subject to the specific policies set out below and the Infrastructure Planning (Decisions) Regulations 2010,172 development should avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives. The applicant may also wish to make use of biodiversity offsetting in devising compensation proposals to counteract any impacts on biodiversity which cannot be avoided or mitigated.173 Where significant harm cannot be avoided or mitigated, as a last resort appropriate compensation measures should be sought. The development consent order, or any associated planning obligations, will need to make provision for the long term management of such measures.

5.97 In taking decisions, the Secretary of State will ensure that appropriate weight is attached to designated sites of international, national and local importance, protected species, habitats and other species of principal importance for the conservation of biodiversity, and to biodiversity and geological interests within the wider environment...

5.101 Where a proposed development on land within or outside a Site of Special Scientific Interest is likely to have an adverse effect on the site

(either individually or in combination with other developments), development consent should not normally be granted. Where an adverse effect on the site's notified special interest features is likely, an exception should be made only where the benefits of the development at this site clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest. The Secretary of State will ensure that the applicant's proposals to mitigate the harmful aspects of the development and, where possible, to ensure the conservation and enhancement of the site's biodiversity or geological interest, are acceptable. Where necessary, requirements and / or planning obligations should be used to ensure these proposals are delivered."

6.4.32. The ANPS also recommends that development should maximise opportunities for biodiversity and establishing and enhancing green infrastructure and that such opportunities should be established through Requirements or planning obligations (paragraph 5.104).

6.4.33. Paragraph 5.105 requires that the SoS will take measures to protect habitats and species from adverse effects and use Requirements or planning obligations to achieve this and that it should "...refuse consent where harm to these other habitats, or species and their habitats, would result, unless the benefits of the development (including need) clearly outweigh that harm. In such cases, compensation will generally be expected to be included in the design proposals."

6.4.34. The ExA considers that the ANPS is important and relevant.

Biodiversity 2020: A Strategy for England's wildlife and ecosystem services

6.4.35. The Government's biodiversity strategy is set out in Biodiversity 2020: A Strategy for England's wildlife and ecosystem services⁶⁰ (Biodiversity 2020). Its aim is to halt overall biodiversity loss, support healthy, well-functioning ecosystems, and establish coherent ecological networks, with more and better places for nature for the benefit of wildlife and people.

6.4.36. The ExA considers that Biodiversity 2020 is important and relevant.

NPPF and PPG

6.4.37. The revised NPPF states that the planning system should contribute to and enhance the natural and local environment including by minimising impacts on biodiversity. Paragraph 43 of the NPPF states that the right information, is crucial to good decision-making. Paragraph 175 of the NPPF states that planning permission should be refused if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort compensated for. Paragraph 180 aims to ensure that new

⁶⁰ <https://www.gov.uk/government/publications/biodiversity-2020-a-strategy-for-england-s-wildlife-and-ecosystem-services>

development is appropriate for its location taking into account the effects on the natural environment.

6.4.38. The wide range of legislative provisions at the international and national level that can impact on planning decisions affecting biodiversity and ecological conservation is set out in the PPG on biodiversity and ecosystems.

6.4.39. The ExA considers that the NPPF is important and relevant.

Thanet Local Plan 2006 'Saved' Policies

6.4.40. No specific policies relating to biodiversity have been saved.

Draft Thanet Local Plan to 2031 Policies

6.4.41. TDC's LIR [[REP3-010](#)] identified the following eLP policies:

6.4.42. Policy SP24 - Green Infrastructure:

"All development proposals should respect and where possible, enhance Thanet's Green Infrastructure network by integrating Green Infrastructure provision in the design of developments. Opportunities to improve Thanet's Green Infrastructure network by protecting and enhancing existing Green Infrastructure assets and the connections between them, should be included early in the design process for major developments.

- *Development should make a positive contribution to Thanet's Green Infrastructure network by:*
- *Creating new wildlife and biodiversity habitats;*
- *Providing and managing new accessible open space for informal recreation/walking and dog walking;*
- *Mitigating against the loss of any farmland bird habitats;*
- *Providing private gardens and play space;*
- *Contributing towards the enhancement of Thanet's Biodiversity Opportunity Areas or the enhancement of the Green Wedges including the introduction of linear features such as native hedgerows; and*
- *Reinforcing and/or restoring landscape character in line with the relevant landscape character assessment guidelines."*

6.4.43. Policy SP27 - Biodiversity and Geodiversity Assets:

"Development proposals will, where possible, be required to make a positive contribution to the conservation, enhancement and management of biodiversity and geodiversity assets through the following measures:

- *the restoration / enhancement of existing habitats,*
- *the creation of wildlife habitats where appropriate, by including opportunities for increasing biodiversity in the design of new development*
- *the creation of linkages between sites to create local and regional ecological networks,*

- *the enhancement of significant features of nature conservation value on development sites.*

On sites where important biodiversity assets, including protected species and habitats including SPA functional land, or other notable species, may be present, an ecological assessment will be required to assess the impact of the proposed development on the relevant species or habitats. Planning permission will not be granted for development if it results in significant harm to biodiversity and geodiversity assets, which cannot be adequately mitigated or as a last resort compensated for, to the satisfaction of the appropriate authority."

6.4.44. Policy GI06 - Landscaping and Green Infrastructure:

"When a development proposal requires a design and access statement, it will include a landscape survey. The landscape survey should describe the current landscape features on the application site, and demonstrate how the proposed development will provide landscaping and Green Infrastructure to enhance the setting of the development, where possible and appropriate, to:

- *Create an attractive environment for users and occupiers;*
- *Establish a sense of enclosure with hedges and trees;*
- *Soften hard building lines and the impact of new buildings;*
- *Provide screening from noise and sun;*
- *Create new wildlife corridors and stepping stones;*
- *Create new wildlife habitats and improve biodiversity;*
- *Retain historic features including boundaries and layouts; and*
- *Improve connectivity between new and existing features.*

The developer will need to satisfy the Council that adequate arrangements to ensure continued maintenance of landscaping has been made. The Council may seek to secure arrangements for this purpose through a planning agreement."

6.4.45. The ExA is mindful that the eLP is currently being examined and whilst it is at an advanced stage of production, the above policies could be subject to change. Nonetheless, the ExA considers the policies important and relevant.

Findings

Assessment methodology, study area and necessary restrictions

6.4.46. ES Chapter 7 [[APP-033](#)] and ES appendices [[APP-044](#), [APP-045](#), [APP-046](#)] set out the Applicant's worst-case assessment of the potentially significant effects of the Proposed Development on biodiversity within the site boundary, the surrounding area and adjacent to the site drainage outfall.

6.4.47. The Applicant in ES Chapter 7 [[APP-033](#)] outlines the relevant policy, legislation and guidance that has informed the assessment (Section 7.2)

and the data gathering methodology that was adopted as part of the assessment (Section 7.3). This leads on to a description of the scope of the assessment (Section 7.6); the overall baseline conditions (Section 7.4 and Appendix 7.1 to 7.12 [[APP-044](#), [APP-045](#) and [APP-046](#)]); the environmental measures incorporated into the Proposed Development (Section 7.5); and the assessment methodology (Section 7.7). The chapter discusses and concludes with the results of the assessment (Sections 7.8 to 7.16) and a summary of the significance of the Proposed Development's biodiversity impacts (Section 7.17). Assessment assumptions and limitations are discussed throughout ES Chapter 7.

- 6.4.48. The ES is supported by technical appendices 7.1 to 7.12 [[APP-044](#), [APP-045](#) and [APP-046](#)]; Figures 7.1 to 7.7 [[APP-040](#)]; construction noise management measures in the CEMP [[APP-011](#)]; and noise mitigation commitments in the REAC [[APP-010](#)] and NMP [[APP-009](#)].
- 6.4.49. The Applicant's assessment in ES Chapter 7 [[APP-033](#)] and the associated appendices [[APP-044](#), [APP-045](#) and [APP-046](#)] comprise:
- Construction phase assessment of temporary and permanent habitat loss;
 - assessment of pollution effects (during construction and operation);
 - assessment of disturbance and displacement effects (due to noise, visual, light and drainage impacts); and
 - assessment of collision effects for bird species.
- 6.4.50. ES paragraph 7.6.8 states that the assessment of effects on biodiversity was undertaken "with reference to the CIEEM [*Chartered Institute for Ecological and Environmental Management*] Guidelines for Ecological Impact Assessment in the UK".
- 6.4.51. A RIAA [[APP-044](#), Appendix 7.1] details the results of the assessment on internationally designated nature conservation sites. The RIAA is examined in Chapter 7 of this report.
- 6.4.52. During the Examination the Applicant undertook and submitted further technical notes and assessment information in response to concerns raised. These include:
- Biodiversity chapter updates:
 - Updated Volume 6 (containing the RIAA and Ecological Desk Study) [[REP1-009](#)];
 - Appendix Ec.2.8 Technical note: quantification of net gain, Appendix Ec.2.10 Sites of Special Scientific Interest in Appendices to Applicant's responses to ExQ2 [[REP6-012](#)]; and
 - Appendix CA.4.10 Applicant's Bat License Application in Appendices to Applicant's responses to ExQ4 [[REP9-006](#)].
 - HRA material (addressed in Chapter 7 of this report, where relevant):
 - Updated RIAA [[REP1-007](#)];
 - Updated ecology noise contour maps [[REP4-018](#)];

- Appendix Ec.2.3 Winter bird survey report 2018-2019; Appendix Ec.2.5 the Waterbird Disturbance and Mitigation Toolkit 2013; Appendix Ec.2.6 Resubmitted figures for RIAA; Ec.2.9 Part A Thanet Parkway Wintering Bird Report; Appendix Ec.2.9 Part B Report to inform the Habitats Regulation Screening in Appendices to Applicant's responses to ExQ2; Appendix OP.2.11 Part B Wildlife Strike Risk Hazard management for aerodromes [[REP6-012](#)];
- D7a Submission - Updated RIAA [[REP7a-014](#)];
- Appendix Ec.3.4 Response to Natural England D6 Submission (Annex 3) in appendices to answers to ExQ3 [[REP7a-003](#)];
- Summary of Applicant's Case put orally at the Biodiversity and Habitat's Regulations Assessment Hearing and associated appendices [[REP8-015](#)];
- Appendix Ec.4.1 Updates to Table 3.2 Screening Assessment from the RIAA [[REP7a-014](#)] and to the Screening Matrices (concerning dust deposition); Appendix Ec.4.2 Technical Note: North Pegwell Bay and Turnstone, in appendices to answers to ExQ4 [[REP9-006](#)];
- Applicant's Comments on the RIES [[REP10-002](#)]; and
- Applicant's s106 UU in favour of TDC [[AS-584](#)].

6.4.53. Chapter 7 of the ES [[APP-033](#)] focusses on the potentially significant effects of the construction and operation of the Proposed Development on notable and legally protected habitats and species. Potential effects on nature conservation interests both within and outside of the Order Limits were considered and include:

- Temporary and permanent habitat loss;
- habitat degradation / change (eg through changes in air quality and noise); and
- disturbance / displacement of flora and fauna.

6.4.54. The Applicant proposes that environmental management of the construction works associated with the Proposed Development will be delivered via the implementation of the CEMP [[REP9-017](#)]. The CEMP outlines the environmental procedures that require consideration throughout the construction process in accordance with legislative requirements and construction industry best practice guidance. This is secured via R6 in the dDCO.

6.4.55. The Applicant proposes that environmental management measures associated with the operation of the Proposed Development will be delivered via the implementation of a separate OEMP [[REP9-011](#)]. Certain mitigation measures related to the operation of the Proposed Development are included in the CEMP and relate to parts of the Proposed Development that will be operational before construction is completed. The OEMP is secured via R7 in the dDCO.

6.4.56. The REAC [[REP11-008](#)] summarises the Applicant's committed mitigation measures, including biodiversity, within the chapters of the ES and associated appendices [[APP-033](#), [APP-044](#), [APP-045](#) and [APP-046](#)]. Cross-references are provided to the Requirements that will secure the commitments in the dDCO. Table 2.1 (pages 3 to 9) contains the actions

and commitments relating to construction of the Proposed Development and Table 3.1 (pages 50 to 53) contains those relating to the operation of the Proposed Development. Appendix A details the management plans which will be in place during construction and operation of the Proposed Development, to enforce the mitigation measures within the REAC. The REAC is secured via R7 in the dDCO.

- 6.4.57. The Applicant pointed out that climate change has been incorporated in the design of habitats to reduce the risk of impact on breeding birds. This is described in Section 7.13 of the ES [APP-033]. There are also other relevant design elements that reduce the impact of climate change on biodiversity, such as the allowance for climate change in drainage systems [REP11-008].

Incomplete surveys

- 6.4.58. The Applicant acknowledged the incomplete nature of the surveys in ES paragraph 7.3.12 [APP-033].
- 6.4.59. The ExA at Annex F to the Rule 6 letter [PD-005] requested that the Applicant set out its proposed timeline to complete the ecological surveys. At D1 the Applicant confirmed in writing [REP1-001] that *"It is proposed that the survey information gathered, the assessment and any changes to the proposed mitigation are issued to the Examining Authority by May (Deadline 7)"*. [REP1-001] acknowledged that not all survey work would be complete by this time due to seasonal survey constraints.
- 6.4.60. The ExA requested an update on the status of surveys in Ec.2.2 [PD-010b]. The Applicant's response to Ec.2.2 [REP6-012] stated that the s53 notice was revoked in February 2019, therefore the Applicant was unable to undertake the final surveys.
- 6.4.61. Since access rights under s53 of the PA2008 are a discrete process, separate from the Examination, the ExA has not drawn any conclusions in this respect.
- 6.4.62. The ExA notes that whilst the survey data was incomplete, the Applicant has:
- Attempted to access the site prior to application being submitted for the purposes of undertaking surveys [REP6-012];
 - supplemented the assessment with ecological survey data submitted by SHP as part of a separate TCPA1990 application for redevelopment of Manston Airport [APP-033, APP-044, APP-045 and APP-046];
 - included a worst-case assessment based on partial survey data obtained during a period where the Applicant was able to access the site [APP-033 and APP-046];
 - provided mitigation in respect of that conservative worst-case scenario [APP-033 and APP-046]; and
 - secured pre-entry protected species surveys via R12 in the dDCO. The approved scheme for surveys must be developed in consultation with Natural England and KWT [PD-018].

6.4.63. KWT in its SoCG with the Applicant [[REP7-004](#)] agreed with the scope and method of survey data to be collected and stated that sufficient survey data had been provided to date. KWT [[REP7-004](#)] also agreed that as far as practicable, a worst-case had been assessed and mitigated.

6.4.64. The ExA asked the Local Authorities and Natural England whether in their view the worst-case assessment and proposed mitigation set out in the ES is sufficient to mitigate likely significant effects of the Proposed Development [[PD-020](#), Ec.4.4]. In response to Ec.4.4, Natural England [[REP9-025](#)] stated:

"We do not consider further remedy is required (or that it is possible) prior to the close of the Examination."

KCC [[REP9-024](#)] stated that "...to ensure that the recommendations are still valid, KCC considers that there should be an updated Preliminary Ecological Appraisal carried out to assess that the proposed surveys/and worst case scenario mitigation is still valid/appropriate. However as far as KCC is aware, the ecological management of the site has not changed significantly (e.g. regularly mown), therefore it's unlikely that the conclusions of the reports will have significantly changed from when the original Preliminary Ecological Appraisal was produced."

6.4.65. In light of Natural England, KWT and KCC's comments, the ExA is of the opinion that reasonable efforts have been made to obtain the survey data and where that has not been possible, the Applicant has developed a worst-case scenario based on existing knowledge of the site that is sufficient to draw conclusions on. In addition, the requirement for pre-entry surveys should consent be granted provides a mechanism to ensure that protected species issues can be appropriately mitigated in advance of the works. The ExA in coming to this conclusion has considered the particular circumstances of the Applicant in relation to this specific DCO application and believe this to be a unique situation.

6.4.66. This section of the report, despite the conclusions above, provides commentary of the examination of specific impacts on species and habitats.

Bats

6.4.67. Natural England [[RR-1408](#)] highlighted the implications of the incomplete bat surveys for making a recommendation regarding the acceptability of the precautionary mitigation and compensation package.

6.4.68. The ExA raised E.1.8 [[PD-007](#)] regarding the potential limitations and uncertainty arising from incomplete surveys. Natural England's response to E.1.8 stated [[REP3-087](#)]:

"Natural England's view is that an appropriate worst-case approach has been taken regarding bats. Please refer to Natural England's Written Representation (dated 15/2/2019, Our Ref 267771) for more detail on this issue."

- 6.4.69. Natural England's WR [[REP3-087](#)] highlights that initial surveys by SHP in support of the landowners proposed mixed use development for the site identify "7 confirmed bat roosts: two hibernation (brown long-eared bat), four day/transitional (likely common or soprano pipistrelle bat) and one night/feeding (brown long-eared bat). Further potential roosts have been identified where the species and type is unknown." It goes on to provide comments on the Applicant's MHCP regarding bats and states that a draft licence application should be submitted following winter hibernation surveys. Natural England concludes that "Once a satisfactory draft licence has been received, Natural England will issue a Letter of No Impediment."
- 6.4.70. Natural England in its SoCG [[REP5-015](#)] states that:
- "4.1.1 Natural England agrees that European species have been adequately dealt with in the assessment. Natural England will issue a Letter of No Impediment on receipt of a satisfactory draft mitigation licence application for bats. Post-consent, a European Protected Species mitigation licence would need to be obtained from Natural England prior to demolition or modification of buildings, or felling of trees, identified as bat roosts.*
- 4.1.2 Natural England acknowledges that RiverOak has not been able to access the site to collect some baseline data prior to submission of the application. However, Natural England acknowledges that RiverOak intends to carry out further surveys during the examination period and that in the environmental statement submitted with the application, RiverOak has assessed the worst case scenario based on the information available (See Document APP-033, Chapter 5)."*
- 6.4.71. The status of the bat licence application was discussed at ISH6 [[EV-021](#), [EV-027](#), [EV-027a](#)]. The Applicant confirmed that a licence had not been submitted due to ongoing negotiations regarding site access for the purposes of surveys. In response, the ExA requested an update on the programme for submission of the licence application in Ec.4.3 [[PD-020](#)] and also asked the Applicant what comfort the ExA should have in making its decision with this matter outstanding.
- 6.4.72. At D7 [[REP7-004](#)] KWT's SoCG agreed that the scope and methodology of on-site surveys were appropriate and that so were the results of the EIA "as far as has been practicable" and agree that for on-site receptors the assessment represents a reasonable worst-case approach.
- 6.4.73. The Applicant [[REP9-010](#)] attached a draft licence in its Appendix CA.4.10 and also suggested that the ExA [[REP9-006](#)] could take comfort from the ecological protections provided in dDCO R8 (which ensures that no construction can commence until written details of the proposed on-site and off-site ecological mitigation, monitoring and management is agreed) and R12 (which prevents development until pre-construction survey work has been carried out to establish whether European or nationally protected species are present).

6.4.74. The Applicant also highlights that the worst-case scenario assessment, and therefore the proposed mitigation and compensation, assumes that the airport has a much higher value for bats than may actually be the case. Natural England in its response to Ec.4.3 stated [[REP9-025](#)]:

"Natural England's view is that there is no fundamental reason of principal why we would not issue a bat licence. As set out in our Written Representation [[REP3-089](#)], the applicant has not yet completed the necessary surveys to identify and characterise all potential bat roosts, but broadly speaking we agree with the approach taken, and our view is that the provision of the bat barn, bat bunkers and bat boxes, are suitable compensation for losses. However, paragraph 3.5.1 made recommendations that we would expect to be incorporated into any draft licence application. Therefore, provided the Applicant carries out the necessary surveys (though we note Stone Hill Park's answer to Ec.2.2, which gives us some concern in this regard), and follows Natural England's advice and recommendations in making a satisfactory licence application, we will be able to issue the licence."

6.4.75. The ExA considers that, whilst it is unsatisfactory to draw conclusions based on incomplete survey data, based on Natural England's and KWT's agreement with the worst-case scenario assessment and the dDCO provisions that ensure works cannot commence without pre-construction surveys, the Applicant has provided sufficient information in respect of bats.

6.4.76. **The ExA concludes that an adequate assessment of biodiversity has been achieved and in particular with regard to bat species despite the incomplete nature of field-based surveys.**

Bird survey methodologies

6.4.77. RRs and WRs eg Natural England [[RR-1408](#)], KWT [[RR-0978](#)], RSPB [[RR-1729](#)], KCC [[REP3-139](#)] and Natural England [[REP3-089](#)], raised concerns regarding the impact of the Proposed Development on bird populations that are designated features of the European sites on the Thanet Coast, features of the SSSI sites (eg golden plover) and that may also use functionally linked land within proximity to the airport. Whilst the issue of aviation impacts on bird populations associated with the European designated sites is addressed primarily in Chapter 7 of this report, this section of the recommendation report considers the scope and methodological basis for the assessments undertaken and their implications for the SSSI designation.

6.4.78. RSPB [[RR-1729](#)] highlighted concerns with the Applicant's wintering bird survey due to lack of access to the site and the lack of comparability of surveys undertaken in the two different seasons (one undertaken without a 2km buffer and one without access to the main site). RSPB [[RR-1729](#)] also suggested that night-time surveys for the site and a 2km buffer were required to gain a clear understanding of bird foraging at night, and that this was also of relevance for collision risk. RSPB [[RR-1729](#)] considers that the Applicant "*presents data for only one breeding season*

(2016) whilst best practices is a minimum of 2 years. These data are derived from a Common Breeding Census (CBC) survey, which although a satisfactory survey method, is insufficient on its own. For example this methodology is inadequate to detect site usage by soaring raptors like marsh harriers”.

- 6.4.79. RSPB [[RR-1729](#)] also queried the spatial extent of the barn owl survey but made no other comment in relation to barn owls.
- 6.4.80. RSPB made no further representations in relation to bird survey methodologies.
- 6.4.81. At D6, the Applicant [[REP6-012](#) and [REP6-014](#)] submitted additional wintering bird survey data for the 2018 / 2019 period. KWT’s SoCG [[REP7-004](#)] stated that sufficient survey work had been undertaken and that it agreed with the conclusions of the further survey work submitted. Natural England confirmed that it agreed with the scope and method of ornithological surveys in its SoCG [[REP5-015](#)] and confirmed that it was *“...content with the extent of winter bird baseline data (including survey and desk study data) as the data to be gained from nocturnal surveys for golden plover is limited. Natural England agrees that it will request more information internally from Martin Sutherland, who provided the information in the 2017 Natural England report and had studied nocturnal use of farmland golden plover 3.1.7 in Thanet”.*
- 6.4.82. Enclosure 1 of [[REP1-001](#)] set out the Applicant’s scope and programme of breeding bird surveys *“Territory mapping surveys within the site and, where public access permits, a 100m buffer around it. These will be based upon the British Trust for Ornithology (BTO’s) Common Bird Census (CBC) methodology and will comprise six visits to the entire site over the period March/April to June 2019 inclusive, Survey for barn owl will follow Shawyer (2011) Survey, using vantage points, for short-eared owl will follow Hardey et al. (2009).”*
- 6.4.83. The Applicant confirmed at D1 that additional barn owl surveys would be provided in its response to the ExA’s request for an updated survey programme [[REP1-001](#)].
- 6.4.84. KWT [[RR-0978](#)] deferred to RSPB in relation to bird surveys but highlighted contradictory statements in relation to the Barn Owl survey commenting *“...it is considered unlikely that barn owls currently use the site and even if a worst case assessment were adopted, given the available habitats no more than a single pair of barn owl could nest on site, however signs of Barn Owl are reported in 1.1.7 of the Barn Owl survey.”* The ExA notes that Section 3.3 of the Applicant’s MHCP [[APP-046](#)] identifies that barn owl are roosting but not nesting on the site and mitigates the potential for at least one breeding pair, with the flexibility to provide additional nest boxes if required.
- 6.4.85. The MHCP [[APP-046](#), Appendix 7.13] states that nest site compensation for barn owl will not be provided in the BA since it is situated too close to busy roads, which could lead to mortality. The Applicant [[APP-046](#)]

suggests that locations would be at least 1km from a dual carriageway, in an area with sufficient foraging habitat for a breeding pair (with the potential to provide additional boxes should more than one pair be identified). The Applicant commits to co-ordinating nest box provision in partnership with the local representative of the Barn Owl Trust and with the Kentish Stour Countryside Partnership Project and the KWT.

- 6.4.86. The ExA considers that with the agreement of KWT and Natural England regarding the scope and method of ornithological surveys and with the additional winter season's data, the Applicant has satisfied the requirements for winter and breeding bird surveys.
- 6.4.87. The ExA considers that an adverse impact on barn owl cannot be ruled out but that the Applicant has taken appropriate steps to ensure that such effects will be mitigated through pre-commencement surveys [PD-018, R12], the need to agree mitigation measures with the relevant planning authority in consultation with Natural England [PD-018, R8] and the creation of the BA.
- 6.4.88. **The ExA concludes that the bird survey methodologies are appropriate and adequate for the purposes of the biodiversity assessment.**
- 13km bird strike surveys*
- 6.4.89. RSPB [RR-1729] suggests that a 13km bird strike survey is standard for any aerodrome.
- 6.4.90. ES Chapter 7 [APP-033] and the Updated RIAA [REP7a-014] discuss desk study data regarding collisions for the previous Manston Airport operations (2007 to 2013) submitted in ES Appendix 7.2 [APP-045]. The data includes one record of a golden plover collision for the period. [REP7a-014] also identifies that the focus of flight paths was 500m to 1500m to the south of the airport.
- 6.4.91. The ExA also notes that bird strike surveys are discussed in CAP 772 Wildlife hazard management at aerodromes⁶¹, which clearly states that the contents of the document do not form 'a requirement', however "*Aerodromes subject to UK CAA national aerodrome licencing requirements may use this guidance material to demonstrate a means of compliance to support the applicable wildlife hazard management requirements stated in CAP 168.*"
- 6.4.92. The ExA considers that the ES includes an assessment of bird strike risk and that the additional information provided by the Applicant in its updated RIAA demonstrates that there is a limited risk of bird strike at the airport. Furthermore, the ExA notes that the Applicant will be required to obtain an Aerodrome Licence in order to operate the

⁶¹ Available at:

<https://publicapps.caa.co.uk/modalapplication.aspx?appid=11&mode=detail&id=2726>

proposed airport in future, which will have regard to bird strike risk. The aerodrome licencing process is separate from the DCO process.

- 6.4.93. **The ExA concludes that the bird strike survey is adequate for the purposes of the biodiversity assessment.**

Reptiles

- 6.4.94. No specific representations were raised in relation to reptiles, although KWT identified general concerns regarding effects on habitats and species. The Applicant identified that a c.4ha area of the site was not surveyed for the presence of reptiles and set out a survey scope and programme in [REP1-001]. Surveys were not possible due to access issues [REP6-012].

- 6.4.95. The MHCP [APP-046, Appendix 7.13] includes provision for a high population of reptiles (common lizards and slow worms), whereas low populations of common lizard have been identified to date. The plan states that there are no records of adders and the likelihood of grass snake is considered to be low due to the lack of waterbodies on site [APP-046].

- 6.4.96. **The ExA concludes that an adverse impact on reptiles cannot be ruled out but that the Applicant has taken appropriate steps to ensure that such effect will be mitigated through pre-commencement surveys [PD-018, R12], the need to agree mitigation measures (such as translocation) with the relevant planning authority in consultation with Natural England [PD-018, R8] and provision for reptiles within the BA.**

- 6.4.97. **The ExA concludes that R8 and R12 will be adequate to mitigate impacts on reptiles.**

Other species and habitats

- 6.4.98. [REP1-001] sets out the Applicant's proposed scope and methodology of botanical surveys, including surveys for legally controlled plant species that would be undertaken during the Examination but was not achieved due to access issues. No specific concerns were raised in respect of botanical surveys or invasive species.

- 6.4.99. The ExA considers that an adverse effect on botanical interest or arising from legally controlled plant species due to the Proposed Development cannot be ruled out but that the Applicant has taken appropriate steps to ensure that such effect will be mitigated through pre-commencement surveys [PD-018, R12], the need to agree mitigation measures with the Relevant Planning Authority in consultation with Natural England [PD-018, R8] and the creation of the BA.

- 6.4.100. KWT suggested that the potential impact on brown hare should have been assessed by the Applicant [RR-0978]. The ExA asked for Natural England and the Applicant's views on impacts on brown hare in Ec.1.3 [PD-007]. Natural England deferred to KWT on this matter [REP3-089].

The Applicant [[REP3-195](#)] responded that brown hare records had been reviewed as part of the desk study and that brown hare surveys were not required.

6.4.101. The ExA considers that the Applicant has considered the need for brown hare surveys and excluded them based on desk study data. **The ExA concludes that specific brown hare surveys were not required and that in any case, the requirement for pre-construction surveys addresses any residual risk of encountering protected species.**

6.4.102. KWT [[RR-0978](#)] argued that invertebrate surveys were suboptimal. The ExA asked for Natural England and the Applicant's views on invertebrate surveys in Ec.1.3 [[PD-007](#)]. Natural England deferred to KWT on this matter [[REP3-089](#)]. The Applicant [[REP3-195](#)] responded that invertebrate surveys were not sufficiently detailed and identified that additional surveys would be undertaken during the course of the Examination. The invertebrate scoping study [[APP-046](#), Appendix 7.7] identified the potential for the site to host invertebrates of open habitats, although it suggests this is unlikely to be exceptional in open grassland areas and that areas peripheral to the airport may be of more interest (eg the former car park area). As discussed above, surveys were not completed during the Examination due to access issues, however the Applicant has committed to undertaking pre-commencement surveys and mitigating for a worst-case scenario in its proposed BA stating "*The habitat creation scheme of the BA includes an inbuilt tolerance with the range of habitats all managed beneficially for invertebrates. It would also be straightforward to adapt the management of the BA for any particular species or species group (if subsequent survey reveals such at the airport) should that be necessary.*"

6.4.103. The ExA considers that an adverse effect on invertebrates due to the Proposed Development cannot be ruled out but that the Applicant has taken appropriate steps to ensure that such effect will be mitigated through pre-commencement surveys [[PD-018](#), R12], the need to agree mitigation measures with the relevant planning authority in consultation with Natural England [[PD-018](#), R8] and the creation of the BA.

6.4.104. **The ExA concludes that the assessment of botanical interest, brown hare's, invertebrates and the creation of the BA is adequately addressed and that further survey and mitigation is secured via R8 and R12.**

SSSI bird species – operational disturbance

6.4.105. Natural England [[REP3-089](#) and [REP6-048](#)] identifies that Sandwich Bay to Hacklinge Marshes SSSI is notified for wintering golden plover, grey plover, ringed plover and sanderling.

6.4.106. Natural England's WR [[REP3-089](#)] questions the Applicant's reliance on noise thresholds to determine bird disturbance for the identified SSSI species on the basis that responses to noise stimulus are site and species specific for bird populations. Natural England [[REP3-089](#)] states that for

this reason it disagrees with the use of a 70dB threshold below which no effect will occur and goes on to request “*predicted noise contour maps (for both peak LAmax and continuous LAeq noise levels) showing contours in 5dB increments from 55dB upwards. This should then be compared to existing noise contour maps, and overlain with the designated site boundaries and key bird locations, to assess the change in the noise environment of the SPA.*” Natural England [[REP3-089](#)] makes specific reference to the potential impact of the Proposed Development on SSSI bird species.

6.4.107. In response, the Applicant provided updated ecology noise contour data at D4 [[REP4-018](#)].

6.4.108. Natural England [[REP6-048](#)] commented on the updated noise contour data stating that due to the presence of sanderling in the middle of Pegwell Bay, experiencing noise levels in excess of 60dB LAmax, significant impacts cannot be ruled out. Annex 2 of Natural England’s representation [[REP6-048](#)] summarised the Applicant’s bird survey work, highlighting that:

- Golden plover do not tend to use the northern part of Pegwell Bay;
- low numbers of sanderling in the middle of Pegwell Bay would be subject to peak noise levels over 60dB LAmax;
- low numbers of grey plover are more evenly distributed across Pegwell Bay than sanderlings, with a peak WeBS⁶² count of 135 birds in 2016/17; and
- there were no records of ringed plover, although the peak WeBS count in 2016/17 was 81 individuals.

6.4.109. The ExA asked the Applicant to respond to Natural England’s comments in Ec.3.4 [[PD-014](#)]. The Applicant submitted Appendix Ec.3.4 [[REP7a-003](#)] providing updated baseline information and cross-referencing new winter bird survey data for Pegwell Bay, submitted in relation to the RIAA. In summary, the Applicant [[REP7a-003](#)] rules out effects on SSSI waders based on:

- Avoidance of visual stimuli - flight paths of aircraft are located at an altitude of >500m and more than 1km from the flight path;
- noise disturbance – noise levels similar to those predicted to occur due to overflying aircraft already occur at higher frequency within the bay than will occur due to airport operation. Noise levels are driven by the coast road; and
- no disturbance responses were elicited from noise sources at distances over 500m.

6.4.110. The Applicant also argues that other airports are located adjacent to or close to SPAs and their constituent SSSIs.

6.4.111. The ExA is persuaded that the additional bird and noise survey data demonstrate that significant adverse effects on SSSI waders can be ruled

⁶² Wetland bird survey

out subject to the airport operating within the operational flight path parameters assessed within the application material [[APP-033](#), [APP-044](#)], [APP-045](#), [APP-046](#)].

- 6.4.112. **The ExA concludes that significant effects on SSSI bird species will be avoided because the Applicant's proposals to mitigate the harmful operational aspects of the Proposed Development (secured via R7 in the dDCO - OEMP and REAC will ensure the conservation of the Sandwich Bay to Hacklinge Marshes SSSI biodiversity and will meet the aims of the ANPS.**

Wildlife Hazard and Management Plan

- 6.4.113. KWT [[RR-0978](#)] suggested, and Natural England in its response to ExQ1 [[REP3-087](#)] agreed, that "*Measures to safely disperse birds and other wildlife from the runways without harm should also be further demonstrated, alongside a long-term conservation management plan that can demonstrate how consideration for wildlife can be accommodated alongside the specific requirements for commercial airport land use management.*"
- 6.4.114. Natural England's WR [[REP3-089](#)] discussed bird scaring activities and agreed that a 1km buffer was appropriate, within which to assess impacts. Natural England [[REP3-089](#)] stated that it would be helpful to confirm the proposed bird scaring methods and to clarify the extent to which displacement effects might impact on golden plovers in farmland adjacent to the site (see also Chapter 7 of this report). Natural England [[REP3-089](#)] disagreed that displacement effects were negligible and requested further information on the effect that effective loss of habitat within the 1km buffer would have on golden plover.
- 6.4.115. The ExA raised questions Ec.1.2 and Ec.1.6 [[PD-007](#)], Ec. 2.4 [[PD-010b](#)] and Ec.2.5 [[PD-014](#)] in relation to bird scaring activities.
- 6.4.116. Ec.1.2 [[PD-007](#)] asked the Applicant to respond to KWT comments on bird dispersal methods. The Applicant's response to Ec.1.2 stated that there was no requirement to provide further justification, since this information was contained in Table 3.11 of ES Chapter 3; that measures would need to comply with CAA CAP 772; and that ES Chapter 7 [[APP-033](#)] concluded that there would be no significant effect on golden plovers as a result of bird scaring activities.
- 6.4.117. The ExA in Ec.1.6 [[PD-007](#)] asked for "*Confirmation of the types of bird scaring methods to be used at Manston, and if they are similar and applicable to use in the Applicant's HRA, to those used at London Ashford Airport (Lydd)*". The Applicant [[REP6-012](#)] listed the following measures:
- Bird of prey distress calls;
 - regular patrols;
 - lures; and where necessary
 - pyrotechnic bird scaring cartridges (explosive shotgun shells).

- 6.4.118. The Applicant [[REP6-012](#)] also cross references to its answer to the OP. 1.16 summarising engineering solutions to discourage birds such as locating ponds away from the runway; use of seed mixes designed to discourage bird attractant species; spike strips to prevent perching; and flags and humming wire to deter birds from foraging in seeded and disturbed areas.
- 6.4.119. The ExA in Ec.2.4 [[PD-010b](#)] questioned who would be consulted on the WHMP and the mechanism would for its approval. The Applicant confirmed that Natural England, KWT, TDC and the CAA would be consulted on the content of the plan and that the CAA would be the discharging body [[REP6-012](#)].
- 6.4.120. The SoCG with Natural England [[REP5-015](#)] states that the Applicant has agreed to provide further information on the effects of bird scaring methods. This information was subsequently provided by the Applicant at D7a as Appendix H to the updated RIAA [[REP7a-014](#)]. Natural England stated that it was satisfied that the information demonstrated that an adverse effect on the integrity of golden plovers from bird scaring on the airfield could be ruled out.
- 6.4.121. The ExA has considered the responses to its questions and the updated land use information which demonstrates that land adjacent to the airport provides limited suitability for golden plover and is satisfied that bird scaring impacts would not be significant.
- 6.4.122. **The ExA concludes that the WHMP (which is secured via R7 (2)(b)(v) in the dDCO) will be adequate for the safe dispersal of birds and other wildlife from the runway.**

Drainage outfall

- 6.4.123. The ExA notes that potential effects during construction and operation due to the effects of discharges from the outfall. These were the subject of ExA questions Ec.1.7 [[PD-007](#)], Ec.2.10 [[PD-010b](#)] and Ec.4.8 [[PD-020](#)] in relation to the implications for the assessment of no adverse effects on the European designated sites (see Chapter 7 of this report). The Applicant updated its RIAA [[REP7a-014](#)] to include in-combination assessment of the outfall works and also provided updated screening information in response to Ec.4.8 [[REP9-006](#)]. Natural England accepted the conclusion of the updated assessment [[REP8-028](#)].
- 6.4.124. The ExA is satisfied that the additional information provided in respect of the RIAA has provided sufficient information regarding the impact of the proposed drainage outfall and that such impacts are capable of mitigation through the dDCO [[PD-018](#)], which secures pre-commencement surveys (R12) and the need to agree mitigation measures with the relevant planning authority in consultation with Natural England (R8). R13 of the dDCO [[PD-018](#)] also secures the need for the surface and foul water drainage plan to contain all relevant mitigation measures from the REAC.

- 6.4.125. **The ExA concludes that the impacts from the construction and operation of the drainage outfall will be adequately controlled via R8, R12 and R13 in the dDCO.**

Mitigation and compensation

Net gain and the Mitigation and Habitat Creation Plan

- 6.4.126. To compensate for loss of habitat on site and to support biodiversity net gain, the Applicant prepared a MHCP [APP-045, Appendix 7.13] which identifies an area of land to the South East of the airport (land parcel 1362) to be used as a BA.
- 6.4.127. The ExA examined the biodiversity net gain calculations underpinning the HCMP and the timing of habitat creation in Ec.1.5 [PD-007]. The Applicant in its response Ec.1.4 [REP3-195] states:

"The Biodiversity Area presented in the Mitigation and Habitat Creation Plan (MHCP) in Appendix 7.13 of the ES [APP-046] has been designed to provide compensatory habitat delivering a net gain. It is important to highlight that the habitats to be provided have been proposed to account for the species populations assumed during the assessment of the worst case scenario in the ES. The habitats and features proposed are therefore expected to deliver net gain and good quality enhancement opportunities for biodiversity.

Additionally, Table 3.11 in Chapter 3 of the ES [APP-033] indicates that a Habitat Management Plan (HMP) will be prepared post-DCO consent. It is intended that the HMP would be sufficiently flexible to allow for the adaptive management of habitats on site referenced in number of the assessments presented in ES Chapter 7. The MHCP outlines the mitigation, habitat creation and monitoring requirements, indicating where information will be provided in the HMP. This would include locally appropriate species planting lists. Therefore, the Applicant considers that sufficient mitigation and enhancement is proposed within the ES and secured through the dDCO.

With respect to the level of surveys, it is recognised in paragraph 7.3.2 of the ES [APP-033] that additional survey work is required and a programme for that work has been submitted to the Examining Authority at Deadline 1 [TR020002/D1/Cover]. However, the assessment was undertaken using a worst case scenario and no significant negative effects were predicted when the proposed environmental measures are taken into account. Therefore, the objective of the planned survey work is to inform refinement of the mitigation proposals."

- 6.4.128. The Applicant's response to Ec.1.5 [REP3-195] reiterates statements made in response to Ec.1.4 and outlines that dDCO R8 secures habitat creation and its timing.
- 6.4.129. In Ec. 1.5 [PD-007] the ExA also questioned the Applicant's reference to funding habitat creation through Countryside Stewardship Agreements. Natural England [REP4-057] highlights that works required through a

planning permission cannot be funded through Countryside Stewardship Agreement. The Applicant [REP3-195] states that it is "...committed to implementing the Mitigation and Habitat Creation Plan [APP-044 and 045] regardless of whether it is possible to enter the Biodiversity Area into a Countryside Stewardship agreement".

6.4.130. The ExA in Ec.3.1 [PD-014] asked Natural England "Is Requirement 8 and in particular the net gain of 10 biodiversity units, of the dDCO an adequate provision in the absence of the full suite of ecological surveys?"

6.4.131. Natural England in the summary of its oral representations at ISH6 stated [REP8-028]:

"Surveys and Biodiversity Net Gain

8. There is uncertainty over the Applicant's calculation of biodiversity net gain [REP6-014] due to the lack of ecological surveys for the airport site. However, Requirement 8 of the DCO does secure a net gain of 10 biodiversity units. In the absence of agreed standards on how much net gain a project should provide, then this requirement is acceptable. Natural England is, therefore, content with the wording of Requirement 8."

6.4.132. The Applicant in its Overall Summary of Case in response to Ec.4.3 [REP11-014] stated:

"Ecology

25. The Applicant considers that there are no significant ecological effects arising from the project. Natural England is generally satisfied with the ecological mitigation proposed. The biodiversity area to the south of the airport site is subject to an option in favour of the Applicant but has not yet been fully secured. Natural England is therefore not able to issue a formal 'letter of no impediment' for a bat licence until the Applicant has acquired the biodiversity area. However, Natural England has confirmed that 'provided the Applicant carries out the necessary surveys and follows Natural England's advice and recommendations in making a satisfactory licence application, we will be able to issue the licence.'"

6.4.133. The ExA considers that in the absence of a standard approach to establishing the quantum of net gain that is appropriate and in light of Natural England's comments on the proposals, the level of net gain proposed is commensurate with the worst-case assessment predicted.

6.4.134. **The ExA concludes that the proposals for net gain and habitat creation compensate for biodiversity impacts resulting from development of the airport site in accordance with the ANPS requirement to cause no significant harm.**

Bird disturbance mitigation

6.4.135. Following discussions at ISH6 [EV-021, EV-027, EV-027a] regarding disturbance to species from the Proposed Development's operations, the

Applicant proposed, in Schedule 4 to a draft s106 Agreement [[REP11-010](#)], to make a:

"Biodiversity Contribution" means the sum of £100,000 (One hundred thousand pounds) Index Linked to be used for the Biodiversity Contribution Purposes; and

"Biodiversity Contribution Purposes"

means the mitigation of adverse impacts of Manston Airport on the bird populations in Pegwell Bay with the Biodiversity Contribution split and utilised as follows:

- *Tranche 1 - £20,000 Index-Linked to be used to support the current (as at the date of this Deed) bird disturbance monitoring study being undertaken by Kent Wildlife Trust;*
- *Tranche 2 - £80,000 Index-Linked to be used to develop and support projects directly relevant to species affected by the disturbance caused by the operation of Manston Airport such sum being made available to Kent Wildlife Trust, Thanet District Council and Natural England."*

6.4.136. The ExA notes the Applicant has produced a s106 UU in favour of TDC submitted on the last day of the Examination, which includes financial contributions for projects looking at the disturbance of species affected by the Proposed Development's operations [[AS-584](#)]. The ExA notes this measure from the Applicant.

6.4.137. **The ExA concludes that the s106 UU [[AS-584](#)] will contribute to the mitigation of bird disturbance of species in Pegwell Bay.**

ExA's conclusions

6.4.138. The ExA is satisfied that Natural England, KCC and KWT concerns regarding effects on biodiversity and the adequacy of mitigation have been dealt with by the Applicant via DCO Requirements:

- R6 - CEMP;
- R7 – OEMP and REAC;
- R8 – Ecological Mitigation includes the biodiversity offsetting metric with a gain of 10 units (Natural England have endorsed this);
- R9 – NMP;
- R12 – Protected species; and
- R13 – Surface and foul water drainage.

6.4.139. The ExA concludes that an adequate assessment of biodiversity has been achieved in particular with regard to bat species despite the incomplete nature of field-based surveys.

6.4.140. The ExA concludes that the bird surveys methodology and the bird strike survey are adequate for the purposes of the biodiversity assessment.

- 6.4.141. The ExA concludes that R8 and R12 will be adequate to mitigate impacts on reptiles.
- 6.4.142. The ExA concludes that the assessment of botanical interest, brown hare, invertebrates and the creation of the BA is adequately addressed and that further survey and mitigation is secured via R8 and R12.
- 6.4.143. The ExA concludes that significant effects on SSSI bird species would be avoided because the Applicant's proposals to mitigate the harmful operational aspects of the Proposed Development, secured via R7 – OEMP and REAC, will ensure the conservation of the Sandwich Bay to Hacklinge Marshes SSSI biodiversity and will meet the aims of the ANPS.
- 6.4.144. The ExA concludes that the WHMP (which is secured via R7 (2)(b)(v) in the dDCO) would be adequate for the safe dispersal of birds and other wildlife from the runway.
- 6.4.145. The ExA concludes that the impacts from the construction and operation of the drainage outfall will be adequately controlled via R8, R12 and R13 in the dDCO.
- 6.4.146. The ExA concludes that the proposals for net gain and habitat creation compensate for biodiversity impacts resulting from development of the airport site in accordance with the ANPS requirement to cause no significant harm.
- 6.4.147. The ExA concludes that the s106 UU will contribute to the mitigation of bird disturbance of species in Pegwell Bay.
- 6.4.148. The ExA concludes in concurrence with Natural England that the baseline surveys and habitat creation proposals are dealt with adequately in EIA terms. The ExA notes Natural England's contentment with the assessment despite incomplete surveys. However, the ExA would advise the SoS to note that incomplete site surveys and their implications have occupied a large amount of examination time and that it is only due to the particular circumstances regarding access that such an approach has been deemed acceptable in this instance.
- 6.4.149. The ExA concludes that the Proposed Development is unlikely to result in significant harm to any nationally designated site or to any protected species. Further, R12, the CEMP and REAC includes measures to identify and control any impacts on protected species that may emerge before construction starts or during the construction period.
- 6.4.150. The ExA notes the Applicant has produced a s106 UU in favour of TDC submitted on the last day of the Examination, which includes financial contributions for projects looking at disturbance species affected by the Proposed Development's operations [[AS-584](#)].
- 6.4.151. Given the evidence presented, the ExA considers that biodiversity and nature conservation issues have been adequately assessed, and that the requirements of the NPPF are met. The ExA's overall conclusion is that the construction and operation of the Proposed Development would avoid

significant harm to biodiversity in accordance with the ANPS and NPPF. In the ExA's view the Applicant has set out the likely effects on nationally and locally designated sites and has taken the opportunity to conserve and enhance biodiversity via R8. Mitigation measures would be an integral part of the Proposed Development and would be appropriately secured through the dDCO and related documentation certified under Article 41.

- 6.4.152. The ExA concludes there are no biodiversity grounds to refuse development consent. The ExA concludes that the Proposed Development as provided for in the rdDCO will mitigate and minimise effects on biodiversity adequately.

6.5. CLIMATE CHANGE

Introduction

- 6.5.1. This section of the Recommendation Report considers:
- The impact of the Proposed Development on climate change; and
 - the adaptiveness of the Proposed Development (including environmental receptors) to the projected impacts of climate change.
- 6.5.2. Impacts on and arising from climate change are interrelated with the assessment and examination of other environmental aspects as reported under biodiversity; flood risk; noise; air quality; traffic and transport; and operational matters. The conclusions drawn in respect of climate change within these sections are not repeated here⁶³.

Issues

- 6.5.3. A number of RRs included expressions of concern in respect of the impact of the Proposed Development on and arising from climate change focussing on, inter alia, emissions and the compatibility of aviation with CC targets, including but not limited to:
- S Donnithorne [[RR-1740](#)];
 - Joe Bradley [[RR-0828](#)];
 - Martin Weller [[RR-1136](#)];
 - Ronald Osborn [[RR-1719](#)];
 - Artist Partners [[RR-0163](#)];
 - Tim Spencer [[RR-1963](#)];
 - Samara Jones-Hall [[RR-1754](#)];
 - Marian Doidge [[RR-1361](#)];
 - Keith Taylor [[RR-0964](#)];
 - Reed Close Community Group [[RR-1650](#)];
 - Jean Mancini [[RR-0769](#)];
 - Kit Jolly [[RR-0994](#)];

⁶³ Save for those drawn in the section of this chapter dealing with traffic and transport

- Sophie Atherton [[RR-1829](#)];
- Nick Claxton [[RR-1433](#)];
- Phil Rose [[RR-1582](#)];
- Ann-Marie Nixey [[RR-0137](#)];
- Chris Lowe [[RR-0276](#)];
- Susan Kennedy [[RR-1902](#)];
- Mary Sharrock [[RR-1142](#)];
- Campaign to Protect Rural England (CPRE) Kent [[RR-0352](#)];
- The RSPB [[RR-1729](#)];
- Conor Masterton [[RR-0351](#)];
- Mike Straw [[RR-1224](#)]; and
- Five10Twelve Ltd (Five10Twelve) [[RR-0758](#)].

6.5.4. Having considered the application documents and the RRs received, the ExA's IAPI [[PD-005](#), Annex B] explained that:

"...whilst the effects of the proposal on the achievement of sustainable development including the mitigation of, and adaption to, climate change are not listed as specific Principal Issues [...] the ExA will conduct all aspects of the Examination with these objectives in mind".

6.5.5. At the PM CPRE Kent and Five10Twelve requested for climate change to be included as a discrete entry in the IAPI [[EV-001](#)]. The ExA accepted this requested and included climate change as a Principal Issue in its own right in its revised IAPI annexed to the Rule 8 letter [[PD-006](#), Annex C].

6.5.6. Various further representations were received in the course of the Examination which related to impacts on and arising from climate change. For reporting purposes, the overarching issues have been distinguished as:

- The Applicant's worst-case emissions assessment; and
- UK climate projections and adaptation.

Relevant policy considerations

ANPS

6.5.7. The PA2008 requires the SoS to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS⁶⁴.

6.5.8. The ANPS sets out how applicants and the Secretary of State will take into account the effects of climate change when developing and considering airports infrastructure applications (ANPS, paragraph 4.42). The following paragraphs of the ANPS have particular relevance to the ExA's consideration of climate change in this case:

- Paragraphs 4.41 to 4.52 which deal with climate change adaptation as an assessment principle;

⁶⁴ PA2008 s10(3)(a)

- paragraphs 5.69 to 5.83 which deal with the assessment of impacts in relation to carbon emissions;
- paragraphs 5.147 to 5.171 which deal with the assessment of impacts in relation to flood risk (see section of this chapter dealing with water resources); and
- paragraphs 5.172 to 5.186 which deal with the assessment of impacts in relation to water quality and resources (see section of this chapter dealing with water resources).

6.5.9. The Airports NPS recognises that new airports infrastructure will typically be a long-term investment which will need to remain operational over many decades, in the face of a changing climate. Consequently, applicants must consider the impacts of climate change when planning design, build and operation and any accompanying ES should set out how the Proposed Development will take account of the projected impacts of climate change (ANPS, paragraph 4.45).

6.5.10. Detailed consideration must be given to the range of potential impacts of climate change using the latest UK Climate Projections available at the time, and to ensuring the ES identifies appropriate mitigation or adaptation measures. This should cover the estimated lifetime of the new infrastructure. Any adaptation measures are also required to be assessed as part of the EIA and included in the ES, which should set out how and where such measures are proposed to be secured (ANPS, paragraph 9.59).

6.5.11. The ANPS goes on to state at paragraph 5.77 that as far as possible applicant's assessments should also seek to quantify impacts including:

- Emissions from surface access due to airport and construction staff;
- emissions from surface access due to freight and retail operations and construction site traffic;
- emissions from surface access due to airport passengers/visitors; and
- emissions from airport operations including energy and fuel use.

6.5.12. In respect of emissions, the ANPS at paragraph 5.82 establishes that any increase in carbon emissions alone is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the project is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets.

6.5.13. The ExA considers that the ANPS is relevant and important to its examination of impacts on and arising from climate change.

NPPF and PPG

6.5.14. The NPPF establishes at paragraph 150 that new development should be planned for in ways that:

- a. Avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can

- be managed through suitable adaptation measures, including through the planning of green infrastructure; and
- b. can help to reduce GHG emissions, such as through its location, orientation and design.

- 6.5.15. The ExA considers that the NPPF is relevant and important to its examination of impacts on and arising from climate change.
- 6.5.16. PPG on climate change explains how effective spatial planning can influence the emission of GHGs and help increase resilience to climate change impact through the location, mix and design of development.
- 6.5.17. The ExA considers that PPG on climate change, amongst other discrete PPG topics, is relevant and important to its examination.

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

- 6.5.18. The 2017 EIA Regulations refer to 'climate' in the following way:
- *"climate (for example greenhouse gas emissions, impacts relevant to adaptation)"; and*
 - *"the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change".*
- 6.5.19. This signals that both the impact of climate change on the Proposed Development (including environmental receptors), and the impact of the Proposed Development on climate change, are to be considered.

The Climate Change Act 2008

- 6.5.20. The CCA08 requires the Government, on a regular basis, to assess the risks to the UK from the impact of climate change and report the findings back to Parliament.
- 6.5.21. The CCA08 establishes the duty of the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline⁶⁵ (see *Net Zero*, below). Of importance in this case, carbon targets and budgeting under the CCA08 do not include emissions from international flights⁶⁶.
- 6.5.22. The CCA08 also contains the Adaptation Reporting Power (ARP), which allows Government to ask certain organisations to produce reports on both their climate change risks and their adaptation plans.

Net Zero – The UK's contribution to stopping global warming

⁶⁵ The target was 80% in the period within which the Applicant undertook its EIA and in the course of most of the Examination, until 26 June 2019

⁶⁶ Section 30

6.5.23. On 1 May 2019 the UK Government declared a climate emergency. Net Zero – The UK’s contribution to stopping global warming⁶⁷ was published on the following day (2 May 2019). Its key findings are that:

“The Committee on Climate Change [CoCC] recommends a new emissions target for the UK: net-zero greenhouse gases by 2050.”

6.5.24. A net-zero GHG target for 2050 will deliver on the commitment that the UK made by signing the Paris Agreement. It is achievable with known technologies, alongside improvements in people’s lives, and within the expected economic cost that Parliament accepted when it legislated the existing 2050 target for an 80% reduction from 1990 levels.

6.5.25. The CCA08 was amended to establish the net-zero GHG target on 26 June 2019 through The Climate Change Act 2008 (2050 Target Amendment) Order 2019⁶⁸.

Thanet Local Plan 2006 ‘Saved’ Policies

6.5.26. No specific policies relating to climate change have been saved.

Emerging Draft Thanet Local Plan to 2031 Policies

6.5.27. Policy SO35 – Climate Change:

“New development must take account of:

- *Adapting to climate change by minimising vulnerability, providing resilience to the impacts of climate change;*
- *Mitigating against climate change by reducing emissions and energy demands;*
- *Improving building resilience to climate change through the use of best available technology; and*
- *Opportunities to reduce the impact of climate change on biodiversity.”*

6.5.28. The ExA is mindful that the eLP is currently being examined. Whilst the plan is at an advanced stage of preparation, policies within it could be subject to change. Nonetheless, the ExA considers draft Policy SO35 important and relevant.

IEMA Environmental Impact Assessment Guide to Climate Change Resilience and Adaptation⁶⁹

⁶⁷ Available at: <https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/>

⁶⁸ Available at: https://www.legislation.gov.uk/ukxi/2019/1056/pdfs/ukxi_20191056_en.pdf

⁶⁹ Available at: [https://www.iema.net/assets/templates/documents/iema_guidance_documents_eia_climate_change_resilience_and_adaptation%20\(1\).pdf](https://www.iema.net/assets/templates/documents/iema_guidance_documents_eia_climate_change_resilience_and_adaptation%20(1).pdf)

- 6.5.29. An IEMA EIA Guide to Climate Change Resilience and Adaptation has been produced, which sets the case for the component aspects of a climate change chapter in EIA.

Findings

Assessment methodology, study area and necessary restrictions

- 6.5.30. Climate change is addressed as a discrete environmental aspect in Chapter 16 of the ES [[APP-034](#)]. The chapter considers how the Proposed Development will put climate change adaptation into practice including what climate change mitigation, in the Applicant's opinion, has been deemed to be necessary to minimise expected harmful effects.
- 6.5.31. Chapter 16 outlines the relevant policy, legislation and guidance that has informed the Applicant's assessment (Section 16.2) and the data gathering methodology that was adopted as part of the assessment (Section 16.3). This leads on to a description of the overall baseline conditions (Section 16.4); the environmental measures incorporated into the Proposed Development (Section 16.5); the scope of the assessment (Section 16.6); and the assessment methodology (Section 16.7). The chapter then discusses the results of the in-combination climate change impacts assessment (Sections 16.8) and GHG assessment (Section 16.9) and concludes with a summary of the significance of the Proposed Development's climate change (Section 6.10). Paragraphs 11.1.6 to 11.1.9 set out the limitations to the assessment.

Mitigation measures

- 6.5.32. The Applicant acknowledges in Table 16.16 of the ES that [[APP-034](#)]:
- "The Proposed Development inevitably has an impact on the global climate, even if 730.1 KtCO₂ per annum from aviation emissions only represents 1.9% of the total UK aviation carbon target of 37.5 MtCO₂ for 2050. It is therefore deemed that the 'further mitigation' scenario is required in order to reduce the carbon footprint of the Proposed Development where practical".*
- 6.5.33. The Applicant's environmental management of the construction works associated with the Proposed Development will be delivered via the implementation of a CEMP. An oCEMP, which the final CEMP must be substantially in accordance with, is secured through R6 of the rdDCO. The oCEMP outlines in Section 5.11 and Table 5.10 the environmental procedures that require consideration throughout the construction process for climate change effects, in accordance with legislative requirements and construction industry best practice guidance. The oCEMP provided with the application [[APP-011](#)] was revised four times [[REP6-025](#), [REP7a-008](#), [REP9-017](#), [REP11-035](#)] to reflect enhancements secured through the examination of the document.
- 6.5.34. The Applicant's environmental management measures associated with the operation of the Proposed Development will be delivered via the

implementation of separate OEMPs. A draft OEMP was provided to the Examination at D9 [[REP9-011](#), tables 1.1 and 6.1]. The only mitigation measures related to the operation of the Proposed Development included in the oCEMP are those which are relevant to parts of the Proposed Development which will be operational before construction is completed.

- 6.5.35. The Applicant's REAC [[REP11-008](#)] consolidates the committed climate change mitigation measures within the chapters of the ES [[APP-033 to APP-035](#)]. Cross-references are provided to the Requirements that would secure the commitments in the dDCO. Table 2.1 of the REAC contains the actions and commitments relating to construction of the Proposed Development and Table 3.1 contains those relating to the operation of the Proposed Development. Appendix A details the management plans which will be in place during construction and operation of the Proposed Development, to enforce the mitigation measures within the REAC. The REAC provided with the application [[APP-010](#)] was revised four times [[REP4-020](#), [REP7a-012](#), [REP8-018](#), [REP11-008](#)] to reflect enhancements secured through the examination of the document.
- 6.5.36. The Applicant's Framework Climate Change Adaptation Strategy (CCAS) [[REP4-033](#)] sets out the processes and actions that will be applied to ensure that the Proposed Development is resilient to the effects of climate change. The finalised CCAS will be delivered subject to development consent being granted by the SoS. A Carbon Minimisation Action Plan (CMAP) which identifies actions for minimising the carbon footprint of the Proposed Development will be produced as part of the CCAS, as delivered through the CEMP and the OEMPs.
- 6.5.37. The Design and Access Statement [[APP-081 to APP-084](#)] sets out how the illustrative Masterplan [[APP-079](#)] has been designed to take into account adaptation measures but also how the design has adopted the general principles of sustainable development and construction.
- 6.5.38. The Flood Risk Assessment (FRA) [[APP-048](#)] explains how the Proposed Development has been assessed to consider climate change and flood risk issues.

Issues in the Examination

- 6.5.39. The ExA asked nine written questions about climate change in ExQ1 [[PD-007](#)]; ExQ3 [[PD-014](#)]; and ExQ4 [[PD-020](#)]. An ISH was also held on the 5 June 2019 (ISH6) at which climate change was an agenda item [[EV-021](#), [EV-027](#), [EV-027a](#)]. Relevant responses to the ExA's written and oral questions are drawn upon below.

Worst-case emissions assessment

- 6.5.40. In its LIR, TDC drew attention to IEMA’s EIA Guide to Assessing GHG Emissions and Evaluating their Significance⁷⁰, which states that all GHG emissions are significant. The Applicant’s assessment predicts total worst-case emissions in Year 20 to be 808.7 KtCO₂⁷¹; a significant change from the baseline of zero [APP-034, Table 16.14]. TDC expressed concern that it was unclear how the CMAP would off-set the worst-case scenario emissions and requested for the CMAP to be secured in the DCO through a Requirement [REP3-010, paragraph 4.1.5].
- 6.5.41. TDC stated that, moreover, the worst-case scenario would be an additional contribution of 1.9% of the 2050 target of 37.5 MtCO₂ identified by UK Government⁷², and would therefore be considered an adverse effect in achieving this goal [REP3-010, paragraph 4.11.6]. Chris Lowe [REP3-243] compounded TDC’s observations in respect of the 2050 target, providing evidenced representations that “...because the 37.5 MtCO₂ limit is already taken by existing airports and their flights, there is no capacity within that limit for the emissions from [the Proposed Development]”.
- 6.5.42. In response to the comments in TDC’s LIR, the Applicant introduced in its D3 dDCO [REP3-186] a clause in R6 (2)(a)(xi) (oCEMP) which establishes the management plans which must be contained within the CEMP. These include the CMAP.
- 6.5.43. A signed SoCG between the Applicant and TDC followed at D6 [REP6-011] which established agreement between the parties that:
- “The Applicant has undertaken to manage emissions and adopt climate change adaptation measures in line what is reasonably possible in the context of an airport project.”*
- 6.5.44. The ExA notes that emissions of GHGs from international aviation do not currently count as emissions from sources in the United Kingdom for the purposes of carbon targets and budgeting, except as provided by Regulations made by the SoS. However, the CoCC is advising that the planning assumption for international aviation should be to achieve net-zero emissions by 2050.
- 6.5.45. In its emerging advice to the UK Government⁷³, the CoCC advise that this should be reflected in the UK’s emerging Aviation Strategy⁷⁴. It means reducing actual emissions in the aviation sector. The CoCC

⁷⁰ Available at:

<https://www.iema.net/assets/newbuild/documents/IEMA%20GHG%20in%20EIA%20Guidance%20Document%20V4.pdf>

⁷¹ Aviation 730.1 KtCO₂ and non-aviation sources 78.6 KtCO₂

⁷² Aviation 2050 – The future of UK aviation: A consultation, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/769696/aviation-2050-print.pdf

⁷³ Available at: <https://www.theccc.org.uk/wp-content/uploads/2019/09/Letter-from-Lord-Deben-to-Grant-Shapps-IAS.pdf>

⁷⁴ Details available at: <https://www.gov.uk/government/consultations/aviation-2050-the-future-of-uk-aviation>

advises that the Government should assess its airport capacity strategy in this context. Specifically for the Proposed Development, it will need to be demonstrated to make economic sense i.e. establish a need case, in a net-zero world and the transition towards it. Chapter 5 of this report, which deals with need, concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports.

Dedicated freight emissions

- 6.5.46. Five10Twelve drew attention to the Applicant's assessment of markets for dedicated freight, such as perishables, and Defra's determination that the air-freighting of food has the highest CO₂ emissions per tonne [REP4-036]. The ExA asked in ExQ4 [PD-020] for the Applicant to explain how it had factored this determination into its assessment, with specific reference to effects arising from consequential infrastructure such as large temperature-controlled storage facilities and warehousing in question G.4.1.
- 6.5.47. In response the Applicant stated that the Defra report Food Transport Indicators to 2010⁷⁵ is not directly relevant to the assessment of effects arising as a result of the Proposed Development. It is simply a presentation of data and does not make recommendations relating to the control of air freight or indeed any form of food transport and provides no guidance on how emissions from individual projects should be assessed. It cannot therefore be factored into the Applicant's assessment and it is not appropriate to draw any relationship between the Proposed Development and the statistics presented in the Defra report [REP9-006].
- 6.5.48. The Applicant goes on to reiterate that emissions from aviation sources were assessed in Chapter 16 of the ES which concludes that CO₂ emissions from the Proposed Development represent 1.9% of the total UK aviation emissions target. The Applicant has committed to producing a CMAP for the project itself and Table 16.15 of the ES commits to a number of specific measures to reduce CO₂ emissions that will be included in that plan. The CMAP will align with both detailed design and operation of the Proposed Development, addressing carbon emissions controllable in the context of the project itself [REP9-006].
- 6.5.49. At D6, the Applicant prepared and submitted [REP6-016] a summary of the potential effects arising from the use of the TSTM to assess the traffic impact resulting from the Proposed Development. It formed a direct response to the ExA's request to make available further work associated with use of the TSTM [REP3-195, response to Tr.1.5]. [REP6-016] comprises an addendum to the ES [APP-033 to APP-074] and includes a

⁷⁵ Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/138104/defra-stats-foodfarm-food-transport-statsnotice-120110.pdf

chapter considering the changes and resultant effects on climate change and GHG emissions. The revised modelling includes a proposed Manston-Haine link road (see section 5.3 of this report), which the Applicant subsequently confirmed in its response to ExQ2 [REP6-017, response to TR.2.1] would not be included in the DCO application.

- 6.5.50. The Applicant concluded in [REP6-016, paragraph 6.8.1] that, in respect of climate change:

"The revision to the traffic assessment will not result in any changes to the assessment of climate change within the ES [APP-033, 034, 035]. Recommended mitigation measures have also been incorporated into the design of the Proposed Development. A Climate Resilience Strategy will strengthen these commitments. As such, there are no changes to the conclusions of the climate change assessment within the ES [APP-033, 034, 035]. 6.8.2 The assessment contained within the ES [APP-033, 034, 035] is still considered to be valid and no additional assessment is necessary."

and in respect of GHG emissions [REP6-016, paragraph 6.9.1], that:

"The revision to the traffic assessment does not add significant additional traffic onto the network and will therefore not alter or introduce additional significant environmental effects over and above those already assessed and presented in the ES [APP-033, 034, 035] As such the assessment contained within the ES [APP-033, 034, 035] is still considered to be valid and no additional assessment is necessary."

- 6.5.51. **The ExA concludes that the Applicant's assessment of climate change and GHG emissions calculations in the light of the revised TA is adequate.**

UK climate projections and adaptation

- 6.5.52. In ExQ1 the ExA asked the Applicant to provide an assessment of how the next generation of UK climate projections (UKCP18), which had become available in the period since the Applicant's ES had been prepared in consideration of its predecessor UKCP09, would affect the conclusions of Chapter 16 of the ES [PD-007, CC.1.1].
- 6.5.53. In its response [REP3-195], the Applicant stated that the conclusions of Chapter 16 of the ES would not be affected because the trends and key messages UKCP09 are largely consistent with UKCP18. It is not therefore necessary for Chapter 16 to be updated. UKCP18 would be used to update the Climate Change Risk Assessment (CCRA) after development consent is granted, which will in turn inform the development of the CCAS [REP4-033].
- 6.5.54. In respect of adaptation [PD-007, CC1.2], the Applicant stated that the relevant impacts that need to consider more radical changes in climate all relate to flooding [REP3-195]. In respect of fluvial flooding, using the H++ scenario of 120% uplift in flows does not increase risk to infrastructure design or receptors because there are no rivers on the

application site. The Proposed Development is not at risk of sea level rise in the H++ scenario because of the site's elevation and the orientation and geometry of the outfall pipe which runs to Pegwell Bay. Finally there are no H++ scenarios for surface water flooding so the Applicant has not assessed this, but the infiltration capacity of the underlying chalk and the elevation of the site means the risk remains very low [REP3-195].

6.5.55. Whilst there is no explicit reference to climate change in the signed SoCG between the Applicant and the Environment Agency, it does state that [REP4-005]:

"The overarching outlining of mitigation measures in document 2.5 Register of Environmental Actions and Commitments and as required by Requirement 7(2)(d) of the DCO are welcomed by the Environment Agency."

6.5.56. The ExA included climate change as a discrete agenda item for ISH6 in order to examine orally the Applicant's response to CC.3.1. In the Applicant's summary of its oral case put at ISH6 [REP8-015] it reasserted the robustness of its assessment, citing in particular its Framework CCAS to be developed alongside the detailed design process and secured in the DCO in Requirements 4 and 7. As part of the development of the CCAS, the Applicant will complete a CCRA following the making of the DCO. This exercise will use UKCP18 projections, which will inform the CCAS.

6.5.57. **The ExA concludes that the Applicant has adequately addressed UKCP calculations and has provided a CCAS secured in Requirements 4 and 7 in the dDCO.**

Net Zero

6.5.58. On 2 May 2019 the CoCC published Net Zero – The UK's contribution to stopping global warming⁷⁶ (Net Zero) which reported on the increasing pace of anthropogenic climate change effects. In the light of Net Zero, in ExQ3 [PD-014, CC.3.1] the ExA provided the Applicant with the opportunity to revisit its answers to ExQ1 (CC.1.1 to CC.1.3) [REP3-195].

6.5.59. In response [REP7a-002] the Applicant stated that the publication of Net Zero did not necessitate any alteration to its answers to ExA1 [REP3-195], explaining:

"[Net Zero] sets out the case for increasing the pace of greenhouse gas (GHG) emissions reduction in the UK, rather than setting out specific measures to address the projected impacts of climate change. The range of projections within UKCP18 remain the primary source for assessing the effects of climate change in the context of the Proposed Development."

⁷⁶ Available at: <https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/>

- 6.5.60. The Applicant also noted that the CCA08 still excludes international aviation from the 'net zero' requirement. International flights will form the vast majority of ATMs operating at Manston Airport [[REP9-006](#)].
- 6.5.61. The Applicant in its Overall Summary of Case [[REP11-014](#)] concluded that there have been no significant residual concerns expressed by statutory bodies in the area of climate change.
- 6.5.62. **The ExA concludes that the Applicant has considered adequately the 'Net Zero' requirement in its assessment. The ExA has examined Net Zero, and is satisfied that it has taken into consideration the subsequent amendment to CCA08 dated 26 June 2019.**

ExA's conclusions

- 6.5.63. The ExA has had regard to the LIR produced by TDC [[REP3-010](#)] in reaching its conclusions on climate change and adaptation.
- 6.5.64. The ExA is satisfied that the mitigation measures secured in the DCO will address IP concerns regarding climate change effects via the following Requirements:
- R4 – Detailed design;
 - R6 - oCEMP (incorporating CMAP);
 - R7 – OEMP (and REAC incorporating CCAS);
 - R8 – Ecological mitigation;
 - R10 - Landscape; and
 - R13 – Surface and foul water drainage.
- 6.5.65. The ExA notes that emissions of GHG from international aviation do not currently count as emissions from sources in the UK for the purposes of carbon targets and budgeting, except as provided by Regulations made by the Secretary of State. However, the CoCC is advising that the planning assumption for international aviation should be to achieve net-zero emissions by 2050. In their emerging advice to the UK Government⁷⁷, they advise that this should be reflected in the UK's forthcoming Aviation Strategy. It means reducing actual emissions in the aviation sector. CoCC advises that the Government should assess its airport capacity strategy in this context. Specifically for the Proposed Development, it will need to be demonstrated to make economic sense i.e. establish a need case, in a net-zero world and the transition towards it. Chapter 5 of this report on need concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports.

⁷⁷ Available at: <https://www.theccc.org.uk/wp-content/uploads/2019/09/Letter-from-Lord-Deben-to-Grant-Shapps-IAS.pdf>

- 6.5.66. The ExA concludes that the Applicant's assessment of climate change and GHG emissions calculations in the light of the revised TA is adequate.
- 6.5.67. The ExA concludes that the Applicant has adequately addressed UKCP calculations and has provided a CCAS secured via Requirements 4 and 7 in the dDCO.
- 6.5.68. The ExA concludes that the Applicant has considered adequately the 'Net Zero' requirement in its assessment. The ExA has examined Net Zero, and is satisfied that it has taken into consideration the subsequent amendment to CCA08 dated 26 June 2019.
- 6.5.69. The CEMP and REAC includes measures to identify and control any climate change affects that may emerge before construction starts or during the construction period.
- 6.5.70. Given the evidence presented, the ExA considers that climate change issues have been adequately assessed, and that the requirements of the ANPS, NPPF and 2017 EIA Regulations are met. The ExA's overall conclusion is that the construction and operation of the Proposed Development would avoid significant climate change effects in accordance with the ANPS and NPPF. Mitigation measures would be an integral part of the Proposed Developments adaptation to climate change and would be appropriately secured through the DCO and related documentation certified under Article 41.
- 6.5.71. However, the ExA concludes that given the direction of emerging policy that the Proposed Development's contribution of 730.1 KtCO₂ per annum ie 1.9% of the total UK aviation carbon target of 37.5 Mt CO₂ for 2050, from aviation emissions will have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. The ExA concludes that this weighs against the granting of development consent.

6.6. GROUND CONDITIONS

Introduction

- 6.6.1. This section of the Recommendation Report considers the impact on ground conditions from construction and operation activities arising from the Proposed Development. It also considers public health effects relating to ground conditions.

Geological baseline

- 6.6.2. ES Chapter 10.4.1 [[APP-033](#)] states that (using British Geological Survey (BGS) mapping) the site is predominantly underlain by the Newhaven Chalk Member (Upper Chalk Formation) of Cretaceous age, overlain locally by Quaternary Head Deposits. It goes on to explain that the Thanet Formation lies to the north of the Proposed Development site overlying the chalk deposits [[APP-053](#), Appendix 10.1, Appendix A]. The Applicant states that made ground is anticipated across the site area

owing to previous development (the site has been developed for aviation purposes since the early 20th Century).

- 6.6.3. The chalk on the Proposed Development site is classed as a principal aquifer and the site is located wholly within a Source Protection Zone (SPZ) (a combination of SPZ1 (inner), SPZ2 (outer) and SPZ3 (total catchment) protection zones). The ES confirms in paragraph 10.4.5 [[APP-033](#)] that there are no licensed abstractions located within the Order Limits however, there are a number abstraction licences (both surface and groundwater abstractions) within 1km, for private water undertaking; Public Water Supply (PWS); and agriculture. The closest PWS abstraction is located approximately 385m to the east (indicating high to very high sensitivity) and the groundwater table is understood to underlie the site at approximately 40mbgl.
- 6.6.4. As stated above ES Chapter 10 paragraphs 10.4.15 to 10.4.17 [[APP-033](#)] sets out that the site has been operation since the early 20th Century. It operated as RAF Manston until 1998 and was also a base for the USAF for a period in the 1950s. From 1998 it operated as a private commercial airport with a range of services including scheduled passenger flights, charter flights, air freight and cargo, a flight training school, flight crew training and aircraft testing. More recently, it operated as a specialist air freight and cargo hub. Much of the infrastructure, including the runway, taxiways, aprons, cargo facilities, and a passenger terminal remain, with a number of the buildings still in use, including a helicopter pilot training centre, and the Spitfire and Hurricane and RAF Manston museums. This background information is important in understanding any potential sources of contamination likely to be present on the site.
- 6.6.5. In respect to identified potential sources of contamination at the site, Chapter 10 of the ES [[APP-033](#)] lists the following:
- Bulk fuel installations (BFIs), petrol station, gas oil and waste oil tanks and associated infrastructure;
 - the use and storage of Pyrene runway foam;
 - an area of known historic burning (including possible radiological sources);
 - Motor Transport (MT) workshops (former and current);
 - the cleaning of aircrafts / helicopters;
 - the use and storage of de-icing chemicals;
 - made ground associated with the former development (including infilled chalk pits, waste storage and disposal areas; the onsite substations; and
 - off-site landfills.

Issues

- 6.6.6. The ExA identified as Principal Issues in the Rule 6 letter notifying of the PM that impacts on ground conditions during the construction and operation of the Proposed Development would be an area that was both important and relevant in the examination of the application. More specifically that "*Impacts to land and water quality, including effects on*

the aquifer..." was a Principal Issue under the heading of Other environmental issues.

6.6.7. The ExA considered issues which arose during the Examination from the RRs, WRs, LIRs, drafting of and responses to ExQ1, ExQ2, ExQ3, ExQ4, ExQ5 and at ISHs and OFHs. A total of 2052 RRs were received [[RR-0001 to 2052](#)]. A very small number of these RRs raised effects on ground conditions during construction and operational as an issue.

6.6.8. The Environment Agency in its RR [[RR-0538](#)] acknowledged that ES Chapter 10 [[APP-033](#)] covered issues raised in their discussions with the Applicant to a satisfactory standard and therefore did not raise any issues in relation to the documentation.

6.6.9. TDC's RR [[RR-1941](#)] stated that amongst other items, consideration should be given to:

"Impacts on Land quality including scope of assessment, methodology, baseline, assessment of effects on human health, appropriate mitigation measures, public water abstraction, groundwater and coastal waters."

6.6.10. TDC in its LIR [[REP3-010](#)] states:

"There is a lack of baseline data and the contamination status of the site is poorly defined. Given the potential for complex and recalcitrant contamination at the site due to historic use of fuels, chlorinated solvents, asbestos, radiological materials, runway foams and de-icing agents, and the very high sensitivity of the local groundwater in the Chalk aquifer, due to a public water supply adit underlying the runway, it is considered that there is a high potential for significant adverse effects on groundwater quality, and to a lesser degree human health. Generic proposals have been put forward for mitigation of potential effects, but these are considered insufficient to demonstrate that significant negative impacts can be avoided."

6.6.11. PHE in its RR [[RR-1608](#)] states:

"We note the land quality assessment and are satisfied with the approach taken in assessing the risks from historic land use."

We note that the contaminated land management submission requires further development and that additional intrusive investigation will be undertaken as necessary based on site conditions once development commences. We recognise that in order to finalise the contaminated land investigation and assessment, agreement will be needed with the Environment Agency, water company and Thanet District Council. We are satisfied that this approach should secure the protection of public health."

Relevant policy considerations

ANPS

- 6.6.12. The ANPS provides the primary basis for decision making on development consent for a Northwest Runway at Heathrow Airport and is an important consideration with regard to other applications for runways and airport infrastructure in London and the South East (paragraph 1.12 of ANPS).
- 6.6.13. Paragraphs 5.109 to 5.110, 5.116 and 5.125 of the ANPS address ground conditions. Development of land will affect soil resources, including physical loss of and damage to soil resources, through land contamination and structural damage. Indirect impacts may also arise from changes in the local water regime, organic matter content, soil biodiversity and soil process.
- 6.6.14. Construction and operation of airport facilities is a potential source of contaminative substances (for example, through de-icing or leaks and spills of fuel). Where pre-existing land contamination is being considered through development, the objective is to ensure that the site is suitable for its intended use. Risks would require consideration in accordance with the contaminated land statutory guidance as a minimum⁷⁸.
- 6.6.15. For developments where land may be affected by contamination, or existing mitigation is in place in respect of historic contamination, the Applicant should have regard to the statutory regime contained in Part IIA of the Environmental Protection Act 1990 and relevant Government guidance relating to or dealing with contaminated land⁷⁹. The SoS will also have regard to the effect of the development upon and resulting from existing land contamination, as well as the mitigation proposed.
- 6.6.16. The ExA considers that the ANPS is important and relevant.

NPPF and PPG

- 6.6.17. The revised NPPF was published in February 2019. The NPPF states at paragraphs 178:

"Planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

⁷⁸ Available at: <https://www.gov.uk/government/publications/contaminated-land-statutory-guidance>

⁷⁹ Available at: <https://www.gov.uk/government/collections/land-contamination-technical-guidance>

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments."

6.6.18. Paragraph 179 states that:

"Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."

6.6.19. Paragraph 180 states that:

"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development."

6.6.20. The ExA considers that the NPPF is important and relevant.

6.6.21. The PPG details in paragraph 007 that:

"If there is a reason to believe contamination could be an issue, applicants should provide proportionate but sufficient site investigation information (a risk assessment) prepared by a competent person to determine the existence or otherwise of contamination, its nature and extent, the risks it may pose and to whom/what (the 'receptors') so that these risks can be assessed and satisfactorily reduced to an acceptable level.

Unless this initial assessment clearly demonstrates that the risk from contamination can be satisfactorily reduced to an acceptable level, further site investigations and risk assessment will be needed before the application can be determined."

6.6.22. Paragraph 012 goes on to state that:

"More stringent standards of remediation than those under Part 2A apply to the management of the risks posed by man-made radioactive substances as a result of redevelopment for a new use. Public Health England has published technical guidance on recovery from chemical incidents and the Department for Business, Energy and Industrial Strategy has published statutory guidance on land affected by radioactive contamination. Public Health England has also published guidance on areas affected by radon and the control measures available for new development."

6.6.23. The ExA considers that the PPG is important and relevant.

Thanet Local Plan 2006 'Saved' Policies

6.6.24. TDC's LIR [[REP3-010](#)] presents the following policies:

"Policy EC2 - Kent International Airport - Proposals that would support the development, expansion and diversification of Kent International Airport will only be permitted subject to the following requirements:

[...]8. It must be demonstrated that new development cannot contaminate groundwater sources or that appropriate mitigation measures will be incorporated in the development to prevent contamination..."

"Policy EP13 - Groundwater Protection Zones - If a proposed development in the groundwater protection zones identified on the proposals map would have the potential to result in a risk of contamination of groundwater sources, it will not be permitted unless adequate mitigation measures can be incorporated to prevent such contamination taking place."

- 6.6.25. The ExA considers that the saved policies of the LP are important and relevant and carry significant weight.

Emerging Draft Thanet Local Plan to 2031 Policies

- 6.6.26. TDC's LIR [[REP3-010](#)] provides further detail on the above policies:

"Policy SE03 - Contaminated Land - Development proposals that would enable contaminated sites to be brought into beneficial use will normally be permitted, so long as the sites can be rendered suitable for the proposed end use in terms of the impact on human health, public safety and the environment, including underlying groundwater resources.

Development on land known or suspected to be contaminated or likely to be adversely affected by such contamination will only be permitted where:

1) An appropriate site investigation and assessment (agreed by the Council) has been carried out as part of the application to establish whether contamination is present and to identify any remedial measures necessary to ensure that the site is suitable for the proposed end use;

2) The proposed remedial measures would be acceptable in planning terms and would provide effective safeguards against contamination hazards during the development and subsequent occupation of the site. Planning conditions will be attached to any consent to ensure that remedial measures are fully implemented, before occupation. In the case of sites where contamination is only considered to be a possible risk, a site investigation will be required by condition. Sites where contamination is believed to have been removed or where the full site history is unknown should not be able to be considered as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land."

"Policy SE04 - Groundwater Protection - Proposals for development within the Groundwater Source Protection Zones identified on the Policies Map will only be permitted if there is no risk of contamination to

groundwater sources. If a risk is identified, development will only be permitted if adequate mitigation measures can be implemented. Proposals for Sustainable Drainage systems involving infiltration must be assessed and discussed with the Environment Agency to determine their suitability in terms of the impact of any drainage into the groundwater aquifer.”

- 6.6.27. The ExA is mindful that the eLP is currently being examined and whilst it is at an advanced stage of production, the above policies could be subject to change. Nonetheless, the ExA considers the policies important and relevant.

Findings

Assessment methodology, study area and necessary restrictions

- 6.6.28. The Applicant in Chapter 10 of the ES [[APP-033](#)] outlines the relevant policy, legislation and guidance that has informed the assessment (Section 10.2), and the data gathering methodology that was adopted as part of the assessment (Section 10.3). This leads on to a description of the overall baseline conditions (Section 6.4 and associated appendices [[APP-053](#) to [APP-057](#)]), the environmental measures incorporated into the Proposed Development (Section 10.5) and the assessment methodology (Section 10.6). The chapter discusses and concludes with the results of the assessment (Sections 10.8 to 10.13) and a summary of the significance of the Proposed Development's effects on land quality and *ergo* ground conditions (Section 10.13). ES Chapter 10, paragraphs 10.1.3 to 10.1.4, set out the limitations to the assessment.
- 6.6.29. As noted above, the Applicant identified a number of potential contamination sources as part of its assessment [[APP-053](#), Appendix 10.1, Appendix A, figures 1 to 4].
- 6.6.30. No addenda to the ground conditions chapter of the ES [[APP-033](#)] were submitted during the Examination.
- 6.6.31. The Applicant's environmental management of the construction works associated with the Proposed Development will be delivered via the implementation of the CEMP [[REP9-017](#)]. This plan outlines the environmental procedures that require consideration throughout the construction process, in accordance with legislative requirements and construction industry best practice guidance. This is secured via R6 in the dDCO.
- 6.6.32. The Applicant's environmental management measures associated with the operation of the Proposed Development will be delivered via the implementation of a separate OEMP [[REP9-011](#)], secured through R7 in the dDCO. The only mitigation measures related to the operation of the Proposed Development included in the CEMP are those which are relevant to parts of the Proposed Development which will be operational before construction is completed.

- 6.6.33. The updated REAC [[REP11-008](#)] summarises the Applicant's committed mitigation measures, including land (and water) quality, within the chapters of the ES [[APP-033](#)] and associated appendices [[APP-047 to APP-049](#)], relevant to Chapter 8: Freshwater Environment, and therefore water quality and [[APP-053 to APP-057](#)], relevant to Chapter 10: Ground Conditions. This is secured via R7 in the dDCO.
- 6.6.34. Appendix 8.1 of the ES at [[APP-047](#)] presents the minutes of six meetings between the Applicant, its consultants and the Environment Agency (between 11 April 2016 and 22 February 2018). These indicate that land quality and potential contamination issues are discussed regularly, predominantly focusing on the need to devise a robust conceptual site model to be tested through appropriate site investigation works.
- 6.6.35. Cross-references are provided to the Requirements that secure the commitments in the dDCO. Table 2.1 (pages 9 to 15) contains the actions and commitments relating to construction of the Proposed Development and Table 3.1 (pages 53 to 62) contains those relating to the operation of the Proposed Development. Appendix A details the management plans which will be in place during construction and operation of the Proposed Development, to enforce the mitigation measures within the REAC [[REP11-008](#)].
- 6.6.36. The questions raised by the ExA [[PD-007](#), [PD-010b](#), [PD-014](#)] were addressed in a half-day ISH (ISH6) through agenda item 5 (d) [[EV-021](#), [EV-027](#), [EV-027a](#)].

Incomplete surveys – site-wide

- 6.6.37. In the signed SoCG with TDC, the Applicant states in the matters not agreed that [[REP6-011](#)]:
- "The need for further investigation of potential contamination investigation prior to commencement of which are insufficient in demonstrating construction is embedded in the DCO requirements (Requirement 11, APP-006). There is sufficient evidence of past uses of the airport to establish likely risks and mitigation measures. It would not be practical nor appropriate to undertake further detailed assessment prior to the grant of the DCO. Indeed the Environment Agency and Southern Water have directly requested that intrusive investigations are not undertaken (see the Statements of Common Ground with the Environment Agency (REP4-005) and Southern Water (REP4-009))"*
- 6.6.38. The Environment Agency in response to E.1.8 [[REP3-222](#)] on incomplete surveys stated:
- "Although no detailed ground investigation surveys have been undertaken we consider that this does not alter the core views indicated in the EIA. The Applicant has had access to detailed desk top studies, historical information and surveys, undertaken by third parties on various parts of the site, that are in the public domain. Taking a realistic worst case scenario based on the above has enabled an adequate assessment"*

of likely ground conditions and potential requirements for any hotspot remediation works. Any uncertainty is within a scale which is manageable by standard approaches to land contamination and any required remediation works."

- 6.6.39. **The ExA agrees with the Environment Agency and concludes that an adequate assessment of likely ground conditions and potential requirements for any hotspot remediation works has been undertaken despite there being incomplete surveys site wide.**

Jentex Fuel Farm

- 6.6.40. The Applicant submitted at D5 in its written summary of oral representations at CAH1 [[REP5-011](#), Appendix 2] geo-environmental assessment reports compiled by Idom Merebrook Ltd (GEA-18996b-16-204, May 2016 and GEA-18996-15-134 Rev A, October 2016) which state the following:

"In Section of 4.1.6.1 of GEA-18996b-16-204, May 2016 "Significant organic contamination with reference to human health was detected at three locations: MBH102, MTP103 and MTP107."

Additionally, in Section 8.2 of GEA-18996-15-134 Rev A, October 2016 "It should be noted that the investigation represents a preliminary assessment only and it is acknowledged that further investigation will be required at a later date. Further investigation is required beneath residual tanks and below the area of the active Environmental Permit. This investigation is only possible once these have been fully decommissioned and overhead power lines etc. removed to permit access."

- 6.6.41. In ExQ4 [[PD-020](#)], question G.4.2 asked whether this evidence represents "a clean bill of health" [[EV-012 to EV-12c](#)].
- 6.6.42. The Applicant responded that it was a "clean bill of health" to the extent that no remedial action was required and that further investigation could await the decommissioning of residual tanks and the removal of overhead powerlines [[REP9-006](#)].
- 6.6.43. Further site investigations will be carried out prior to commencement of construction works [[REP9-006](#)]. This commitment is secured via the REAC [[REP11-008](#)].
- 6.6.44. **The ExA is satisfied that the Environment Agency has been consulted on the fuel farm design and is satisfied with the proposed design. The ExA would like to clarify that the 'clean bill of health' is only in reference to the Jentex Fuel Farm, and not the rest of the site.**

Assessment methodology

- 6.6.45. In the absence of a baseline with respect to ground conditions, as discussed above, TDC raised concerns in its LIR that the proposals

contravened the LP; particularly Policies SE03 (Contaminated Land) and SE-04 (Groundwater Protection) [[REP3-010](#)].

- 6.6.46. Paragraph 10.1.4 of ES Chapter 10 [[APP-033](#)] acknowledges that no intrusive investigation work had been undertaken at the site at the time of the assessment. The assessment presented in the ES was undertaken *“based on a realistic worst case scenario”*. The intrusive investigation works would be designed and scoped through discussion with *“the EA [Environment Agency], Southern Water (SW) and Thanet District Council”*.
- 6.6.47. Section 5.6 of the CEMP [[REP9-017](#)] addresses land quality, where a commitment is made in paragraphs 5.6.2 to undertake *“site investigation”* works to *“inform the need for additional mitigation within the Proposed Development”*. The scope and design of the investigative works and associated mitigation measures would require agreement from the Environment Agency, TDC and Southern Water, as appropriate. This is reiterated in Table 5.5 of the CEMP [[REP9-017](#)] which provides detail on land quality measures to be incorporated during the construction phase.
- 6.6.48. In the signed SoCG between TDC and the Applicant matters associated with land quality are listed as being agreed [[REP6-011](#)]. Section 3.4.2 of the SoCG states:
- “Agreed. Monitoring requirements are captured by the CEMP which will be updated to include a specific provision relating to groundwater monitoring.”*
- 6.6.49. In the signed SoCG between the Environment Agency and the Applicant matters associated with land quality are listed as being fully agreed [[REP4-005](#)]. The SoCG states:
- “3.1.3 Requirements 5, 6, 13 and 15 of Schedule 2 of the Draft DCO are agreed.*
- 3.1.4 The overarching outlining of mitigation measures in document 2.5 Register of Environmental Actions and Commitments and as required by Requirement 7(2)(d) of the DCO are welcomed by the Environment Agency.”*
- 6.6.50. In the signed SoCG between Southern Water and the Applicant matters associated with piling and intrusive works are listed as being agreed [[REP4-009](#)].
- 6.6.51. Taking into account the evidence submitted (Environment Agency response to E.1.8 [[REP3-222](#)] quoted in 5.2.39 above and the signed SoCG’s with the Environment Agency, TDC and Southern Water), **the ExA concludes that that an adequate assessment of likely ground conditions has been undertaken and potential requirements for any hotspot remediation works are addressed through R11 in the dDCO [[PD-018](#)].**

Policy position

6.6.52. TDC's LIR [[REP3-010](#)] concludes that:

"4.5.19 The proposals are not currently considered to be fully in accordance with Local Plan policies EC2 and EP13 or draft local plan policies SE03 and SE04. The draft DCO requirements do not currently oblige the developer to undertake site investigations to inform the identified mitigation measures nor to undertake groundwater quality monitoring to protect the sensitive groundwater receptor, which is considered a significant omission. Therefore, on the basis of the current draft of the DCO, reinstating of airport operations is likely to have a negative local impact."

6.6.53. It was considered by TDC that, at the time of writing its LIR [[REP3-010](#)], the dDCO Requirements did not oblige the Applicant to undertake site investigations to inform the identified mitigation measures nor to undertake groundwater quality monitoring to protect the sensitive groundwater receptor. This was considered to be a significant omission.

6.6.54. Section 3.4.2 of Table 3.1 of the SoCG with TDC at [[REP6-011](#)] states:

"Requirement 15 of the Schedule 2 requirements of the draft DCO stipulates that no piling or intrusive works (including drilling) shall be undertaken on the site until a risk assessment and method statement have been submitted to and agreed in writing by the Secretary of State following consultation with Southern Water and the Environment Agency, and that works shall then be carried out in accordance with the method statement. This is a necessary requirement to ensure that intrusive works do not cause pollution of the aquifer or adit, however as with Article 12 of Schedule 2, there is no obligation in the draft DCO requirements for site investigations or monitoring of groundwater quality to be undertaken, which are considered necessary for the protection of human health and groundwater quality."

6.6.55. With respect to Section 3.4.2 of Table 3.1, the position of TDC is listed as being agreed, going on to mention that the *"Monitoring requirements are captured by the CEMP which will be updated to include a specific provision relating to groundwater monitoring"*.

6.6.56. The ExA introduced a new monitoring R23 in order to ensure a robust arrangement for monitoring, auditing and reporting regime for the Proposed Development in line with Schedule 4, Section 7 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 [[PD-018](#)]. The Applicant agreed with its inclusion [[REP9-002](#)].

6.6.57. The Environment Agency in its RR stated [[RR-0538](#)]:

"Draft Development Consent Order (July 2018) We request the following changes and additions are made to the Requirements set out in Schedule 2 of the Draft Development Consent Order to ensure a comprehensive approach to addressing possible land contamination and controlled waters risk on the proposed development site."

Requirement 5 (detailed design of fuel depot) We agree with this requirement as outlined.

Requirement 6 (construction environmental management plan) We agree with this requirement as outlined.

Requirement 7 (operation environmental management plan) We request that the following additional items are included regarding the management of fuel storage and transport and in relation to vegetation management using herbicides: (xii) Fuel storage and transport arrangements (xiii) Operational use of herbicides to control vegetation

We welcome the overarching outlining of mitigation measures in document 2.5 Register of Environmental Actions and Commitments and as required by Requirement 7(2) (d) of the DCO.

Requirement 11 (contaminated land and groundwater) This requirement refers to 'contaminated land'. This is a term with a strict legal definition. We request that the wording of this requirement is amended slightly to reflect this and also expanded to include the full wording of our standard approach to land contamination as outlined

Requirement 13 (surface and foul water drainage) We agree with this requirement as outlined.

Requirement 15 (piling and other intrusive works) We agree with this requirement as outlined.”.

6.6.58. The Environment Agency in its SoCG [[REP4-005](#)] states:

"4.1.3 Requirement 11 of the current draft DCO (Document APP-006) refers to 'contaminated land'. This is a term with a strict legal definition. The Environment Agency requests that the wording of this requirement is amended slightly to reflect this and also expanded to include the full wording of their standard approach to land contamination as outlined with additional wording in (4) and (5) below, changes are highlighted.

"1 1 .—(1) In the event that land affected by contamination, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the undertaker determines that remediation of the contamination identified in, on, or under land from detailed site investigations, or as an unexpected discovery, is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the Secretary of State, following consultation with the

relevant planning authority on mailers related to its function and the Environment Agency.

(3) Any required and agreed remediation must be carried out in accordance with the scheme approved under sub-paragraph (2).

(4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation scheme in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency.

(5) Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Secretary of State. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met."

6.6.59. The Environment Agency's requested amendments [[RR-0538](#), [REP4-005](#)] to R7 and R11 were accepted by the ExA and the Applicant [[PD-015](#) and [PD-018](#)].

6.6.60. **The ExA concludes that R6, R11 and R23 address TDC's concerns regarding site investigation and monitoring.**

Mitigation

6.6.61. Mitigation measures were discussed under agenda items 4 e and f at ISH6 [[EV-021](#), [EV-027](#), [EV-027a](#)]. Mitigation measures for construction and operation are secured via R5, R6, R7, R11, R15 and R23 in the dDCO.

Mitigation: Construction

6.6.62. The mitigation and other measures associated with the REAC [[REP11-008](#)] are committed to in the Revised CEMP [[REP9-017](#)], secured through R6 in the dDCO. Within the updated REAC [[REP11-008](#)], Table 2.1 details actions / commitments relating to construction of the Proposed Development. Furthermore, due consideration of land affected by contamination is embedded in the dDCO in R11.

6.6.63. The Revised CEMP [[REP9-017](#)] outlines the mitigation measures proposed for the construction phase. Those relevant to ground conditions are presented in Table 5.5 ("*Land Quality Measures to be incorporated during the Construction Phase*").

6.6.64. In response to G.4.2 regarding contaminated land investigations at the Jentex Fuel Farm [[PD-020](#)], the Applicant responded in [[REP9-006](#)] that it was considered that the information presented in Appendix 2 of [[REP5-](#)

[011](#)] represented a “*clean bill of health*” to the extent that no remedial action was required and that further investigation could await the decommissioning of residual tanks and the removal of overhead powerlines.

6.6.65. Further site investigations would be carried out at the Jentex Fuel Farm prior to commencement of construction works [\[REP9-006\]](#). This commitment is secured via the updated REAC [\[REP11-008\]](#) which summarises the committed mitigation measures within the ES [\[APP-033\]](#).

6.6.66. **The ExA is satisfied that the Environment Agency has been consulted on the fuel farm design (R5 – Detailed Fuel Farm Design in the dDCO) and is satisfied with the proposed design. Through a combination of the CEMP (R6) and the REAC (R7) being secured and implemented, the ExA is satisfied site-wide mitigation during construction is appropriately addressed. Furthermore, consideration of contaminated land and groundwater site wide is secured through R11 in the dDCO.**

Mitigation: Operation

6.6.67. Within the updated REAC [\[REP11-008\]](#), Table 3.2 contains the actions / commitments relating to the operation of the Proposed Development. The content of the REAC is committed to through the OEMP [\[REP9-011\]](#), secured via R7 in the dDCO. Furthermore, due consideration of site-wide land affected by contamination is embedded in the dDCO in R11.

6.6.68. With respect to the Environment Agency’s request for inclusion in consultation for R6 (CEMP) and R7 (OEMP), the ExA in its first dDCO [\[PD-015\]](#) included the Environment Agency as consultees for the Requirements. This was accepted by the Applicant [\[REP9-002\]](#).

6.6.69. In relation to the concerns of TDC, raised in its LIR [\[REP3-010\]](#) and SoCG [\[REP6-011\]](#), the Environment Agency confirm in its SoCG [\[REP4-005\]](#) that R5, R6, R13 and R15 in the dDCO are agreed. The SoCG with TDC at D6 [\[REP6-011\]](#) lists that matters associated with land quality are listed as being agreed. The Environment Agency SoCG [\[REP4-005\]](#) goes on to state that R11 (Contaminated land and groundwater) and R15 (Intrusive and piling works) are agreed to in principle, on the proviso that the amendments to R11, outlined in [\[RR-0538\]](#), are adopted and that a suitable R15 is adhered to. As discussed above, these were accepted by the Applicant [\[REP9-002\]](#).

6.6.70. In addition to the mitigation discussed above the ExA also proposed a new overarching Requirement, R23. R23 prevents operation until a monitoring, auditing and reporting plan for the REAC [\[REP11-008\]](#) has been submitted and approved in writing by TDC following consultation with the Environment Agency and Natural England.

6.6.71. During the Examination the ExA, in its second dDCO [\[PD-018\]](#), proposed new R23 is drafted as follows:

"No part of the authorised development is to begin operation until a monitoring, auditing and reporting plan for the register of environmental actions and commitments has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the highway authority, the Environment Agency, Historic England, the Civil Aviation Authority and Natural England to the extent that it relates to matters relevant to their function."

6.6.72. The ExA set out in its second dDCO [[PD-018](#)] the reasoning for this was in order to reinforce the establishment of a robust monitoring, auditing and reporting regime for the Proposed Development in line with Schedule 4, Section 7 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The Applicant agrees with this amendment [[REP9-002](#)].

6.6.73. PHE in its RR [[RR-1608](#)] states:

"We recognise that in order to finalise the contaminated land investigation and assessment, agreement will be needed with the Environment Agency, water company and Thanet District Council. We are satisfied that this approach should secure the protection of public health."

6.6.74. PHE is satisfied that the Applicant's approach to the contaminated land assessment should secure the protection of public health.

6.6.75. Through the REAC (R7) being secured and implemented, the ExA is satisfied site-wide mitigation during operation is appropriately addressed. Consideration of contaminated land and groundwater site wide is secured through R11 and R15 of the dDCO. Furthermore a robust monitoring, auditing and reporting regime for the Proposed Development is secured via R23.

ExA's conclusions

6.6.76. The ExA agrees with the Environment Agency and concludes that an adequate assessment of likely ground conditions and potential requirements for any hotspot remediation works has been undertaken despite there being incomplete site side surveys.

6.6.77. Taking into account the evidence submitted (Environment Agency response to E.1.8 [[REP3-222](#)] quoted in 5.2.39 above and the signed SoCG's with the Environment Agency, TDC and Southern Water), the ExA concludes that that an adequate assessment of likely ground conditions has been undertaken and potential requirements for any hotspot remediation works are addressed through R11 [[PD-018](#)].

6.6.78. The ExA concludes that R11 and R23 address TDC concerns regarding site investigation and monitoring.

6.6.79. The ExA is satisfied that the Environment Agency has been consulted on the fuel farm design and is satisfied with the proposed design. The ExA

has clarified above that the 'clean bill of health' is only in reference to the Jentex Fuel Farm, and not the rest of the site.

- 6.6.80. Through a combination of the REAC (R7) and the CEMP (R6) being secured and implemented, the ExA is satisfied mitigation during construction is appropriately addressed.
- 6.6.81. Through the REAC (R7) being secured and implemented, the ExA is satisfied site-wide mitigation during operation is appropriately addressed. Consideration of contaminated land and groundwater site-wide is secured through R11 and R15 in the dDCO. Furthermore a robust monitoring, auditing and reporting regime for the Proposed Development is secured via R23.
- 6.6.82. Given the evidence presented, the ExA considers that ground conditions issues have been adequately assessed, and that the requirements of the ANPS, NPPF and the LP are met.
- 6.6.83. The ExA's overall conclusion is that the construction and operation of the Proposed Development would avoid significant effects on ground conditions in accordance with the ANPS and NPPF. Mitigation measures would be an integral part of the Proposed Development and would be appropriately secured through the rdDCO and related documentation certified under Article 41 (eg CEMP, REAC and OEMP). The ExA concludes there is no reason to refuse development consent based on matters related to ground conditions.

6.7. LANDSCAPE, DESIGN AND VISUAL IMPACT

Introduction

- 6.7.1. ES Chapter 11 and associated figures and appendices [[APP-034](#), [APP-041](#), [APP-057](#)] set out the Landscape and Visual Impact Assessment (LVIA) for the Proposed Development. The assessment is undertaken in accordance with the Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3). The assessment material has been supplemented during the Examination.

National and local designations

- 6.7.2. Paragraph 11.4.52 of Chapter 11 of ES Volume 2 [[APP-034](#)] states that there are no landscape designations within the LVIA study area [[APP-041](#), Figure 11.1].

Landscape

- 6.7.3. ES paragraph 11.4.45 [[APP-034](#)] describes the landscape character of the study area with the Proposed Development being sited within the National Character Area (NCA) 113: North Kent Plain, with Thanet forming:

"...a discrete and distinct area that is characterised by its unity of land use, arising from the high quality fertile soils developed in thin drift deposits over chalk"

and at a county level in ES paragraph 11.4.48 as being within the Historic Landscape Character Area (HLCA) 18: Isle of Thanet and at ES paragraph 11.4.51 as being within A1: Manston Chalk Plateau Landscape Character Area (LCA).

6.7.4. The TDC LIR [[REP3-010](#)] describes the site as being:

"...within the Chalk Plateau landscape character type and the Manston Chalk Plateau Landscape Character Area. The site and surroundings are largely open in character, being generally flat. The area is defined by intensive farming and the openness is disrupted by the disused airport, Manston Business Park and sporadic settlements. Being a plateau it is elevated above the surrounding areas providing panoramic views to the south over Minster Marshes and across Pegwell Bay and, in the west, across the Wantsum. The elevated central chalk plateau also forms a skyline in many views back from lower landscapes in Thanet, including the coast and marshlands."

6.7.5. The ES [[APP-034](#)] also quotes from the character area study for Thanet, as set out in the Landscape Assessment of Kent (KCC, 2004), which states that:

"The island quality is preserved in the way that Thanet rises out of the marshes to a modest height of about 50 metres. The landscape falls into two distinct types, based on local topography. These are the flat plateau top above the 40 metre contour and the sloping backdrop to the marshes between 20 and 40 metre contour."

6.7.6. In describing landscape character, the assessment considers a range of features including topography and drainage; vegetation and land use; settlement and infrastructure patterns; transport network; and recreational use from paragraphs 11.4.3 to 11.4.38 [[APP-034](#)].

6.7.7. ES Table 11.12 [[APP-034](#)] summarises potential receptors considered in the assessment of landscape effects, these include NCAs, HLCA and LCAs within 5km of the site.

6.7.8. The ES considers direct and indirect landscape effects on including loss or degradation of landscape elements, changes to the landscape fabric and character on site and in the surrounding area.

Issues

6.7.9. LIRs were submitted by CCC [[REP3-246](#)], DDC [[REP3-227](#)], KCC [[REP3-143](#)] and TDC [[REP3-010](#)]. Given the location of the Proposed Development, the LIR from TDC was particularly relevant in the examination of this topic.

6.7.10. Paragraph 4.23 of CCC's LIR [[REP3-246](#)] states that:

"The Landscape and Visual Impact Assessment submitted with the application encompasses viewpoints within 5km of the application site boundary, none of which fall within CCC's district. CCC's district also falls

outside of the Zone of Theoretical Visibility established within the application. The proposed development would result in a visual impact and change in landscape but given the separation distance, it is considered that this would not be significant in respect of CCC's district."

6.7.11. Paragraph 5.7. of DDC's LIR [[REP3-227](#)] states that:

"The proposed development would result in a visual impact and change in landscape however with regard to the impact from receptors located within the Dover District, further information is required, as detailed in the initial draft SOCG between DDC and RSP submitted at Deadline 3."

6.7.12. The signed SoCG between the Applicant and DDC submitted at D6 [[REP6-006](#)] states at 3.8.1 that:

"As noted in the previous version of the SoCG as submitted at Deadline 3 (REP3-178) (signed copy submitted at Deadline 4 (REP4-003)), Dover DC noted that it had requested further information in order to assist it in assessing the landscape and visual impact of the proposals and any alternatives from receptors located within the Dover District. The Applicant subsequently asked Dover DC to clarify what further information it sought as the Applicant had thought that this had been provided. Dover DC has confirmed that in fact it has the information it had sought. As such, this matter is now agreed."

6.7.13. The LIR from KCC [[REP3-143](#)] states at paragraph 4.16 that:

"...within the present Masterplan the visual relationship of the museum area and the runway will be severed by the proposals with the construction of the cargo hangers and open aspects to the north and east lost through the construction in the North Grass Area".

6.7.14. The Applicant's response to LV.1.10 [[REP3-195](#)] states that:

"A 45m buffer zone between site boundary and new buildings has been allowed for in the masterplan. This significantly reduces the developable area available but has been committed to in part to ensure the development is sympathetic to the local area."

6.7.15. The ExA asked KCC in its question LV.2.4 [[PD-010b](#)] whether it considers that this buffer zone would serve in part to maintain the integrity of the airfield as a historic area. KCC [[REP6-045](#)] responded:

"KCC considers that the creation of the buffer zone will help, in part, to reduce the effects of enclosure, but the general openness of the setting of the heritage assets and museum area will still be lost. The loss of visual connection with the runway and active airfield will be mostly severed by the cargo hangers. The creation of a museum area that integrates with the main built heritage assets is a positive contribution, but it will be detached visually from much of the airfield."

6.7.16. TDC's LIR [[REP3-010](#)] highlighted the wide, unrestricted views historically associated with Thanet, the openness of the landscape and

the elevated nature of the plateau on which the Proposed Development site sits. It emphasises the separate physical identity of local settlements and their historic character. TDC's LIR states that:

"The proposed development seeks to substantially increase the amount of built development and paved areas permanently altering the character of the area, including introducing new high level lighting columns. One of the biggest impacts is on the development of the northern grass area which is currently undeveloped land" and that "The impact upon the landscape and visual impact is demonstrated by the fact the ES concluded there would be significant effects on 17 residential receptors, seven recreational receptors and four viewpoints."

- 6.7.17. The matters raised in TDC's LIR [[REP3-010](#)] formed an important part of the basis for the examination of this topic and are raised throughout this section.

Relevant policy considerations

ANPS

- 6.7.18. Whilst not having effect in this case the ExA did have regard to the ANPS as being an important and relevant consideration.
- 6.7.19. Whilst recognising that Chapter 4 of the ANPS is specific to assessments necessary for the Heathrow Northwest Runway scheme and that Chapter 5 explores the potential impacts of the Heathrow Northwest Runway scheme, the ExA had regard to particular policy guidance in the ANPS as one of the policy contexts that it took into account.
- 6.7.20. Specific relevant references are set out under each section of this topic section.

NPPF

- 6.7.21. The 2019 NPPF states at paragraph 124 that:

"The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

and at paragraph 127 that:

"Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change..."

6.7.22. Paragraph 130 states that:

"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)."

6.7.23. In relation to landscape, paragraph 170 states:

"...decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside [...]"

6.7.24. On visual impact, the NPPF states at paragraph 180 that:

"Planning policies and decisions should [...] ensure that new development is appropriate for its location [...]. In doing so they should [...] limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation."

6.7.25. The ExA considers that the NPPF is important and relevant.

Thanet Local Plan 2006 'Saved' Policies

6.7.26. TDC's LIR [[REP3-010](#)] sets out three 'saved policies' relating to KIA (EC2), Landscaping (D2) and LCAs (CC2):

"Policy EC2 - Kent International Airport - Proposals that would support the development, expansion and diversification of Kent International Airport will only be permitted subject to the following requirements:

2) new built development is to be designed to minimise visual impact on the open landscape of the central island. Particular attention must be given to roofscape and to minimising the mass of the buildings at the skyline when viewed from the south;

3) new built development is to be designed to minimise visual impact on the open landscape of the central island. particular attention must be

given to roofscape and to minimising the mass of the buildings at the skyline when viewed from the south;

4) appropriate landscaping schemes, to be designed and implemented as an integral part of the development.*

** Given the prime role of Kent International Airport in the strategy of this Plan, the District Council will carefully consider the potential adverse impacts of landscaping and nature conservation enhancements in the vicinity of the airport, given, for example, the potential to increase the risk of bird strike.*

Policy D2 - landscaping - the following elements will be required as part of landscaping proposals for any new development:

1) the enhancement of the development site in its setting;

2) the retention (and protection during site works) of as many of the existing trees, hedges and other habitat features on site as possible;

3) on sites of one hectare or more, the setting aside of 10% of the development site for the planting of native tree species, either within or at the boundary of the development site;

4) the maximising of nature conservation opportunities where development is proposed in proximity to existing open space or wildlife habitats, and

5) where both appropriate and possible, the provision of landscaping in advance of new development to facilitate the assimilation of new development into the landscape.

The district council will require to be satisfied that the developer has made adequate arrangements to ensure continued maintenance of landscaping, and may seek to secure arrangements for this purpose by entering into a planning agreement.

Policy CC2 - Landscape Character Areas - Within the landscape character areas identified on the proposals map, the following policy principles will be applied:

4) on the central chalk plateau, a number of sites are identified for various development purposes. where development is permitted by other policies in this plan, particular care should be taken to avoid skyline intrusion and the loss or interruption of long views of the coast and the sea;

Development proposals that conflict with the above principles will only be permitted where it can be demonstrated that they are essential for the economic or social well-being of the area.

In the event of a real and specific threat to the landscape character of these areas from permitted development, the use of article 4 directions will be considered, and secretary of state approval for the direction sought."

6.7.27. The ExA considers that the saved policies of the LP are important and relevant.

Draft Thanet Local Plan to 2031 Policies

6.7.28. TDC's LIR [[REP3-010](#)] highlighted three draft policies from its eLP on LCAs (SP23), Landscaping and Green Infrastructure (G106), and on Light Pollution (SE08). These policies are referred to in the relevant sections, below.

6.7.29. The ExA is mindful that the eLP is currently being examined and whilst it is at an advanced stage of production, the above policies could be subject to change. Nevertheless, the ExA considers the policies important and relevant.

Findings

Assessment methodology, study area and necessary restrictions

6.7.30. The Applicant submitted a number of documents with the application relating to landscape, design and visual impact. The key documents include:

- The four Design and Access Statements [[APP-081](#), [APP-082](#), [APP-083](#) and [APP-084](#)];
- Design Drawings [[APP-031](#)];
- Engineering Drawings and Sections [[APP-030](#)];
- ES Volume 2: Main Text – Chapters 11 to 16 [[APP-034](#)] which contains Chapter 11: Landscape and Visual;
- ES Volume 12: Appendices 10 .1, Appendix B – 12.14 [[APP-057](#)] which includes wirelines at Appendix 11.1, Appendix 11.2 Landscape Character Areas: Sensitivity Assessment and Appendix 11.3 Viewpoint Assessment;
- Masterplan [[APP-079](#)];
- Planning Statement [[APP-080](#)]; and
- REAC [[APP-010](#)].

6.7.31. During the course of the Examination, the Applicant updated the REAC at D4 [[REP4-020](#)], D7a [[REP7a-012](#)], D8 [[REP8-018](#)] and D11 [[REP11-008](#)].

6.7.32. The Applicant's appendices to answers to ExQ1 submitted at D3 [[REP3-187](#)] contained Revised Wirelines at Appendix CA.1.4; Landscape Master Plan Drawings at Appendix LV.1.2; Site Plans (titled Landscape Strategy Plans and Site Sections) at Appendix LV.1.31; a LVIA Addendum at Appendix LV.1.36; and Engineering Drawings - building height at Appendix LV.1.41.

6.7.33. The Applicant submitted a Design Guide at D4 [[REP4-024](#)] and revised it for D8 [[REP8-009](#)]. Additional information was also provided in the Applicant's written summary of case put at ISH4 and associated appendices [[REP8-014](#)].

6.7.34. This topic was examined in three rounds of written questions and through a half-day hearing (ISH4) [[EV-019](#), [EV-024](#), [EV-024a](#)].

6.7.35. ExQ1 [PD-007] contained 41 questions on landscape and visual; ExQ2 [PD-010b] contained fourteen; ExQ3 [PD-014] did not contain questions related to this topic as these were put at ISH4; and ExQ4 [PD-020] contained three questions.

6.7.36. During the course of the Examination, the following issues of particular relevance and importance were identified:

- Landscape character assessment.
- Visual Impact including lighting and the effects of aircraft.
- The limits of deviation.
- Mitigation.
- Landscaping and planting, including the felling and lopping of trees and removal of hedgerows.
- Design.

6.7.37. These are covered in turn below.

6.7.38. Having reviewed the assessment of effects of the Proposed Development on landscape character the ExA [PD-007] raised a series of questions relating to:

- How the proposal, taken as a whole enhances both the natural and local environment and valued landscapes and recognises the intrinsic character and beauty of the countryside;
- the effect of eLP proposals for the assessment;
- details of landscape planting and bunding proposals and the reliance placed on such measures for screening;
- the degree to which the proposals satisfy the landscape requirements set out in the ANPS eg in terms of sensitivity to place and demonstration of good aesthetics (as far as possible);
- the degree to which the design of the Proposed Development reflects the historic character of the airport;
- the parameters-based approach adopted for the NGA LVIA and clarification of parameters used to assess certain built elements;
- the Applicant's overall design approach including the meaning of the "consistent contemporary and light industrial aesthetic";
- the Applicant's approach to tranquillity and dark skies, including the assumption of no significant effects from proposed site lighting;
- the status of the proposals for the two museums proposed to be retained;
- justification for study areas, viewpoint locations and the approach to wirelines (including assumptions about visible elements);
- the assumption that overflying would not alter the visual perception of any locations within the study area; and
- impacts on PRoW and bridleways.

Landscape character assessment

6.7.39. ES paragraph 11.4.45 [APP-034] states that "*The Proposed Development site and the LVIA study area are located entirely within the National Character Area (NCA) 113: North Kent Plain.*"

6.7.40. ES paragraph 11.4.49 [[APP-034](#)] goes on to explain that:

"The Landscape Assessment of Kent locates the Proposed Development site and much of the LVIA study area within the Thanet LCA. This features a centrally domed ridge with the former airport "dominant on the crest" of this ridge. Other features include open, large scale arable fields with long views. The Thanet LCA is assessed as having a poor condition due to the "vulnerability of the farmed landscape, lack of natural habitats and the negative impact of recent development". However, the sensitivity of the Thanet LCA is described as "very high" due to the presence of open views and very strong sense of place."

6.7.41. ES paragraph 11.4.50 [[APP-034](#)] explains that:

"At a district level, two published landscape character assessments cover the study area; Thanet Landscape Character Assessment and the Dover District Landscape Character Assessment."

6.7.42. This is illustrated in ES Figure 11.37 [[APP-041](#)].

6.7.43. The key characteristics of the LCAs are summarised in ES Table 11.10 [[APP-034](#)]. ES paragraph 11.4.51 [[APP-034](#)] states that:

"The Proposed Development site is sited within LCA A1: Manston Chalk Plateau. Manston Airport is described in paragraph 4.11 as 'the former Kent International Airport covers a large proportion of the southern area. The airport is no longer operational and comprises a barren landscape of derelict terminal buildings and unmanaged grassland bound by high security fencing."

6.7.44. KCC commented on the impact of the Proposed Development on the historic character of the airport site. This is considered in the section of this chapter that deals with the historic environment.

6.7.45. The ExA asked TDC to comment on the implications of the eLP for the LVIA [[PD-007](#)]. TDC's response to LV.1.3 [[REP3-018](#)] states that whilst it:

"supports the use of the 2017 Thanet landscape character assessment as the most up to date study, the application of policy SP23 in the draft local plan (2018) should also have been assessed as it is this policy to which the landscape character assessment relates and seeks to implement."

6.7.46. Policy SP23, which TDC includes in its LIR [[REP3-010](#)] states, amongst other things that:

"All development should seek to avoid skyline intrusion and the loss or interruption of long views of the coast and the sea, and proposals should demonstrate how the development will take advantage of and engage with these views." [...]

"Development proposals should demonstrate how their location, scale, design and materials will conserve and enhance Thanet's local distinctiveness, in particular: [...]"

2) A sense of openness and 'big skies', particularly in the central part of the District;

5) Long-distance, open views, particularly across the Dover Strait and English Channel, North Sea and across adjacent lowland landscape

6) Subtle skylines and ridges which are prominent from lower lying landscape both within and beyond the District."

6.7.47. The ExA notes with particular reference to landscape that the ANPS paragraphs 5.223 and 5.224 state that:

"Outside nationally designated areas, there are local landscapes and townscapes that are highly valued locally and may be protected by local designation. Where a local development document in England has policies based on landscape character assessment, these should be given particular consideration. However, local landscape designations should not be used in themselves as reasons to refuse consent, as this may unduly restrict acceptable development." [...]"

"In taking decisions, the Secretary of State will consider whether the preferred scheme has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, including by reasonable mitigation."

6.7.48. The signed SoCG between the Applicant and TDC submitted on 3 May 2019 [[REP6-011](#)] includes, at paragraph 4.1.7, amongst a number of other matters not agreed between the parties:

"The assessment of the landscape value as being low and lack of full methodology and mitigation."

6.7.49. The Applicant [[REP6-011](#)] rebutted TDC's statement that the LVIA lacked full methodology and mitigation, stating that the landscape assessment is sufficiently robust and that further details on proposed landscaping were provided in the design guide [[REP4-024](#)].

6.7.50. The ExA considers that the Applicant has provided an LVIA based on industry standard guidance (GLVIA3), supplemented by additional assessment material [[REP3-187](#)], which is prepared by experienced landscape professionals as discussed in [[APP-033](#)] and therefore provides sufficient methodology.

6.7.51. The ExA gives further consideration to the matter of mitigation below.

6.7.52. TDC also stated in its response to LV.1.1 [[REP3-018](#)] that:

"Whilst APP-034 refers to the key characteristics of each of the landscape character areas that have the potential to be affected by the proposal, it

does not address the key sensitivities and qualities in any great detail for each LCA.” [...]

“LCA A1: Manston Chalk Plateau is probably the critical area and the ridgeline is vulnerable to development impacts. The Council does not accept the assessment that the susceptibility of the area is “low”. It is dependent on how development proposals affect the ridgeline, and views of the ridgeline, through their precise location and scale.”

- 6.7.53. The ExA [[PD-007](#), LV. 1.1] required the Applicant to demonstrate how the Proposed Development enhances the natural and local environment and valued landscapes and recognises the intrinsic character and beauty of the countryside. The Applicant’s response to LV.1.1 [[REP3-195](#)] states that:

“The published landscape character assessment explains that the airport “comprises a barren landscape of derelict terminal buildings and unmanaged grassland”. The proposed scheme would introduce a sense of coherence and framework of new land uses within the current derelict landscape.

The Proposed Development provides a number of opportunities for enhancement of an already degraded landscape. Furthermore, a modern facility would be much better than a derelict airfield and will result in an enhancement of the natural and local environment, and design principles that facilitate this will be included in the Design Guide submitted at Deadline 4.”

- 6.7.54. The Applicant’s response to ExQ1 [[REP3-195](#)] explains that the Proposed Development will enhance the limited existing green infrastructure that depicts the site boundaries and neighbouring field boundaries.

- 6.7.55. It also highlights that existing vegetation cover is sparse, degraded or in decline. [[REP3-195](#)] suggests that the main opportunities for enhancing the setting are on the site boundaries and within the NGA and proposes that new planting will “reinforce the site’s infrastructure and enhance legibility”.

- 6.7.56. The Applicant’s response to LV.1.4 [[REP3-195](#)] acknowledges that the extent of felling and lopping of trees is anticipated to be greater than previously assessed in the ES [[APP-034](#)] but that:

“...planting proposed along the eastern and western boundaries of the northern grass area and south of Spitfire Way should more than compensate for vegetation that is lost.”

- 6.7.57. The ExA questioned whether there was a need to secure the timing of the proposed planting scheme in the dDCO [[PD-007](#), LV.1.5]. The Applicant provided a revised dDCO at D3 [[REP3-186](#)] including the requirement for a submission and approval of a landscaping scheme prior to commencement of the Authorised Development.

- 6.7.58. At ISH4 [[EV-019](#), [EV-024](#), [EV-024a](#)] the ExA considered the interaction of the Applicant’s LVIA [[APP-034](#)] with policies in the eLP.

- 6.7.59. The Applicant's response summarised in [[REP8-014](#)] and Appendix ISH4-2 of the same document reviews the Proposed Development against the criteria in Policy SP23 and considers the importance of the Manston Chalk Plateau. [[REP8-014](#)] highlights the draft nature of the policy and its potential to change in future. The Applicant argues that the Proposed Development would maintain the openness of the area, that the ES has minimised and mitigated landscape impacts as far as possible and that the design guide [[REP4-024](#)] deals with the how the proposed location, scale, design and materials used in the Proposed Development will conserve and enhance Thanet's local distinctiveness. It submits that the conclusion of no significant landscape effects remains valid.
- 6.7.60. At D8 the Applicant [[REP8-014](#)] also submitted an updated Landscape Strategy Plan to inform R10 on landscaping.
- 6.7.61. In its answers to ExQ4, TDC [[REP9-026](#)] confirmed that it had no further submissions to make regarding the wording of R10(3).
- 6.7.62. TDC [[REP9-026](#)] also commented on the draft Landscaping Plan stating that it remained concerned about the eastern boundary treatment and whether a bund and / or planting was proposed. TDC concluded that the landscaping buffer is inadequate.
- 6.7.63. The ExA is persuaded that the Applicant's ES [[APP-057](#)] demonstrates that the landscape at the existing airport site is degraded based on the derelict nature of the site and that there is limited vegetation cover within the area surrounding the airport that offers screening of the existing site.
- 6.7.64. However, the ExA also recognises of the elevated nature of the site on the Manston Chalk Plateau, which means that built development on the site of the scale described in ES Chapters 3 [[APP-033](#)] and 11 [[APP-034](#)] has potential to negatively affect landscape character.
- 6.7.65. The ExA notes the Applicant's proposals for a landscape masterplan and screen planting but considers that these afford limited value in avoiding skyline intrusion from the lower lying landscape below the plateau. The ExA considers the potential impacts on the historic character of the airport in the section of this chapter that deals with the historic environment.
- 6.7.66. The ExA considers that the Applicant's initial development proposals (as outlined in ES Chapter 3 [[APP-033](#)]) provide limited opportunity to demonstrate careful design through siting due to the location of the existing runway, which ties the development to the ridgeline of the Manston Chalk Plateau. Within the development site, the location of built development to the north of the runway, offsets tall building elements from the edge of the plateau, somewhat reducing the impact of the buildings.
- 6.7.67. In considering the impact of the Proposed Development, the ExA has had particular regard to Policy SP23, which TDC includes in its LIR [[REP3-010](#)] which addresses the need to seek to maintain long views. Taking

into account operational restrictions, the ExA considers that the Applicant has made reasonable efforts to mitigate and minimise landscape settings effects.

6.7.68. **The ExA considers that the character of the Proposed Development site is already somewhat degraded in nature due to the presence of the existing non-operating airport development.**

6.7.69. **In light of the scale and massing of the full operational development, the ExA considers that there is still likely to be a negative effect on landscape character, although this to some extent balanced by the placement of buildings within the Proposed Development and the inclusion of landscape mitigation measures and the proposed placement.**

Visual impact

6.7.70. The ExA notes that the ANPS places particular emphasis on visual impacts in paragraph 5.225, which states that:

"The Secretary of State will judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the development."

6.7.71. ES paragraphs 11.6.1 to 11.6.10 [[APP-034](#)] set out the process by which receptors were identified, the details of the receptors that could potentially be affected by the Proposed Development and the potential effects on receptors that could be caused by the Proposed Development.

6.7.72. This is also summarised in the Planning Statement [[APP-080](#)]. Paragraph 9.150 of that document states that:

"The assessment has [...] considered the potential for the Proposed Development to result in significant visual effects in relation to the following 121 visual receptors and visual receptor groups:

- *People at their place of residence (48 individual properties or groups of properties);*
- *People engaged in outdoor recreation (41 individual recreational facilities or groups of recreational facilities);*
- *People using the transport network (10 routes); and*
- *Photographic viewpoint locations (22 locations)."*

6.7.73. Paragraph 9.152 of the Planning Statement [[APP-080](#)] summarises the findings:

"No significant landscape effects are predicted but the assessment has shown that significant effects on visual receptors are expected as a result of the Proposed Development even with the measures embedded into the Proposed Development to avoid, reduce and compensate for adverse effects. However, this is based on a worst case assessment until further detail is known about the exact location and visual appearance of the new built development; the final Lighting Scheme and the final Landscaping Scheme. Once this detail is known, and with a commitment

to ensure that adverse effects are mitigated as much as possible through the detailed design stages, this will reduce the magnitude of the adverse effects predicted.

Any resultant harm is not expected to be substantial or sufficient to warrant refusal because the substantial benefits of the Proposed Development outweigh any harm (paragraph 3.55 of the APF and paragraph 5.225 of the Airports NPS). Furthermore, the built development that is proposed is contained within a site boundary which largely matches the existing airport boundary thereby containing development to an area where expansion is already permitted and assumed by saved Policy EC2 of the 2006 Thanet Local Plan. The Proposed Development is therefore in accordance with the relevant planning policies and provisions governing landscape and visual impact."

- 6.7.74. The Applicant [[APP-033](#)] states that embedded mitigation comprises screening vegetation around the Airport Business Park, the southern side of Manston Road (north of the cargo facilities) and east of Spitfire Way and localised bunding. The Applicant [[APP-034](#)] also anticipates that building design will be of high quality (treatment, detailing and materials) but is unable to assess this due to the absence of details at the point of submission.
- 6.7.75. As highlighted in the section on landscape impacts above, the ExA sought to establish the precise mitigation to be implemented by the Applicant at ISH4 [[EV-019](#), [EV-024](#), [EV-024a](#)]. The Applicant provided updated Landscape Strategy Plans at Appendix 1 of [[REP8-014](#)] and the need for a landscape masterplan is secured in R10. The implications of the final lighting and landscaping scheme are considered in the discussion regarding mitigation below.
- 6.7.76. The ExA considers that the visual impact assessment indicates that harm to visual receptors would result from the Proposed Development.
- 6.7.77. The ExA does not consider that the proposals would result in substantial harm, because of the site's context as an existing degraded airport site, proposed visual impact mitigation measures and bearing in mind that some receptors have already experienced visual effects over a long period, prior to closure of the previous airport.
- 6.7.78. However, the ExA does not support the Applicant's view, articulated in the Planning Statement [[APP-080](#)], that the substantial benefits of the development outweigh any harm, since the ExA has also concluded that the overall need case is less than predicted by the Applicant (see Chapter 5 of this report).
- 6.7.79. In summary, the ExA does not agree with the Applicant's conclusions in respect of visual impacts and has, therefore, not relied on the Applicant's argument that substantial benefits of the Proposed Development outweigh potential harm in this case.
- 6.7.80. **The ExA concludes and recommends that whilst harm to visual receptors would result from the Proposed Development, that**

harm would not be substantial taking into account the current degraded nature of the existing airport site.

Lighting

6.7.81. The ExA examined the possible visual impact of lighting on sensitive receptors as set out in ES paragraphs 11.1.8, 11.6.17, 11.4.42 to 11.4.44 and in ES Tables 11.4 and 11.11 [[APP-034](#)].

6.7.82. In examining this issue, the ExA has had particular regard to Policy SE08 – Light Pollution in TDC’s eLP which states that:

“Development proposals that include the provision of new outdoor lighting or require specific lighting in connection with the operation of the proposed development will be permitted if it can be demonstrated that:

1) It has been designed to minimise light glare, light trespass, light spillage and sky glow through using the best available technology to minimise light pollution and conserve energy;

2) There is no adverse impact on residential amenity and the character of the surroundings;

3) There is no adverse impact on sites of nature conservation interest and/or protected and other vulnerable species and heritage assets;

4) There is no adverse impact on landscapes character areas, the wider countryside or those areas where dark skies are an important part of the nocturnal landscape;

5) It does not have an adverse impact on long distance views or from vantage points;

6) Where appropriate, mitigation measures are proposed.

In addition a lighting strategy may be required for large developments or those developments with specific lighting requirements or for those that are in or adjacent to sensitive locations.”

6.7.83. Paragraph 11.1.8 of the ES [[APP-034](#)] states that:

“An outline lighting scheme has been prepared for the Proposed Development and this is summarised in Chapter 3: Description of the Proposed Development. This information has allowed an understanding of the likely lighting effects to be included within this chapter however, as the detailed design process moves forward additional information will be provided and the information contained here will be confirmed through more detailed modelling of the lighting conditions at specific receptors.”

6.7.84. ES Chapter 3 [[APP-033](#)] contains an Outline Lighting Scheme. This comprises a high-level description of lighting requirements, relevant extracts of which are provided below:

“Airport Lighting

3.3.75 *The scheme has been designed to achieve compliance with the International Commission on Illumination (CIE) Guide: CIE 150:2003 Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations for Environmental Zone E2: Rural Low district brightness - Village or relatively dark outer suburban locations.*

3.3.76 *The luminaires use high efficiently low energy light-emitting diode (LED) lamps and are designed to direct their light down. By carefully controlling cut off angles the luminaires minimise any upward light pollution to less than 2.5% of luminaire flux for the total installation. Lighting levels are minimised with higher lighting levels only being used where they are needed to comply with the minimum recommend lighting standards, such as for the airport aprons.*

Business Park Lighting

... The lighting design will meet a boundary condition of a maximum of 1 Lux in order to avoid any obtrusive light into adjoining properties."

- 6.7.85. The ExA notes that Chapter 3 [[APP-033](#)] contains only limited references to lighting, stating only in paragraph 3.3.17 that:

"High mast lights would provide the required lighting for operational aircraft stands; it is expected these will vary in height from 15m to 25m.

and at paragraph 3.3.30 that:

"The existing airfield ground lighting (AGL), located within the runway and taxiway surface will be replaced and additional lights installed on the new taxiways to comply with appropriate requirements."

and at paragraph 3.3.36 that:

"External lighting would be through tower lights and wall mounted units typical of cargo and distribution facilities."

- 6.7.86. In LV.1.36 [[PD-007](#)] the ExA asked the Applicant to:

"i. Justify the expectation of no significant lighting effects given that more detailed modelling of likely impacts is yet to be undertaken; and

ii. State when and in what form that more detailed modelling will be made available to the ExA"

- 6.7.87. In response to ExQ1, the Applicant provided an assessment of the visual impact of the airport on night-time views as Appendix LV.1.36 to its appendices to answers to ExQ1 [[REP3-187](#)]. This selected 12 viewpoints and concluded at paragraph 4.1.4 that:

"...this LVIA Addendum provides an assessment of the visual impact of the airport on night-time views from twelve viewpoints within the LVIA study area. No significant effects are predicted."

- 6.7.88. The appendix was also intended to include a baseline lighting report and an external lighting strategy. These were omitted and, following a

request by the ExA, these were subsequently submitted at D6 as part of an LVIA addendum [[REP6-026](#)].

6.7.89. In considering the lighting impact assessment, the ExA noted that the Applicant described existing night time viewpoints at ES Table 11.6 [[APP-034](#)] but did not provide indicative night-time views showing the potential effects of airport lighting.

6.7.90. The ExA raised this matter in LV.2.12 [[PD-010b](#)]. The Applicant responded [[REP6-012](#), [REP8-014](#)] that it was not technically possible to provide a wireline in relation to airport lighting but that lighting impact has been captured within the lighting assessment submitted as part of the appendices to the answers to ExQ1 submitted at D3 [[REP3-187](#)].

6.7.91. During ISH4 [[EV-019](#), [EV-024](#), [EV-024a](#)] the ExA queried whether the assessment is based on a behavioural assumption that, for example, residents will not be looking out of their windows at night. For example, Viewpoint 2 Manston Road states that:

"When considering the sensitivity to changes to their night-time views for this receptor group, the activity of receptors in their home at night is likely to alter from the day-time (i.e. resting with their curtains drawn) and the extent to which residents' attention is likely to be focussed on their views at night is likely to be lower than in day-light hours. As a consequence, the sensitivity of receptors at or close to this viewpoint at night is assessed as Medium."

6.7.92. The Applicant [[REP8-014](#)] responded:

"...there is no reliance upon residents to provide their own mitigation in the form of drawing their curtains. The assessment makes the assumption that during night time hours, residents are more likely to be indoors with their curtains drawn. They will not be looking out of their windows focussing on a view of the airport."

6.7.93. ES Chapter 11 [[APP-034](#)] considered dark skies in ES paragraph 11.4.44 [[APP-034](#)] stating that:

"Figure 11.39 illustrates the levels of night-time lighting associated with the Proposed Development site after the closure of Manston Airport in April 2014. As such, it is likely that the levels of radiance at the Proposed Development site indicated on the figure are lower than those associated with the historic use of the site. However, in the absence of any maps documenting levels of radiance before CPRE's 2015 mapping, the difference between the two levels cannot be quantified."

6.7.94. ES Chapter 11 [[APP-034](#)] concluded at paragraph 11.6.7 that:

"Based on the principles outlined in Table 11.11 [which repeated the lighting strategy], and with particular note to the boundary lighting condition of 1Lux (maximum), it is not expected that there would be any significant effects as a result of the Proposed Development. As noted above, the lighting of the Proposed Development (both airport and

Northern Grass) will be the subject of further development and assessment and as this takes place the design should be reviewed and more detailed modelling of the likely impacts undertaken.”

6.7.95. The ExA expressed concern that there appeared to be no means of securing any lighting strategy through the dDCO and requested that the Applicant confirm how this would be secured in DCO.1.7 [[PD-007](#)].

6.7.96. In response to DCO.1.7 [[REP3-195](#)], the Applicant stated with reference to lighting that:

“Requirement 4 in Schedule 2 of the dDCO submitted for Deadline 3 (TR020002/D3/2.1) has been amended so that details of lighting are included in the detailed design that must be submitted and approved by the Secretary of State prior to the commencement of any part of the authorised development.

The Applicant will ensure that the commitments listed in Table 11.11 of the ES in respect of the lighting scheme will be included in the Register of Environmental Actions and Commitments (REAC) [APP-010] being submitted for Deadline 4 and through Requirement 6 (construction and environmental management plan) and Requirement 7 (operation environmental management plan) of the dDCO being submitted for Deadline 3 to ensure that the authorised development must be constructed, operated and maintained in accordance with the REAC including the lighting mitigation.”

6.7.97. The Applicant inserted the word “lighting” into R4 – Detailed design in its revised dDCO at D3 [[REP3-186](#)], and the Requirement reads:

(1) No part of the authorised development may commence until details of the siting, design, external appearance, lighting and dimensions of any element of Works Nos. 1, 2, 3, 4, 12, 13, 14, 15, 16, 17, 18, 19 or 20 contained in that part, which must accord with sub-paragraphs (2) and (3) have been submitted and approved by the Secretary of State.

(2) The authorised development must be carried out in general accordance with—

(a) the engineering drawings and sections;

(b) the design drawings;

(c) the design principles contained in the design and access statement; and

(d) the design guide,

6.7.98. The ExA notes, however, that this Requirement does not list any lighting strategy and that such a document is not referred to in any other provision of the Applicant’s final dDCO [[REP7a-018](#)].

6.7.99. In order to rectify this omission and noting the statement in Chapter 11: Landscape and Visual, in ES Volume 2 [[APP-034](#)] that:

"...the lighting of the Proposed Development (both airport and Northern Grass) will be the subject of further development and assessment",

the ExA concludes and recommends that "(e) the lighting scheme" be added to R4 and this has been included in the rdDCO appended to this report at Appendix D.

6.7.100. In its comments following ISHs for D8 [[REP8-029](#)], TDC states that:

"Thanet District Council (TDC) has agreed the following amendments to the wording of Requirement 7(2)(b), with a new item added at xiv) to read:

"The Lighting Strategy – to be substantially in the form to meet requirements set out in the Draft Lighting Strategy"

and that the Draft Lighting Strategy should also be included in Schedule 10 as a certified document.

6.7.101. This amendment has been included in the wording of R7 of the dDCO as discussed in Chapter 10 of this report.

6.7.102. The ExA considers that the Applicant has designed the Proposed Development to minimise lighting impacts.

6.7.103. **The ExA concludes that the amendment to R4 and the additions to R7 and Schedule 10 would allow adequate control by the LPA to seek to ensure that the approach to lighting in the Proposed Development as set out in the ES and subsequent documents is adhered to and conforms, *inter alia*, to eLP Policy SE08 set out above.**

Visual effects of aircraft

6.7.104. The ExA examined the possible visual impacts of aircraft as they are parked, taxi, take-off or land.

6.7.105. ES paragraph 11.3.9 [[APP-034](#)] states that:

"The following scenarios or screening have not been modelled as part of the Zones of Theoretical Visibility (ZTVs): [...] ZTVs for aircraft approaching, moving along and departing from the runway: Modelling aircraft in the air would result in all of the study area being included in the ZTV, which would not aid the assessment. It is also not considered likely that overflying of aircraft in the sky could give rise to significant visual effects due to the intermittent, transitory and small-scale nature of the changes that would arise in views. The same principles apply for aircraft moving along the runway whereby the intermittent and transitory nature of this change alone is unlikely to lead to significant visual effects"

6.7.106. LV.1.20 [[PD-007](#)] requested that the Applicant justify its assertion that frequent overhead aircraft would not alter the visual perception of any locations within the study area.

6.7.107. The Applicant's response [[REP3-195](#)] states that its position:

"...is not that overflying aircraft will have no effect on the visual perceptions of any locations within the study area nor that the effect of overflying of aircraft would not be significant. It is anticipated that at Year 10, there would be approximately two incidents of overflying aircraft an hour between the hours of 0700 – 2300 rising to approximately four ATMs an hour in Year 20. The intermittent and transient nature of the presence of overflying aircraft would not equate to visual changes that are of a long duration and so are not considered to be significant."

6.7.108. The ExA requested the methodology and analysis used to arrive at this conclusion in LV.2.11 [[PD-010b](#)].

6.7.109. The Applicant submitted Appendix LV.2.11 in the appendices to the Applicant's responses to ExQ2 [[REP6-014](#)]. In this, the Applicant states that:

"...an approaching or departing aircraft will only be visible for a few minutes in total and for the majority of that time will form only a very small feature in a distant view."

6.7.110. It also states that:

"Beneath or close to the flight paths the angle of view will generally be overhead (90°), which is not a natural angle of view, especially for residential visual receptors."

6.7.111. The ExA examined this at ISH4 [[EV-019](#), [EV-024](#), [EV-024a](#)].

6.7.112. The Applicant [[REP8-014](#)] added that in urban areas, aircraft would be seen *"fleetingly, if at all"* due to intervening structures and planting and that views would be consistent with the past use of Manston for aviation.

6.7.113. The ExA also examined another aspect of the potential visual impact of aircraft taking off or landing – their navigational lights, take-off and landing lights and anti-collision beacon lights.

6.7.114. In paragraph 3.1.2 of Appendix LV.1.36 to answers to ExQ1 [[REP3-195](#)] the Applicant states in relation to aircraft lighting that:

"The intermittent frequency of aircraft landing at or taking off from the airport and the brevity of the period during which aircraft would be visible in receptors views before moving out of the view results in there being no potential for significant visual effects to occur."

6.7.115. To evidence this it states that:

"Given the seasonal differences in day light hours it is anticipated that aircraft lighting would be visible in a dark environment for approximately two hours in the summer months (between approximately 2100 and 2300) increasing to a maximum of approximately 8.5 hours during the winter months (between approximately 1530-2300 and 0700-0800)."

6.7.116. In considering this issue, the ExA recognises from some of the evidence submitted to the Examination that for some people, the sight of aircraft may be a focus of interest and visual stimulation. For example, a RR from Elizabeth Miller [[RR-0524](#)] states that “*We all miss the sight and sound of the planes*” and one from Dianna Midgley [[RR-0469](#)] states that:

“I hope that I will once again see the skies above my home filled with the sight and sound of aircraft. I may not be on a direct flight path but it was fun trying to guess what type of aircraft was flying past just by the engine sound and shape.”

6.7.117. However, the ExA considers that this group does not represent the majority of views on this issue with a number of RRs [eg [RR-0091](#), [RR-0644](#), [RR-1354](#), [RR-1449](#) and [RR-1626](#)] mentioning potential visual intrusion and disturbance. Ramsgate Coastal Community Team [[RR-1625](#)] states that:

“[The Applicant] has not given consideration to the visual impact of low-flying planes over the seafront, town centre and residential areas...”

and Roger Mellor [[RR-1711](#)] states that:

“Tourists do not come to Ramsgate to watch the aeroplanes.”

6.7.118. The ExA acknowledges the intermittency of the views has potential to reduce visual impacts but is not persuaded that views will be particularly fleeting, for example based on the altitude of aircraft approaching Manston over the urban area of Ramsgate. Whilst some receptors have already experienced visual effects over a long period due to previous airport operations, based on the proposed increase in ATMs in later years, the ExA does not agree that the visual impact of aircraft is not significant.

6.7.119. **The ExA concludes that the visual impact of overflying aircraft will result in a negative impact, particularly in later years of operation when the peak ATM are achieved, that is capable of only limited mitigation.**

Limits of deviation

6.7.120. An LVIA is required to consider the implication of limits of deviation for its consideration of the worst-case assessment. Article 6 of the dDCO sets out the Applicant’s approach to limits of deviation. The Article as set out in the version of the dDCO submitted at D6 [[REP6-018](#)] stated that:

“(1) In carrying out the authorised development the undertaker may—

(a) [...];

(b) deviate vertically downwards from the levels of the authorised development shown on the engineering drawings and sections to any extent except that any deviation to a point below existing ground level must be approved in writing by the Secretary of State in consultation with the Environment Agency and Southern Water; and

c) *deviate vertically upwards from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 2 metres [...]*"

6.7.121. In its response to DCO.4.7 [[REP9-006](#)], the Applicant explained that:

"The Applicant will not necessarily construct the works exactly at the levels shown on the engineering drawings and sections due to encountered ground conditions and other practical factors Article 6 allows a certain amount of limited variation from those levels. Article 6(1)(b) provides an additional layer of protection in the situation where the deviation from the levels shown in the engineering drawings and sections is to a level which is below the level of the ground prior to commencement of the authorised development. This is to give comfort to the Environment Agency and Southern Water in particular that they will be consulted on any works that might have an impact on the aquifer underlying the airport land."

6.7.122. The ExA is content with the inclusion of the Environment Agency and Southern Water as bodies to be consulted under this Article.

6.7.123. In course of examining the potential breadth and applicability of this Article, at the first dDCO ISH (ISH1) [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA first queried the figures used in this Article. For example, Work No. 16 has a maximum building height of 18m and an above Ordnance Datum (OD) height of 64.2m. Work No. 17 has a maximum building height of 10m and an above OD height of 64.2m.

6.7.124. This implies an 8.3m difference in OD between the two plots. The map showing contours in Section 2 of the Design and Access Statement (1 of 4) [[APP-081](#)] does not appear to show such a difference.

6.7.125. In response to questioning, the Applicant stated [[REP1-004](#)] that:

"...it was necessary to assume a worst case height and, given uncertainty over the exact ground levels at the site, the best way to do this was to measure those heights in AOD. [It] noted that it was the lack of access to the airport site which had meant that there was some uncertainty over the ground level (i.e. not that the maps submitted with the application were unclear) [and] added that there was an understanding that building platforms could be built for these buildings and so, given that this would alter the baseline from which a building was measured it was important to specify a maximum AOD height."

6.7.126. In its response to DCO.2.16 [[REP6-012](#)] which asked about different bases given for heights in the table in Article 6 and the description in Schedule 1 for, for example Work Nos. 4, 12 and 14, the Applicant stated that:

"Although the heights are intended to be the same in all cases, if there was a discrepancy then both restrictions would operate separately and so the lower of the two would be the maximum height permitted."

- 6.7.127. The ExA considers that this is a useful explanation but do not consider that this is clear in the dDCO.
- 6.7.128. Given this, **the ExA concludes and recommends that an additional subsection, drafted subsequent to the Examination, be added to Article 6 stating that:**
- “In any discrepancy in any heights cited in this Article and heights cited elsewhere in this DCO, notably in Schedule 1, then the lower of the two shall be the maximum height permitted.”***
- 6.7.129. More widely, the ExA is concerned that apart from the works listed in the table in this Article, the dDCO allows all works to deviate vertically upwards from the levels of the Authorised Development shown on the Engineering Drawings and Sections to a maximum of 2m.
- 6.7.130. Article 6(2) stated that:
- “The maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State’s satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially worse adverse environmental effects from those reported in the environmental statement.”*
- 6.7.131. This appears to the ExA to allow for unlimited vertical deviation subject to approval by SoS in consultation with Environment Agency. The ExA is concerned that this could result in a material change to the Proposed Development which has not been examined.
- 6.7.132. At ISH [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA referred to the advice in the Inspectorate’s Advice Note 15⁸⁰ which states that:
- “...details fixed by the terms of the DCO can only be changed if authorised, and following adherence with the prescribed approach explained in section 153 of and Schedule 6 to the PA2008.”*
- 6.7.133. The ExA notes that the draft Explanatory Memorandum (dEM) states at paragraph 3.16 that:
- “The purpose of this provision is to provide RiverOak with a proportionate degree of flexibility when constructing the scheme, reducing the risk that the scheme as approved cannot later be implemented for unforeseen reasons but at the same time ensuring that any flexibility will not give rise to any materially new or materially worse adverse environmental effects.”*
- 6.7.134. The Applicant’s response to DCO.2.15 [[REP6-012](#)] stated that:

⁸⁰ Available at: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf

"i. The article only allows for unlimited vertical deviation downwards, not upwards. The potential for downwards deviation has been considered in the ES and mitigation has been proposed in the form of further approvals for such works being required from the Secretary of State in consultation with the EA and Southern Water.

Note that given the presence of the aquifer below the land in question this article contains more protection than usual for varying the vertical position of works: the Silvertown Tunnel Order 2018 can be varied to any extent downwards without any further permission (article 5).

ii. Downward deviation can be carried out in accordance with article 6 of the DCO subject to approval of the Secretary of State. As mentioned above it would require assessment if it had materially worse or additional environmental effects. Note that this would not constitute a change to the DCO and hence would not require the Schedule 6 change process to be followed; it is merely the fulfilment of a process already set out in the DCO.

iii. Regulation 22(3) of the 2017 regulations sets out the consultation process that would be covered in these circumstances."

6.7.135. At D3 the Applicant made an amendment in its revised dDCO [[REP3-186](#)] to add the Radar tower constructed as part of Work No.4, the Gatehouse constructed as part of Work No.14 and the Gatehouse gantry constructed as part of Work No.14 to the table at A6(1)(c) and amended A6(1)(a):

"a) deviate laterally from the lines or situations of the authorised development construct each work only within its relevant work limits shown on the works plans to the extent of the limits of deviation shown on those plans"

to read:

"construct each work only within its relevant work limits shown on the works plans"

6.7.136. Following consideration of this representation, **the ExA concludes and recommends that Article 6(1) and 6(2) should be included as amended in the rdDCO and has included them in the rdDCO appended to this report at Appendix D.**

Mitigation

6.7.137. ES paragraph 11.5.3 [[APP-034](#)] states that:

"A summary of the mitigation measures that have been incorporated into the Proposed Development in order to avoid, reduce or compensate for potential adverse landscape and visual effects is provided in Table 11.11."

6.7.138. ES Table 11.11 [[APP-034](#)] sets out four measures that are to be taken. The measures related to lighting and design are covered below in this

recommendation report. Measures related to landscape and visual include:

"New tree planting to be undertaken to replace that lost. The design of new planting has been located to deliver screening and softening of large-scale built form and is proposed along the southern side of Manston Road (north of the Cargo Facilities) and around the Airport Business Park. Further planting is proposed east of Spitfire Way."

6.7.139. TDC's LIR [[REP3-010](#)] states that:

"As no detailed mitigation has been produced, nor has this been integrated into the Masterplan, we are not in a position to assess whether the impact on visual receptors and the landscape of the district will be acceptable or not."

6.7.140. The ExA asked the Applicant to comment on whether a planting scheme should be provided in advance of the opening date and how planting had been taken into account in the LVIA [[PD-007](#)]. The Applicant's response to LV.1.5 [[REP3-195](#)] states that:

"[the] landscaping scheme will require planting to be provided along the western and eastern perimeters of the business park and east of Spitfire Way/south of Manston Road. This planting has been relied upon as mitigation in the LVIA."

6.7.141. Subsequent to this statement, the Applicant's Updated REAC submitted at D4 showed mitigation measures in respect of landscape and visual impacts from pages 30 to 34 [[REP4-020](#)].

6.7.142. The ExA asked TDC in LV.2.7 [[PD-010b](#)] whether the updated REAC and LVIA provides sufficient details of mitigation.

6.7.143. TDC [[REP6-058](#)] responded:

"i. The updated Register of Environmental Actions and Commitments alongside the LVIA commits to the provision of mitigation. This is now supplemented by a Design Guide which provides examples of the proposed mitigation. In order to provide clarity, the details of mitigation set out in the Register of Environmental Actions and Commitments should refer to the Design Guide and require the landscaping principles set out in the Design Guide to be followed."

6.7.144. In addition, item 3.7.1 in TDC's agreed SoCG with the Applicant [[REP6-011](#)] highlights landscape measures linked to R10 and set out in the REAC.

6.7.145. The SoCG [[REP6-011](#)] states that the adequacy of mitigation measures cannot be fully assessed but that the dDCO makes provision for these details to be submitted to and approved by the SoS following consultation with the LPA. An updated REAC was submitted at D11 [[REP11-009](#)], the provisions are the same in relation to landscape and visual mitigation.

6.7.146. **The ExA concludes that the dDCO provisions provide an appropriate basis to mitigate the landscape and visual impacts of the Proposed Development in consultation with the LPA.**

Landscaping and planting

6.7.147. In examining this issue, the ExA has had particular regard to Policy GI06 - Landscaping and Green Infrastructure in TDC's eLP which states that:

"When a development proposal requires a design and access statement, it will include a landscape survey. The landscape survey should describe the current landscape features on the application site, and demonstrate how the proposed development will provide landscaping and Green Infrastructure to enhance the setting of the development, where possible and appropriate, to:

- *Create an attractive environment for users and occupiers*
- *Establish a sense of enclosure with hedges and trees*
- *Soften hard building lines and the impact of new buildings*
- *Provide screening from noise and sun*
- *Create new wildlife corridors and stepping stones*
- *Create new wildlife habitats and improve biodiversity*
- *Retain historic features including boundaries and layouts*
- *Improve connectivity between new and existing features*

The developer will need to satisfy the Council that adequate arrangements to ensure continued maintenance of landscaping has been made. The Council may seek to secure arrangements for this purpose through a planning agreement."

6.7.148. Paragraph 9.148 of the Planning Statement [[APP-080](#)] stated that:

"The assessment has considered the potential for the Proposed Development to result in significant landscape effects in relation to the following twelve landscape receptors."

6.7.149. Paragraph 9.149 of the Planning Statement [[APP-080](#)] went on to conclude:

"No significant landscape effects have been predicted to occur at any of these locations during construction and operation."

6.7.150. LV.1.7 [[PD-007](#)] asked the Applicant to explain how the mitigation measures in the ES [[APP-034](#)] and the REAC [[APP-010](#)] would reduce significant effects at specific receptors.

6.7.151. The Applicant provided a table as part of its response to LV.1.7 [[REP3-195](#)] which appeared to show a significant reliance on planting and bunding on the eastern perimeter and southern side of the Proposed Development.

- 6.7.152. The Landscape Masterplan Drawings provided at D3 in the appendices to answers to ExQ1, Appendix to LV.1.2 [REP3-187] showed planting to be undertaken and trees to be retained along the North West, North East and eastern boundaries of the NGA and planting along the North West and northern boundaries of the proposed airside development.
- 6.7.153. It also shows areas of bunding to North East of the NGA; to the north and North West of the runway and adjacent to the west of the Jentex site.
- 6.7.154. The Design Guide [REP4-024] submitted at D4 shows types of planting and an indicative drawing of planting and bunding. It [REP4-024] does not show views of elements of the Proposed Development 'filtered out' by the planting.
- 6.7.155. Section 6 of the Design Guide [REP4-024] shows the planting as 'Buffer Zones', which incorporate bunding and extends this to the eastern boundary of the proposed airside development. These buffers form an integral part of the minimisation of the potential visual impact of parts of the Proposed Development on particular receptors. For example, in its response to LV.1.7 [REP3-195], the Applicant states that:
- The planting east of Spitfire Way/south of Manston Road is required to "ensure that the built form introduced within the business park would not become overbearing".
- 6.7.156. However, these appeared to be compromised by the existence of a safeguarding route for a potential Manston-Haine link road to be delivered by KCC (this is discussed at the section of this chapter which deals with traffic and transport).
- 6.7.157. Paragraph 2.2 of the eighth Schedule of the revised draft s106 Agreement [REP8-006] states that:
- "RiverOak covenants with the County Council:*
- Not to cause permit or allow any development of any kind whether or not connected with the Development Consent Order save for landscaping works to take part on that part of the Northern Grass Area which may be required for the provision of the Manston – Haine Link Road for a period of 10 years following the date of grant of the Development Consent Order or until the County Council has obtained funding and planning permission for the Manston – Haine Link Road whichever is the earlier."*
- 6.7.158. The written summary of the Applicant's oral case put at ISH7 dealing with traffic and transport [REP8-017] at Appendix ISH7 – 38 includes maps showing a wider corridor to be safeguarded for the alternative route than previously submitted.
- 6.7.159. The ExA asked the Applicant in TR.3.1 [PD-014] to show where the impacts of implementing the alternative link road are considered in the ES, for example, in relation to landscape and visual effects. The Applicant's answers to ExQ3 [REP7a-002] argues that this is addressed in

the ES Addendum submitted at D6 [REP6-016]. [REP6-016] suggests that assessed impacts are unlikely to change.

6.7.160. At ISH4 [EV-019, EV-024, EV-024a] the ExA questioned how it could be assured that the landscaping scheme submitted in response to R7 - OEMP reflects the landscaping principles and strategy set out in the application document and subsequent submissions (eg the Landscape Masterplan Drawings and the Design Guide).

6.7.161. In the second ISH [EV-023, EV-029, EV-029a, EV-029b, EV-029c] dealing with the dDCO (ISH8), the ExA proposed an addition to R10 – Landscaping to read:

“The landscaping scheme approved under (1) must be carried out in full.”

6.7.162. The ExA notes that, in its comments on the ExA's dDCO issued on 10 May 2019 [REP7-002] the Applicant states that it is content with this amendment and has included it in its dDCO submitted at D7a [REP7a-017].

6.7.163. R10 – Landscaping in the Applicant's final dDCO submitted at D7a [REP7a-017] therefore stated that:

“(1) No part of the authorised development may be commenced, nor may powers under article 34 (felling or lopping of trees and removal of hedgerows) be exercised, until a landscaping scheme for that part, which sets out details of all proposed hard and soft landscaping works, has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.

(2) A landscaping scheme referred to in sub-paragraph (1) must contain all relevant mitigation measures set out in the register of environmental actions and commitments.

(3) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(4) The landscaping scheme approved under sub-paragraph (1) must be carried out in full.

6.7.164. In its written comments following ISH8 [REP8-029], TDC states that:

“TDC agrees to the inclusion of a new part to Requirement 10, at 10(3), to read:

“A landscaping scheme referred to in sub-paragraph (1) must be substantially in the form of the [draft landscaping plan].”

and that:

“The Draft Landscaping Plan should also be included in Schedule 10 as a certified document.”

- 6.7.165. As Chapter 10 of this report on the dDCO states, **the ExA concludes and recommends a new part to R10, at 10(3) and the Draft Landscaping Plan be included in Schedule 10 as a certified document.**
- 6.7.166. **The ExA concludes that the amendment to R10 and the addition to Schedule 10 would allow adequate control by the LPA to seek to ensure that the approach to the landscaping of the Proposed Development as set out in the draft landscaping plan is adhered to and conforms, *inter alia*, to eLP Policy G106 set out above.**

Phasing of planting

- 6.7.167. The ExA considered whether it had assurance that the planting proposals would achieve their purpose within a set time frame and asked LV.2.10 [PD-010b] querying the late stage planting proposals (in Year 10) and how long the planting would take to mature.
- 6.7.168. In the Applicant's response to LV.2.10 [REP6-012], with reference to planting east of Spitfire Way / south of Manston Road it states that:

"It is acknowledged that the planting referred to above could be brought forward in the programme to ensure earlier establishment of the proposed mitigation. The Applicant agrees that this planting will be implemented during Phase 2 of the Proposed Development, once the necessary demolition works have taken place."

but that:

"It is not possible to determine a timeframe in which the planting would be mature as this is dependent on the species planted and a high number of other variables including management which determine growth rates."

- 6.7.169. The ExA notes that R10 – Landscaping in the Applicant's final dDCO submitted at D7a [REP7a-017] states that:

(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of 25 years after planting, is removed, dies or becomes in the reasonable opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted."

- 6.7.170. **The ExA concludes that, whilst the rdDCO does not and, perhaps, cannot, control the phasing and development to maturity of planning, the requirement in R10 that:**

"No part of the authorised development may be commenced, nor may powers under article 34 (felling or lopping of trees and removal of hedgerows) be exercised [DL6], until a landscaping scheme for that part, which sets out details of all proposed hard and soft landscaping works, has been submitted to and approved in writing by the relevant planning authority."

serves to provide the LPA with the power and responsibility to ensure that planting is phased in relation to the implementation of the Proposed Development to maximise the screening and enhancement potential of that planting and to ensure that species are chosen which will serve those functions at the earliest possible time.

Felling or lopping of trees and the removal of hedgerows

6.7.171. Article 34 in the Applicant's final dDCO submitted at D7a [[REP7a-017](#)] states that:

"34.—(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act."

(4) The undertaker may, for the purposes of carrying out the authorised development but subject

to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(5) In this article "hedgerow" has the same meaning as in the Hedgerow Regulations 1997(b)."

6.7.172. Paragraph 11.4.8 of the ES [[APP-034](#)] states that:

"Vegetation within the site is minimal, but includes:

Expanses of short mown grass around the runways and adjacent buildings;

Avenue of tree planting along sections of B2190 Spitfire Way (both inside the site boundary and immediately outside but adjacent to the boundary on the grass verge outside the perimeter fence);

Short avenue of trees in the south-east corner of the site, within the site boundary where it follows the route of Canterbury Road West; and

Areas of overgrown scrub planting along sections of the fence line."

- 6.7.173. During the Examination, LV.1.4 [[PD-007](#)] addressed the question of whether there would be any felling or lopping of trees or the removal of hedgerows as a consequence of the Proposed Development.
- 6.7.174. The Applicant's written summary of oral submissions put at the January 2019 hearings [[REP1-004](#)] stated that a representative of the Applicant:
- "...confirmed that there were no plans to remove any trees or hedgerows on the site" and "that the Applicant would consider the continued inclusion of the article in the dDCO and what was said in the ES about hedgerows and trees."*
- 6.7.175. However, the Applicant's response to LV.1.4 [[REP3-195](#)] states that:
- "...Wood's ecologists, the Applicant's environmental consultants, have confirmed that some of the above referenced trees do in fact appear to conflict with the current masterplan and may need to be removed. These trees are close to the boundary, on the Northern Grass. They are relatively young and not considered likely to perform a critical ecological function although this will be confirmed as the surveys progress.*
- It is also understood that there are some trees or shrubs located around the existing fuel farm, which may also need to be maintained or felled completely depending on the final design of that facility.*
- As such, the Applicant feels that it would be appropriate to maintain the commitment relating to new tree planting in the event of any loss."*
- 6.7.176. The Applicants dDCO submitted at D3 [[REP3-186](#)] states that:
- "Since the DCO Issue Specific Hearing the Applicant has been able to access the airport site under powers granted pursuant to s.53 of the Planning Act 2008. Contrary to the Applicant's position at the DCO Issue Specific Hearing, when it was believed there were no trees or hedgerows that would be subject to removal under this article, the surveys have shown that some trees and shrubs may need to be removed (further details are given in the Applicant's response to question LV.1.4). The Applicant has therefore retained article 34 in the revised draft of the dDCO."*
- 6.7.177. The ExA notes that the retention of these trees appeared to be shown on the Landscape Master Plan drawings contained at Appendix LV.1.2 in the Applicant's appendices to its response to ExQ1 [[REP3-187](#)].
- 6.7.178. As Chapter 10 of this report on the DCO states, in question DCO.2.29 [[PD-010b](#)], the ExA considered whether Article 34 - Felling or lopping of trees and removal of hedgerows should include the phrase:
- "...no actions under this Article may be commenced until a landscaping scheme for that part, which sets out details of all proposed hard and soft landscaping works, has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function."*

6.7.179. The Applicant in response [[REP6-012](#)] acknowledged that the power in Article 34 could be exercised separately from the commencement of the Authorised Development but suggested that R10 should be amended to include the word 'commenced'.

6.7.180. This wording in the ExA's second dDCO [[PD-018](#)] published in June 2019 was amended as follows:

"10.—(1) No part of the authorised development may be commenced, nor may powers under article 34 (felling or lopping of trees and removal of hedgerows) be exercised [DL6] , until a landscaping scheme for that part, which sets out details of all proposed hard and soft landscaping works, has been submitted to and approved in writing by the relevant planning authority.

(2) A landscaping scheme referred to in sub-paragraph (1) must contain all relevant mitigation measures set out in the register of environmental actions and commitments.

(3) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(4) The landscaping scheme approved under (1) must be carried out in full. [ExA dDCO1]

(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of 25 years after planting, is removed, dies or becomes in the reasonable opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted."

6.7.181. The Applicant commented on the revised dDCO at D9 [[REP9-002](#)] stating that the amendments to R10 had been agreed with TDC.

6.7.182. **The ExA concludes that the amendments to R10 provide an adequate mechanism to ensure that any felling and lopping works are agreed with TDC and secures the provision of a landscaping scheme that is acceptable to TDC in advance of the start of construction of the Proposed Development.**

Impacts on PRow and bridleways

6.7.183. The Examination considered the Applicant's proposed Public Rights of Way Management Strategy (PRowMS) and the Applicant's proposed PRow diversion and replacement in the ExQ1 eg DCO.1.8 and TR.1.41 and in relation to visual impacts on PRow in LV.1.22 [[PD-007](#)]. The impact of the Proposed Development for PRow accessibility is considered in transport terms in the section of this chapter that deals with traffic and transport.

6.7.184. The PRowMS (Appendix M in ES Volume 25 [[APP-073](#)]) identifies that two footpaths will be directly affected by the Proposed Development:

- *"TR8 will be diverted along the edge of the new proposed perimeter fence of the Airport. The route will remain as it currently is, until it is diverted onto a new alignment along the fence. The previous route will be permanently extinguished and the new route permanently established. This will be done early in the project life cycle so it is established before major works take place;*
 - *The width of the diverted TR8 bridleway will be increased to 3m and it is proposed it will run alongside a hedgerow planted east of the fence to allow for screening of the car park and the Airport site. Any way marker posts or other PRow infrastructure will be replaced and relocated as appropriate; and*
 - *TR9 will be extinguished south of the perimeter fence of the Airport so that no PRow falls within the red line boundary of the site."*
- 6.7.185. An updated PRowMS was submitted by the Applicant at D5 [[REP5-013](#)]. This includes minor changes in the conclusions such that the works to PRow TR8 will be done *"early in the project life cycle so it is established before major works commences"*.
- 6.7.186. The draft s106 Agreement submitted at D8 [[REP8-006](#)] included funds for *"ongoing maintenance of that part of public right of way TR10 as shown on the PRow Plan"*.
- 6.7.187. The ExA asked at F.2.10 [[PD-010b](#)] where the responsibility for PRow works lay and whether PRow TR10 is affected or not. The Applicant noted in its response to F.2.10 [[REP6-012](#)] that works to TR10 were not identified as necessary, nor were they raised by the KCC PRow officer at the time of its discussions with the Applicant (refer to Appendix A of PRowMS appended to the TA [[APP-060](#) to [APP-073](#)]).
- 6.7.188. The Applicant responded [[REP6-012](#)] that:
- "...the cost of the widening of TR8 and the landscape works to TR10 are included in the overall scheme costs which include all landscaping measures."*
- 6.7.189. In respect of visual impacts, the Applicant added that:
- "With regard to the reported visual impact, a significant effect has been assessed, however, the widening and surfacing of the route suggested by KCC would not provide mitigation and as such is not considered to be an appropriate mitigation measure for such an effect. The mitigation measures relating to visual impact proposed in Table 11.107 and Table 11.11 of Chapter 11 of the ES [[APP-033,034,035](#)] assume high levels of vegetative screening in the foreground that will obscure views during the operational phase of the Proposed Development. This mitigation will form part of the detailed Landscape Masterplan (Drawing reference NK018417-RPS-MSE-XX-DR-C-2051) and Design Guide [[REP4-024](#)] to be prepared and signed off by the SoS prior to commencement of construction."*
- 6.7.190. The revised PRowMS does not include reference to s106 contributions, instead stating that amendments to the PRow will be secured through the dDCO. However, the Applicant's s106 UU in favour of KCC [[AS-583](#)]

includes a PRow contribution of £275,805 to be used in respect of the TR8 diversion; works to TR9 to enable diversion of TR8 and improvement works for TR10.

- 6.7.191. The ExA notes that Article 13 – Permanent stopping up of PRow secures that the new PRow must be completed to the reasonable satisfaction of the street authority.
- 6.7.192. The ExA also notes, in particular, the Applicant’s response to F.2.10 above and that, as discussed, the Landscape Masterplan and the Design scheme are secured in the dDCO.
- 6.7.193. **The ExA concludes that the provisions of Article 13, R4, R7 and R10 are sufficient to enable the LPA and the street authority to ensure that the provisions in the ES for vegetative screening associated with the PRows will be achieved.**

Design

- 6.7.194. The ANPS emphasises the importance of good design in minimising the visual impact of new airport development.
- 6.7.195. The ExA notes with particular reference to design that, in the sub-section on “Criteria for ‘good design’ for airports infrastructure” in the ANPS paragraph 4.30 states that:
- “Visual appearance should be an important factor in considering the scheme design, as well as functionality, fitness for purpose, sustainability and cost. Applying ‘good design’ to airports projects should therefore produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction, and matched by an appearance that demonstrates good aesthetics as far as possible.”*
- 6.7.196. Paragraph 4.31 of the ANPS highlights that:
- “A good design should meet the principal objectives of the scheme by eliminating or substantially mitigating the adverse impacts of the development, for example by improving operational conditions”;* and
- 6.7.197. Paragraph 4.32 of the ANPS identifies that:
- “Scheme design will be an important and relevant consideration in decision making. The Secretary of State will need to be satisfied that projects are sustainable and as aesthetically sensitive, durable, adaptable and resilient as they can reasonably be, having regard to regulatory and other constraints”.*
- 6.7.198. Paragraph 4.35 states that:
- “The applicant should be able to demonstrate in its application how the design process was conducted and how the proposed design evolved. Where a number of different designs were considered, the applicant should set out the reasons why the favoured choice has been selected.*

The Examining Authority and Secretary of State will take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security standards which the design has to satisfy."

- 6.7.199. The design principles on which the scheme is based were set out in four Design and Access Statements [[APP-081](#) to [APP-084](#)].
- 6.7.200. The ExA examined the design approach through questions LV.1.8, LV.1.9, LV.1.10, LV.1.11, LV.1.12, LV.1.13 and LV.1.14 [[PD-007](#)]. ISH4 [[EV-019](#)] also required the Applicant to present its design approach and proposals. This was submitted at D8 [[REP8-014](#)].
- 6.7.201. In the examination, and particularly through LV.1.8, LV.1.9, LV.1.13 and LV.1.14, the Applicant was required to show how the Proposed Development fulfilled these attributes.
- 6.7.202. The ExA asked the Applicant "how the design of the scheme contributes to the quality of the areas in which it would be located".
- 6.7.203. The Applicant [[REP3-195](#)] stated in response to LV.1.14 that:

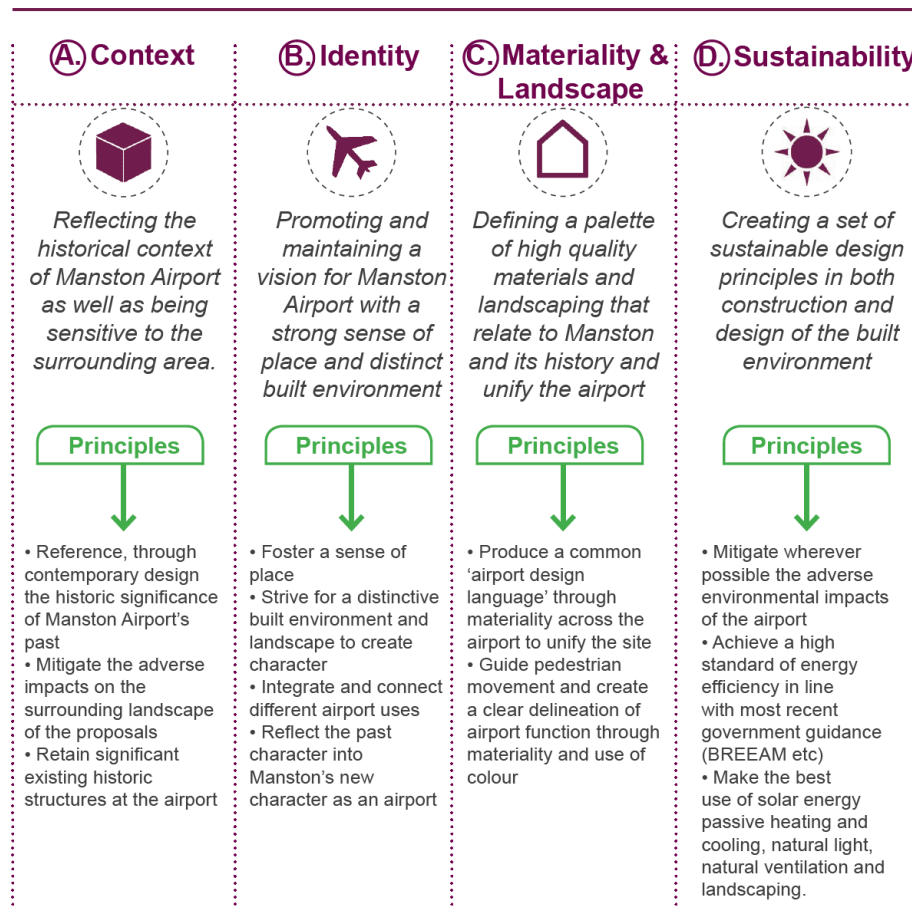
"The scheme will include a design guide which will set out the principles for good aesthetics across the airport and secure consistently good design throughout the whole site".
- 6.7.204. The same response to LV.1.14 [[REP3-195](#)] also referenced considerations of functionality, fitness for purpose, sustainability, aesthetics and quality and the role of technology in achieving this ambition. The following table summarises how the Applicant suggests the Proposed Development will achieve each of these matters:

Objective	How it would be achieved
Functionality and Fitness for Purpose	<p>The proposed Masterplan [APP-079] responds to the market need for further aviation cargo facility capacity as well as the need for MRO and aircraft breakdown areas.</p> <p>The proposed Masterplan includes a phasing strategy which can be implemented and expanded in direct response to the demands of the markets and industry. This will prevent the scheme building more than is required and therefore maintain its fitness for purpose across the lifespan of the airport.</p>
Sustainability	<p>The scheme proposes to build upon the current infrastructure available at the airport and make use of suitable existing assets such as the runway, passenger apron and fuel farm mitigating the impact of constructing new assets.</p> <p>The proposed Masterplan includes an aircraft breakdown area which meets the global need for aircraft recycling and will mitigate the adverse environmental impact or current aircraft retirement procedures.</p>

<p>Aesthetics and Quality of the Area</p>	<p>The scheme will include a design guide which will set out the principles for good aesthetics across the airport and secure consistently good design throughout the whole site. This will include sensitivity to place; the quality and character of the development and how this will be secured through a set of design principles that future development at the airport will be guided by and committed to follow.</p> <p>The design of the scheme will make reference to the historic character and identity of the area, particularly the RAF and wartime heritage of the airport. This will be secured through the use of building forms, through subtle references (use of historical RAF colour insignia across way-finding at the site) and public accessible memorials and public art and sculpture which will pay tribute to the military history of the site and the Manston area as a community.</p>
<p>Role of Technology</p>	<p>The execution of the scheme will make use of modern technology such as BIM (Building Information Modelling) during the design stage.</p> <p>The scheme will protect and allow for the enhancement of existing related functions of the area including the memorial garden and existing aircraft museums. It will contribute to the quality of the area in which it would be located.</p> <p>The scheme will reflect and continue Manston Airport's aviation history through contemporary high-quality new facilities and buildings which maintains and progresses Manston's history as an aviation site.</p>

6.7.205. The design principles were encapsulated in a diagram on page 4 in the Design Guide [[REP4-024](#)] submitted on 8 March 2019 and updated at D8 [[REP8-009](#)] as being:

Manston Airport Design - The Guiding Principles:



- 6.7.206. The Design Guide [[REP8-009](#)] formalises the design principles initially set out in the Design and Access Statement [[APP-081](#) to [APP-084](#)] and considers issues of aesthetics and sustainability. Wider issues of durability, resilience and adaptability are also considered in ES Chapter 8: Freshwater Environment eg through the design of the drainage and in ES Chapter 16: Climate Change [[APP-034](#)].
- 6.7.207. The ExA therefore considers that the Applicant has provided information to inform the decision maker, consistent with paragraph 4.32 of the ANPS. Further, the Design and Access Statement [[APP-081](#) to [APP-084](#)] explains how the initial design process was conducted and how the proposed Masterplan [[APP-079](#)] evolved in accordance with paragraph 4.35 of the ANPS.
- 6.7.208. The ExA notes that some of the illustrative buildings in the Applicant's presentation [[REP8-014](#)] although drawn from other schemes, show freshness, innovation and clear and strong design values – for example in 4.0 Materials and Colour. This contrasts with the approach to the Manston design expressed in paragraph 3.27 of the Planning Statement [[APP-080](#)] as:

"The principles for the visual appearance of the development will be to achieve site-wide consistency with a contemporary and light industrial aesthetic".

- 6.7.209. Acknowledging the utility of the design principles set out in the Design Guide [[REP8-009](#)], the ExA is of the opinion that the Applicant's design approach, values and outline designs both in the documents submitted with the Application and the later design guides could have adopted a more aspirational approach, recognising the fact that, should the DCO be made, the Proposed Development would need to balance the dynamic use of the land, intensification of built development and activity as well as reflecting the site's historical legacy.
- 6.7.210. Instead, the ExA notes that, following the presentation of the Airport Design at ISH4, the design team indicated that it was *"not seeking any awards for this scheme"* [[EV-019](#), [EV-024](#), [EV-024a](#)].
- 6.7.211. The ExA considers that it has been suitably demonstrated by the Applicant that a sustainable, durable, adaptable and resilient design can be achieved in accordance with paragraph 4.32 of the ANPS.
- 6.7.212. Notwithstanding this, the ExA considers that in terms of being aesthetically sensitive, the proposed principle of a contemporary light industrial aesthetic is overly basic and fails to demonstrate how this reflects the local context of the wider area and the historic characteristics and identity of the airport.
- 6.7.213. **Overall, the ExA considers that the design approach to the Proposed Development, particularly in terms of its built development, has made limited efforts to maximise the potential for a quality of design that reflects the potentially dynamic nature of this land use, its wider context and historic identity and which, importantly, signifies that the Proposed Development is, indeed, nationally significant.**
- 6.7.214. **However, the ExA recognises that the design of the Proposed Development has potential to evolve and that the proposals that have been examined do not, and cannot at this stage, form the final architectural approach. R4 – Detailed design of the dDCO partially addresses this matter, securing that the design of specific works must be approved by the LPA, the dDCO now provides scope for that authority to secure a high standard of design in keeping both with its own policies and national guidance.**

Public Sector Equality Duty

- 6.7.215. The Design and Access Statement [[APP-081](#) to [APP-084](#)] includes Pedestrian Network Principle B-05, which sets out that:

"Seating along pedestrian routes offers the opportunity for people to linger and rest...". Further Section 7.10 of the Design and Access Statement sets out that *"Public areas on site have been designed to be*

safe, inviting and accessible to all airport users. Special attention has been paid to the public realm surrounding the Terminal in terms of passenger safety and the quality of the space through selective landscaping”.

- 6.7.216. In terms of the proposed buildings themselves, particularly the passenger terminal, the detailed design of such facilities has not yet been developed. The ExA is, however, content that the provisions in R4 will ensure that suitable accessibility and facilities for those with protected characteristics, in accordance with the PSED, are provided. The ExA is also mindful that R4 requires agreement by TDC, who would also at that time need to have due regard to the PSED.
- 6.7.217. It is also clear from the Masterplan layout [[APP-079](#)] that car parking will be provided close to the passenger terminal, which will include 'Blue Badge' parking spaces, as set out in the revised Car Park Management Strategy (CPMS) [[REP8-017](#)].
- 6.7.218. The ExA is therefore content that it has made all reasonable attempts at this stage of the design, to ensure that the airport would be accessible and usable for those with protected characteristics, in accordance with the PSED.

ExA's conclusions

- 6.7.219. The ExA considers that the nature of the site as an existing but unused airport means that the site already impacts, and forms part of the existing landscape character of the area and contributes to degraded views.
- 6.7.220. The ExA has considered the Applicant's LVIA and approach to design and has drawn the following conclusions.
- 6.7.221. The ExA considers that the character of the Proposed Development site is already somewhat degraded in nature due to the presence of the existing non-operating airport development. In light of the scale and massing of the full operational development, the ExA considers that there is still likely to be a negative effect on landscape character, although this, to some extent balanced by the placement of buildings within the Proposed Development and the inclusion of landscape mitigation measures and the proposed placement.
- 6.7.222. The ExA is of the view that whilst harm to visual receptors would result from the Proposed Development, that harm would not be substantial, taking into account the current degraded nature of the existing airport site.
- 6.7.223. The ExA considers that, with the recommended amendment to R4 and the additions to R7 and Schedule 10, adequate control by the LPA would be in place to ensure that the approach to lighting in the Proposed Development, as set out in the ES and subsequent documents, is followed.

- 6.7.224. The ExA concludes that the visual impact of overflying aircraft will result in a negative impact, particularly in later years of operation when the peak ATM are achieved, that is capable of only limited mitigation.
- 6.7.225. In terms of limits of deviation, the ExA concludes and recommends that Article 6(1) and 6(2) should be included as amended in the rdDCO and that this will allow sufficient control.
- 6.7.226. Turning to mitigation, the ExA considers that the dDCO provisions provide an appropriate basis to mitigate the landscape and visual impacts of the Proposed Development in consultation with the LPA.
- 6.7.227. The ExA concludes that the recommended amendment to R10 and the addition to Schedule 10 would allow adequate control by the LPA to seek to ensure that the approach to the landscaping of the Proposed Development, as set out in the draft Landscaping Plan, is secured.
- 6.7.228. In terms of phasing, the ExA concludes that, whilst the rdDCO does not control the phasing and development to maturity of planning, R10 serves to provide the LPA with the power and responsibility to ensure that planting is phased in relation to the implementation of the Proposed Development to maximise the screening and enhancement potential of that planting and to ensure that species are chosen which will serve those functions at the earliest possible time.
- 6.7.229. In terms of trees, the ExA concludes that the recommended amendments to R10 provide an adequate mechanism to ensure that any felling and lopping works are agreed with TDC and secures the provision of a landscaping scheme that is acceptable to TDC in advance of the start of construction of the Proposed Development.
- 6.7.230. The ExA concludes that the provisions of Article 13, R4, R7 and R10 are sufficient to enable the LPA and the street authority to ensure that the provisions in the ES for vegetative screening associated with the PRoWs will be achieved.
- 6.7.231. The ExA considers that the design approach to the Proposed Development, particularly in terms of its built development, has made limited efforts to maximise the potential for a quality of design that reflects the potentially dynamic nature of this land use, its wider context and historic identity and which, importantly, signifies that the Proposed Development is, indeed, nationally significant.
- 6.7.232. However, the ExA recognises that the design of the Proposed Development has potential to evolve and that the proposals that have been examined do not, and cannot at this stage, form the final architectural approach. R4 – Detailed design of the dDCO partially addresses this matter, securing that the design of specific works must be approved by the LPA, the dDCO now provides scope for that authority to secure a high standard of design in keeping both with its own policies and national guidance.

- 6.7.233. Overall, the ExA concludes that whilst the Proposed Development would have an adverse effect on receptors and on landscape character, balanced by the degraded nature of the site, and adverse effect on the setting of and views into the Proposed Development, including at night, the significance of these would be lessened by the proposed planting schemes and masterplanning.
- 6.7.234. Further, whilst a more aspirational design could have been promoted in the application documents, R4 goes some way to address this matter and requires the design of specific works to be approved by the LPA and this provides scope for that authority to secure a high standard of design.
- 6.7.235. Given this, the ExA concludes that landscape, design and visual impact is a matter which does not weigh against the making of the Order.

6.8. NOISE

Introduction

- 6.8.1. This section of the Recommendation Report considers noise and vibration from construction and operation activities arising from the Proposed Development. It also considers human health effects relating to noise and vibration.
- 6.8.2. ES Chapter 12: Noise and Vibration [[APP-034](#)] sets out that, based on the current land use in and around the site, the noise environment is influenced by existing urban and road traffic noise. The noise environment around the outfall discharge is influenced by shoreline wave noise, recreational activity and existing road traffic noise.
- 6.8.3. A range of potential human and ecological receptors are located within proximity to the Proposed Development site and the outfall site that have been considered during the examination.

Issues

- 6.8.4. A range of issues arose during the Examination from the RRs, WRs, LIRs, drafting of and responses to ExQ1 [[PD-007](#)], ExQ2 [[PD-010b](#)], ExQ3 [[PD-014](#)], ExQ4 [[PD-020](#)] and ExQ5 [[PD-022](#)], ISHs, OFHs and Additional Submissions.
- 6.8.5. A significant proportion of the RRs received [[RR-0001 to RR-2052](#)] raised aviation noise as an issue consequently the primary focus of the Examination was on operational noise effects. However, noise and vibration impacts from the construction and operation of ground-based elements of the airport and airport-related development were also identified as having potential to impact on the local population and on wildlife in the surrounding area by the Applicant [[APP-033](#)]. The ExA also addressed these matters during the Examination.
- 6.8.6. Noise can have significant effects on the environment and on quality of life. Exposure to noise can have effects on sleep and general annoyance and can lead to chronic health effects (eg heart disease and

hypertension) [[REP3-066](#), [REP3-126](#), [REP3-158](#), [REP5-051](#), [REP5-052](#) and [REP6-063](#)]. In view of this **the ExA concluded noise is important and relevant to its consideration of the Proposed Development.**

- 6.8.7. TDC in its LIR [[REP3-010](#)] identify noise impacts as a key issue for all airports and highlights the impact on communities in Ramsgate, Manston, St Nicholas-at-Wade and Pegwell Bay. The population of Ramsgate is identified as the most affected residential area. TDC makes specific reference to night-time construction noise; impacts on schools; caravan dwellings; noise sensitive receptors (NSR); more tranquil areas and gardens; the impact of proposed flight paths; night flights and combined noise effects; and the ability of the Applicant to mitigate significant effects eg through runway preferences or noise insulation grant uptake.
- 6.8.8. Furthermore, TDC highlight local concerns regarding the use of the LAeq,16hour (16hr) metric, the need for additional noise contour data and questions the assumptions underlying the Applicant's noise assessment, such as number of ATMs and what mechanisms there are to limit movements. TDC [[REP3-010](#)] also highlight the significant concerns regarding impacts on public health and wellbeing, particularly in relation to sleep disturbance from the operation of the airport.
- 6.8.9. At paragraph 4.3.37 [[REP3-010](#)] TDC's LIR states:
- "...the proposed development is highly likely to cause a significant adverse effect on noise and vibration particular those located within 1km of the airport and under the flight swathes."*
- 6.8.10. KCC in its LIR [[REP3-143](#)] discusses its experience and knowledge in respect of aviation noise impacts, whilst acknowledging that it has no statutory responsibility in this respect. The LIR [[REP3-143](#)] highlights the need for local communities to have a clear sense of control over noise impacts. It states that night-time noise is the least acceptable form of aviation noise and requests clarity and a reduction of the proposed night quota value. It also suggests that a summer / winter quota might be employed. KCC [[REP3-143](#)] discuss the proposed noise insulation and relocation schemes but suggest that the Applicant could go beyond what it describes as 'minimum standards'. It concludes that a robust assessment of the likely impacts of aviation noise has been undertaken but that the airport scheme should be compliant with WHO guidelines on aviation and noise, since the Applicant's ES has identified potential health impacts relating to annoyance.
- 6.8.11. Ramsgate Town Team Executive Committee [[RR-1623](#)] highlighted concerns regarding night flights. Ramsgate Town Council [[REP3-064](#) and [REP3-066](#)] submitted the WHO 2011 Burden of Disease from Environmental Noise to the Examination.
- 6.8.12. CCC and DDC have also submitted LIRs.
- 6.8.13. CCC in its LIR [[REP3-246](#)] identified the impact of noise and vibration resulting from the operation of the airport on the amenity, health and

quality of life of residents in CCC's district, including Herne Bay and Whitstable and surrounding settlements and requested clarification of awakenings and provision of 60dB LASmax contours. CCC note that no properties in Herne Bay would qualify for noise insulation but that the provisions in the NMP exclude the cost of ventilation or the full cost of insulation. CCC also suggests that a ban on scheduled flights should be included in the NMP.

- 6.8.14. DDC in its LIR [[REP3-227](#)] state that no properties in DDC are predicted to be eligible for noise insulation and broadly concur with the approach to assessment of noise impacts.
- 6.8.15. PHE in its RR [[RR-1608](#)] highlights the health impact of the chosen significance criteria and the need to express noise impacts in terms of Disability Adjusted Life Years (DALYs). It queries the Applicant's conclusions of 'no significant impact' on sleep disturbance, the use of 21dB as an inside to outside noise level difference and the need for a strategy to monitor the success of any noise insulation measures. In terms of noise insulation, it questions whether the provisions for noise insulation are sufficient to ensure mitigation for low income households if the funds do not cover the full cost, what 'reasonable levels' of mitigation are in respect of schools and community buildings. PHE's RR also suggests that there may be increased need for tranquil areas during operation.
- 6.8.16. As highlighted above, a substantial number of RRs and WR identified aviation noise and night flights as being of particular concern in terms of both disturbance and health and wellbeing issues. The robustness of the Applicant's methodology, the findings for the Applicant's assessment and the approach to noise mitigation were also a matter of contention in the Examination with a number of IPs questioning the adequacy of the assessment and whether it represented a worst-case scenario. The representations include multiple submissions by NNF, Five10Twelve, Cogent and members of the public registered as IPs.
- 6.8.17. The ExA [[EV-016 to EV-016b](#)] explored, in detail, those areas where there were differences of opinion about the robustness of the Applicant's methodology and findings for the noise assessment [[APP-034](#), [APP-042](#) and [APP-057](#) appendices 12.2 and 12.3].
- 6.8.18. The main issues in the Examination are identified and grouped around the headings of:
- Baseline noise conditions;
 - Noise impact assessment;
 - Proposed mitigation;
 - Noise monitoring;
 - Human Rights; and
 - Health effects.

Baseline noise conditions

- 6.8.19. Baseline noise refers to the noise environment in an area prior to the construction and/or operation of the Proposed Development that may affect it⁸¹. Baseline noise levels can serve several purposes in the assessment process:
- They provide a context for the noise levels predicted to arise from the Proposed Development;
 - they are required as a formal part of the noise assessment process; and
 - they may demonstrate that the noise environment is already unsatisfactory [[APP-034](#)].
- 6.8.20. In order for baseline noise levels to fulfil any of these functions, they must be the values expected at the relevant time for the phase of the Proposed Development being considered. This may be at some future date because the Proposed Development will not be at its peak operational state for several years and because its noise emissions will not be constant throughout its operating life [[APP-034](#) and [APP-057](#)].
- 6.8.21. In such circumstances different baseline years may be relevant for the construction and operating phases and neither of them will be the same as the situation at the time the assessment is conducted. Although it is possible to measure noise levels at the time an assessment is conducted, this may not be the relevant time for which the baseline noise levels are required. Baseline noise levels may therefore be determined by direct measurement, by prediction, or by a combination of these methods [[APP-034](#)].
- 6.8.22. Normally, the objective is to identify those locations most sensitive to or likely to be adversely affected by the Proposed Development. The ExA noted that not all of these receptors would necessarily have the same degree of sensitivity [[EV-016 to EV-016b](#)]. This variation would need to be taken into account during the ExA's examination of the assessment process. Sensitive receptors that the Applicant considered when determining the baseline noise levels for the Proposed Development included [[APP-042](#), figures 12.1 and 12.2]:
- Dwellings⁸²;
 - schools / colleges;
 - hospitals;
 - community facilities (including libraries, surgeries, health centres);
 - places of worship;
 - wildlife sites⁸³; and
 - sites such as those of special historic interest, and Conservation Areas.

⁸¹ Institute of Environmental Management and Assessment Guidelines for Environmental Noise Impact Assessment (IEMA), 2014

⁸² Including caravan parks

⁸³ These are dealt with in the biodiversity section of this chapter and in Chapter 7

6.8.23. TDC in its LIR [[REP3-010](#)] stated:

"4.3.26 Local concerns have been raised about the previous monitoring work collected by TDC from the operation of the airport before its closure when compared to the information in the ES. The previous monitoring from Ramsgate shows the L_{Amax}, SEL and L_{Aeq,T} of individual aircraft noise events whereas the L_{Aeq,16hr} noise levels reported in the ES are the 16hr average of noise levels and so provide a time average of noise levels over 16 hours. It is to be expected that individual noise events are higher than the time averaged level. Figure 12.8 of the ES shows Ramsgate to be within the 80 dB L_{ASMax} contour and so the measured individual event aircraft noise levels and modelled individual event aircraft noise levels appear to be correlated."

6.8.24. The ExA noted that the:

- Quality of baseline data;
- the use of the L_{Aeq,16hr} noise metric; and
- the selection of locations for monitoring to establish the noise baseline were queried by IPs:
 - [[RR-0009](#), [RR-0490](#), [RR-0555](#), [RR-1072](#), [RR-1228](#), [RR-1419](#), [RR-1453](#), [RR-1623](#), [RR-1754](#), [RR-1941](#), [RR-1942](#), [RR-2026](#)];
 - [[AS-069](#)];
 - at OFHs and ISHs [[EV-008a to EV-008c](#), [EV-010a to EV-010c](#), [EV-015](#), [EV-016 to EV-016b](#), [EV-017](#), [EV-027](#) and [EV-027a](#)]; and
 - [[REP3-012](#), [REP4-051](#), [REP5-034](#), [REP5-103](#), [REP5-111](#), [REP5-121](#), [REP6-036](#), [REP6-049](#), [REP6-057](#), [REP7-019](#), [REP8-029](#)].

6.8.25. These matters are explored further and concluded on in the Examination section, below.

Noise impact assessment

6.8.26. The ExA [[EV-016 to EV-016b](#)] explored, in detail, those areas where there were differences of opinion about the robustness of the Applicant's methodology and findings for the noise assessment [[APP-034](#), [APP-042](#) and [APP-057](#) appendices 12.2 and 12.3]:

- Significant Observed Adverse Effect Level (SOAEL) and the application of the Noise Policy Statement for England (NPSE) [[PD-007](#), [PD-010b](#), [PD-014](#)];
- construction;
- noise contour plots [[APP-034](#), [APP-042](#) figures 12.4 to 12.13];
- ATMs;
- QC;
- night flights [[APP-034](#), [APP-057](#), [REP9-014](#)];
- fleet mix;
- airspace change proposals;
- use of Runway 28;

- the use of an Integrated Noise Model (INM) as opposed to CAAs ANCON⁸⁴;
- uncertainty in the assessment [[PD-020](#), Ns.4.2]; and
- road traffic modelling and the cumulative effect of road traffic and aircraft noise [[APP-034](#), [REP6-016](#)].

6.8.27. TDC in its LIR [[REP3-010](#)] at paragraph 4.3.30 states:

"The methodology of the assessment does not include:

- *significant effects from changes in noise levels at residential receptors.*
- *clarity in the awakenings assessment for awakenings across the population overflow.*
- *consideration of receptors on caravan park sites.*

4.3.25 Caravans offer less noise reduction than conventional dwellings and cannot have noise insulation applied and so may require lower noise levels to avoid significant effects. The sensitivity of caravan parks does not appear to have been considered in the assessment of effects and as such further significant effects may emerge."

6.8.28. TDC in its LIR [[REP3-010](#)] state:

"4.3.24 The applicant will need to provide clear details of the assumptions used in the aircraft noise modelling and a commitment not to exceed these limits or revise the findings of the assessments as otherwise there may be further significant effects than considered in the ES."

6.8.29. The robustness of the Applicant's methodology and findings for the Applicant's assessment were a matter of contention in the Examination. A number of IPs questioned the adequacy of the assessment and whether it represented a worst-case scenario⁸⁵:

- eg RRs [[RR-0009](#), [RR-0276](#), [RR-0284](#), [RR-0358](#), [RR-0365](#), [RR-0457](#), [RR-0495](#), [RR-0506](#), [RR-0522](#), [RR-0540](#), [RR-0601](#), [RR-0603](#), [RR-0657](#), [RR-0761](#), [RR-0763](#)]; and
- WRs [[REP2-013](#), [REP3-126](#), [REP3-243](#), [REP3-294](#), [REP3-287](#), [REP4-051](#), [REP5-034](#), [REP5-043](#), [REP5-049](#), [REP5-051](#), [REP5-052](#), [REP5-062](#), [REP5-077](#), [REP5-093](#), [REP5-103](#), [REP5-111](#), [REP5-114](#), [REP5-123](#), [REP5-124](#), [REP6-036](#), [REP6-049](#), [REP6-050](#), [REP6-057](#), [REP6-063](#), [REP8-037](#), [REP8-038](#), [REP8-040](#), [REP8-063](#), [REP8-066](#), [REP8-068](#), [REP8-078](#), [REP8-083](#), [REP9-027](#), [REP9-055](#), [REP9-056](#), [REP9-097](#), [REP9-120](#), [REP11-035](#), [REP11-062](#), [REP11-067](#) and [AS-193](#) and [AS-206](#)].

⁸⁴ For noise from aircraft in the air, the CAA use a model known as ANCON 2 for the designated airports, but this is not available for use by others. An alternative is the US Federal Aviation Authority's Integrated Noise Model (INM), which is widely available

⁸⁵ Five10Twelve and NNF commissioned separate noise contour plots from CAA / Environmental Research and Consultancy Department (ERCD) which are discussed in more detail below [[AS-119 to AS-121](#) and [AS-156](#)]

Significant Observed Adverse Effect Level (SOAEL) and the application of the NPSE

6.8.30. The NPSE defines SOAEL - Significant observed adverse effect level - as:

"The level above which significant adverse effects on health and quality of life occur."

6.8.31. The Applicant defined Likely Observed Adverse Effect Level (LOAEL) and SOAEL thresholds for noise and vibration in construction and operation and assessed the construction and operational activities against the baseline to identify exceedances of the threshold values [APP-034, Section 12.6 and Table 12.4] and likely significant noise and vibration effects.

6.8.32. The Applicant also considered a precautionary Unacceptable Adverse Effect Level (UAEL) of noise exposure at or greater than 69dB LAeq,16hr that triggers the need to offer households assistance with the costs of moving [APP-034].

6.8.33. Noise insulation and ventilation was proposed to be offered to some residential dwellings, with the aim that noise from the airport could be mitigated to avoid significant adverse effects on health and quality of life that, could otherwise be expected when airborne noise exceeds the SOAEL set at 63db LAeq,16hr by the Applicant [AS-579].

6.8.34. TDC in its LIR [REP3-010] stated at paragraphs 4.3.15 to 4.3.16:

"4.3.15 Residential properties within the 63 dB LAeq,16hr noise contour will qualify for noise insulation under the proposed noise mitigation plan and TDC agrees that this noise level is appropriate. The noise insulation grant of £4,000 offered to freehold residents of affected properties may not be sufficient to cover the noise insulation (and ventilation). If there is little uptake of the noise insulation grant, the benefit of noise insulation and ventilation may not be in place and therefore it would not mitigate significant effects. Moreover, adverse effects would remain in external areas such as gardens in any case.

4.3.16 Significant effects are predicted at seven schools from a change in noise levels. Despite the significant effects no mitigation is proposed as the schools do not lie within the 63 dB LAeq,16hr contour for noise insulation. Kent County Council and TDC will need to take this into account for school developments and the outdoor educational curriculum."

6.8.35. TDC in its LIR [REP3-010] stated:

"4.3.35 The proposed development at Manston Airport is shown to cause significant effects to residential, school and community receptors from daytime and night time noise levels. The proposed development will lead to significant noise effects that worsen with time and may not be adequately mitigated.

4.3.36 TDC has powers to control the noise effect of construction through the COPA and articles in Schedule 2 of the draft DCO providing for the development of a NMP, CEMP, OEMP and Register of Environmental Actions and Commitments which are to provide measures to control effects. Consultation and approval by TDC for these plans and register would provide a mechanism for TDC to regulate these effects and influence mitigation measures.”

- 6.8.36. DDC recommended [REP1-051] (as did KCC in [RR-0974]) that the daytime noise contour of 60dB LAeq,16hr used for schools and community buildings is also used as the daytime noise contour qualification for noise insulation.
- 6.8.37. The Applicant was asked by the ExA to provide a list of properties falling within the proposed noise insulation and ventilation scheme [EV-015]. The Applicant provided a list of residential properties eligible for the noise insulation and ventilation scheme in Appendix A of [REP5-010], together with Figure 12.21 which shows the location of the eligible residential properties on a map [REP5-010].
- 6.8.38. TDC in its review of this issue state in Table 2.1 [REP8-029]:
- "No further action. It is considered that as the APF requirements are met anything further for the noise insulation scheme would be at the discretion of the Applicant".*
- 6.8.39. The ExA was satisfied with the material provided by the Applicant.
- 6.8.40. KCC [REP3-143] encouraged the Applicant to go beyond minimum standards, highlighting that Gatwick’s insulation scheme is based on the lower 60dB LAeq,16hr contour.
- 6.8.41. These matters are explored further and concluded on in the Examination section, below.

Construction

- 6.8.42. The primary focus of the Examination was operational noise but consideration was given to construction noise, in particular in relation to residential receptors in areas surrounding the airport and fuel farm and for ecological receptors in Pegwell Bay⁸⁶.
- 6.8.43. The Applicant’s assessment is based on programme assumptions available at this stage [APP-033, Table 3.1]. The ExA raised a number of minor clarification points in ExQ1 [PD-007] such as discrepancies in phasing assumptions and specific location and level of construction noise screening assumed. The ExA received responses to these questions in the Applicant’s response to ExQ1 [REP3-195] and considers that the matters have been satisfactorily addressed.

⁸⁶ Construction noise disturbance to biodiversity and European protected species (EPS) is dealt with in Section 6.2 and Chapter 7 of this report, respectively

- 6.8.44. As required by the principles of the CEMP [[REP9-017](#)], the contractor will be required to apply to TDC for consent under Section 61 of the Control of Pollution Act 1974 (COPA), which requires the adoption of 'Best Practicable Means' to control noise and vibration at worksites. The assessment takes account of the embedded mitigation measures described in Section 12.5 of the ES [[APP-034](#)].
- 6.8.45. During Phase 1, it is expected that the construction will be undertaken during normal working hours (weekdays 07:00 to 19:00 and Saturdays between 08:00 and 13:00 with some activity an hour either side for set-up, close-down, deliveries and heavy goods vehicles (HGVs) movements). In phases 2, 3 and 4 once the airport is operational some works will need to occur during the evening (19:00 to 23:00) and night-time (23:00 to 07:00) periods to avoid a conflict with airport operations [[APP-033](#), Table 3.1] and Figures 3.7 to 3.10 of [[APP-038](#)].
- 6.8.46. The Applicant has undertaken daytime, evening and night time construction noise assessments which have been undertaken in accordance with BS5228-2:2009+A1:2014 (see paragraph 6.8.48 above) and described in Section 12.7 of the ES [[APP-034](#)]. At each receptor location a construction noise impact threshold has been defined for daytime, evening and night-time works based on the existing ambient noise level at the receptor. Construction noise predictions have been compared to this threshold. Where the predicted level exceeds this threshold there is potential for a likely significant effect from construction noise and consideration is given to other factors, such as the duration of the impact and the number of properties, ecological receptors impacted, in determining if a likely significant effect has occurred. This issue is explored further and concluded on in the Examination section, below.

ATMs, night flights and QCs

- 6.8.47. ATMs include all landings and take-offs of commercial flights related to the transport of passengers and freight. "*Cargo Air Transport Movement*" means landings or take-offs of aircraft engaged on the transport of freight or mail on commercial terms [[PD-018](#)]. All scheduled movements, including those operated empty and loaded charter movements are included, but passenger flights carrying bellyhold freight are not included. "*Passenger Air Transport Movement*" means landings or take-offs of aircraft engaged on the transport of passengers on commercial terms. All scheduled movements, including those operated empty, loaded charter and air taxi movements are included [[PD-018](#), Schedule 2].
- 6.8.48. "*General aviation movement*" means landings or take-off of all civil aviation operations other than scheduled air services and non-scheduled air transport operations for remuneration or hire. GA activities include but are not limited to:
- Training;
 - business aviation;
 - recreation;
 - agriculture;

- transport of dangerously ill people and of urgently needed human organs, medical equipment and medicines;
- monitoring ground traffic movements from the air;
- civil search / rescue;
- law enforcement;
- aerial survey;
- pollution control and firefighting; and
- flying displays [[PD-018](#)].

6.8.49. "Scheduled" means planned according to a schedule and includes both scheduled and chartered flights [[PD-018](#)].

6.8.50. The Applicant's ES in Chapter 12 states [[APP-034](#)]:

12.7.38 The assessment of aircraft noise is presented for both Year 2 and Year 20 using the forecast aircraft movements as shown in Appendix 3.3. Year 2 is considered the 'opening year' and Year 20 is considered the 'worst-case' year in terms of noise by the Applicant.

12.7.39 The forecast assumes that total aircraft traffic will grow from approximately 33 Air Transport Movements⁸ (ATMs) for a typical busy day in Year 2 to 79 ATMs per typical busy 24-hour day in Year 20. There will also be an average of approximately 16 non-ATMs per 24-hour day in all years including general aviation and training flights.

12.7.40 During the daytime period (between 07:00 to 23:00) the Proposed Development is forecast to handle approximately 72 aircraft movements during a typical busy day and during the night-time period (between 23:00 and 07:00) it is forecast to handle an average of seven aircraft movements on a typical busy night.

12.7.41 At its forecast capacity, the Proposed Development will have a total of 19 freight stands and four passenger stands. The freight stands will be constructed at the north of the site and at the existing terminal building and therefore passenger stands will be constructed on the northeast of the site around a new passenger terminal....

....12.7.45 The assessment of aircraft noise presents the combined noise effects of airside ground noise and aircraft air noise for the Proposed Development."

6.8.51. TDC in its LIR [[REP3-010](#)] states:

4.3.9 There are potential impacts resulting from night time flights leading to sleep disturbances and awakenings. Cargo operations are more likely to occur 24 hours a day to meet business needs and are have less operational limitations than passenger flights. Therefore, any night time flights will need to be robustly assessed and carefully monitored.

4.3.13 In the opening year, up to 115 residential dwellings are forecast to be exposed to significant annoyance and disturbance as a result of aircraft noise. In year 20, up to 225 residential dwellings are forecast to be exposed to significant annoyance, disturbance and sleep disturbance as a result of aircraft noise."

6.8.52. TDC in its LIR [[REP3-010](#)] goes on to state:

*"4.3.23 Appendix "Aircraft Noise Modelling" states "The number of aircraft operations have been obtained from the latest forecast of aircraft operations" but the numbers are not given in the Appendix. Paragraph 12.7.39 of the ES states there will be approximately 33 Air Transport Movements (ATMs) and approximately 16 non ATMs on a busy day in all years. In Year 20 there is predicted to be 72 ATMs during a typical busy day and 7 ATMs on a typical busy night. Applying this busy day across the year would give 79 ATMs*365 days and give 28,835 ATMs. As stated above Chapter 3 Table 3.7 details 17,170 air freight ATMs and 9,298 passenger ATMs in Year 20, giving a total of 26,468 ATMs. The reason for this difference in ATM's, along with details of the level of ATM's adopted in the noise assessment is unclear as is the relationship between the level of ATM's assessed in the ES and the theoretical capacity of 83,220 ATMs."*

6.8.53. Anne-Marie Nixey in her RR stated [[RR-0137](#)]:

"Firstly, the night time quota proposed is unclear and it suggests that aircraft of a QC4 status would be able to land or arrive at night. I live exactly a mile away from the end of the runway, in a 4 storey 1850's Victorian building, on the highest point in Ramsgate. Planes used to go over this house at approximately 300ft above the roof of the house. Therefore the prospect of night time flying would effect mine, and my family's sleep greatly."

6.8.54. A number of IPs [[REP6-036](#), [REP6-049](#), [REP6-057](#), REP7-002] queried whether the Applicant had modelled the worst-case scenario in its ES [[APP-034](#)] as contained in the NMP [[APP-009](#)] in terms of the:

- QC night flights / year;
- 26,486 daytime ATMS / year; and
- 38,000 GA movements / year.

6.8.55. These issues are explored further and concluded on in the Examination section below.

Fleet mix

6.8.56. The Applicant stated [[APP-033](#)] in the ES at paragraph 3.3.191:

"Azimuth on behalf of RiverOak has produced a report for the Proposed Development which includes an air traffic forecast on a yearly basis, Manston Airport: A National and Regional Aviation Asset Volume III. The report and forecast have been produced through a combination of qualitative and quantitative assessments."

6.8.57. The Applicant went on to state at paragraph 3.3.264 [[APP-033](#)]:

"In line with standard air traffic forecasting practice, consideration has also been given in the forecast to changes in fleet mix over time. As new makes and models of aircraft become available, older aircraft will

gradually be phased out of use and be replaced. Therefore, the forecasts include an allowance to replace older aircraft with available new types."

6.8.58. The Applicant's ES Chapter 3: Description of the Proposed Development [[APP-044](#)] discusses fleet mix assumptions, which include the assumption that integrator operations would take place at Manston. At the ISH dealing with need (ISH2) [[EV-014 to EV-014d](#)] the Applicant made clear that conventional integrator operations are no longer expected at Manston and that such movements would be made instead by 'new' e-commerce integrators, operating a different pattern of flights not requiring night operations.

6.8.59. IPs raised comments regarding the fleet mix. NNF stated at paragraph 39 of [[REP4-056](#)] that:

"It is absurd to assert that Year 20 noise impacts at Manston will be significantly reduced as a result of the European or global freighter fleet being quieter."

6.8.60. Five10Twelve at section 5.3.3 of [[REP5-074](#)] stated:

"As a result of underlying issues with the Azimuth Report and lack of clarity regarding Business Model, the Fleet Mix and ATMs by ICAO design, as they appear in the Azimuth Report, cannot be relied upon since the mix of aircraft types will inevitably be dependent on the business model and business mix."

6.8.61. The ExA [[PD-010b](#), Ns.2.18] and IPs [[AS-108](#), [REP5-074](#), [REP5-077](#), [REP6-033](#)] queried whether the likely change in the nature of the operators and the fact that several of the airlines do not operate freighter aircraft of the types specified, would mean that the fleet mix assessed is likely to understate noise exposure relative to what is now proposed.

6.8.62. This issue is explored further and concluded on in the Examination section below.

Airspace change proposals

6.8.63. TDC in its LIR [[REP3-010](#)] stated:

"4.3.21 The flight paths used in the assessment are based on swathes which contain probable airspace routes, which will be formalised through an Airspace Change Proposal (ACP), which is a separate consenting regime. As such there is a potential for a degree of change to the routes and aircraft noise levels. The ACP proposal will also be subject to environmental assessment and consultation with TDC and others."

6.8.64. The ExA [[PD-007](#), Ns.2.6 and Ns.2.19] queried whether any airspace change proposals could give rise to a scenario which has not been assessed in the Applicant's ES [[APP-033 to APP-036](#)].

6.8.65. This issue is explored further and concluded on in the Examination section below.

Use of Runway 28

6.8.66. TDC in its LIR [[REP3-010](#)] stated:

"4.3.8 Noise impacts are key issues with all airports and this issue is one of the biggest concerns regarding this proposed development. To the east of the runway is the densely populated area of Ramsgate which would be the most affected residential area. The Noise Mitigation Plan states that the airport operator will seek to operate take-offs from Runway 28 and landings on Runway 10 subject to such operations being in accordance with CAA guidance and the aircraft operator's own limitations and safety management systems. This provides no certainty that the airport will operate in this manner. The areas to the west of the proposed development are sparsely populated and the impact of overflying residential areas is lower."

6.8.67. The ExA [[PD-007](#)] and IPs [[EV-008 to EV-008c](#), [REP3-010](#)] queried whether historic monitoring data and previous airport usage was capable of confirming how probable the proposed runway preferences identified in the NMP [[APP-009](#)] are for take-offs on Runway 28 / landing on Runway 10.

6.8.68. This issue is explored further and concluded on in the Examination section below.

Use of Integrated Noise Model

6.8.69. The ExA [[PD-007](#)] queried the justification for the use of INM modelling [[APP-034](#) and [APP-057](#)] and requested the Applicant provide a commentary on the outcomes of historic INM modelling in drawing conclusions regarding noise impacts.

6.8.70. This issue is explored further and concluded on in the Examination section below.

Uncertainty in INM modelling outputs

6.8.71. Following ISH3 on noise issues where the ExA asked a number of questions on uncertainty in noise modelling [[EV-015](#)], the Applicant stated in its written summary submitted at D5 [[REP5-010](#)] paragraph 2.9:

"2.9 The Applicant stated that there was a level of uncertainty associated with any model, as its accuracy is dependent on its parameters. The Applicant confirmed that the Integrated Noise Model (INM) used was a validated noise model."

6.8.72. The Applicant in response to Ns.2.14 on uncertainty in modelling [[PD-010b](#)] stated [[REP6-012](#)]:

"In terms of understanding the differences between the various models and any uncertainty within them, the Applicant invites the ExA to consider CAP 1736 Edinburgh Airport Noise Calculations and Comparisons with Measurements which describe a comparison of noise contours with measured data using the CAAs ANCON model. The paper provides some

guidance on the accuracy of noise models used to calculate long term exposure to aircraft noise. Paragraph 48 of the attached states:

"...it is worth noting that while there are steps that can be taken to create and improve noise analysis, the standard margin of error in calculating long-term average noise exposure is ± 1 dB and the uncertainty in noise measurements recorded by high quality noise monitors sited appropriately is of a similar order. Care should therefore be taken in over-relying or interpreting variations or differences within these parameters."

6.8.73. This issue is explored further and concluded on in the Examination section below.

Noise contour plots

6.8.74. Five10Twelve and NNF commissioned the CAA's Environmental Research Consultancy Department (ERCD) to produce alternative noise contour plots to the Applicant's.

Five10Twelve contour plots

6.8.75. In order to show the impact and variance of different levels of noise events, [\[AS-108\]](#) states that ERCD generated the following forecast contours using the Five10Twelve fleet mix scenario:

- Day LAeq,16hr (07:00 to 23:00 local time), plotted from 51 to 72 dB(A) in 3 dB steps.

6.8.76. The contours have been produced for the following four runway modal split cases:

- 100% west;
- 100% east;
- 70% west / 30% east; and
- 30% west / 70% east.

6.8.77. The contours were generated using the latest version of the ANCON noise model (v2.4) and based on the Five10Twelve forecast daily traffic data for 100% W and 100% E modes. Aircraft types with more than one engine variant in the ANCON database were split according to assumptions provided by Five10Twelve [\[AS-120, AS-121\]](#).

6.8.78. In view of the expected high proportions of freight traffic, proxy average flight profiles of height, speed and thrust were employed from the latest ANCON Stansted database for both departures and arrivals. Aircraft types that were not present in the Stansted database were substituted by Heathrow profiles where possible, and if not available in the Heathrow database, by Gatwick profiles. The flight profiles assume average weights [\[AS-108\]](#).

6.8.79. The effects of the surrounding topography were modelled using Meridian 2 Gridded Heights terrain data from Ordnance Survey [\[REP8-015\]](#) and [\[REP9-062\]](#).

No Night Flights contour plots

- 6.8.80. The ERCD was commissioned by NNF to produce Lmax footprints for the Boeing 747-400. The 747-400 is described in the representation as the workhorse of the global freighter fleet. The ERCD produced its footprint for each arrival and departure route [[AS-156](#)].
- 6.8.81. ERCD modelled contours for:
- Day LAeq,16hr (07:00-23:00 local time), plotted from 51 to 72 dB(A) in 3 dB steps; and
 - Night LAeq,8hr (23:00-07:00 local time), plotted from 45 to 72 dB(A) in 3 dB steps, with four runway modal splits:
 - 100% west;
 - 100% east;
 - 70% west / 30% east; and
 - 30% west / 70% east [[AS-156](#), [REP11-057](#)].
- 6.8.82. This issue is explored further and concluded on in the Examination section below.

Road traffic modelling and the cumulative effect of road traffic and aircraft noise

- 6.8.83. TDC in its LIR [[REP3-010](#)] stated:
- "4.3.20 The combined effects of the noise sources (aircraft, plant, construction and traffic) has not been assessed and as such the combined effect of the sources has not been considered. Further information is proposed to be requested from the applicant in the form of overlapping construction noise levels and also the combined noise levels from the proposed development".*
- 6.8.84. There was significant discussion during the Examination regarding the transport model, including questions regarding the implications of the model for associated assessments (eg air quality and noise).
- 6.8.85. This issue is explored further and concluded on in the Examination section below.

Proposed mitigation

- 6.8.86. The ExA explored the effect of predicted changes in the noise environment on noise sensitive premises and noise sensitive areas during construction and operation and the mitigation which was proposed ⁸⁷ for:
- Habitable dwellings⁸⁸;
 - schools;
 - Conservation Areas;
 - Public Open Spaces;

⁸⁷ Biodiversity and European sites are dealt with at the biodiversity section of this chapter and in Chapter 7

⁸⁸ Including caravan parks eg Smugglers Leap with 40 homes

- Implications on:
 - Human Rights [[REP1-063](#), [REP8-096](#)]; and
 - Health effects [[REP3-287](#), [REP5-051](#), [REP5-081](#), [REP5-084](#), [REP5-103](#), [REP5-137](#), [REP6-057](#), [REP6-063](#), [REP8-080](#) and [REP8-089](#)].

6.8.87. TDC in its LIR [[REP3-010](#)] stated at paragraph 4.3.17:

"Communities in Thanet that are likely to experience a perceived change in the quality of life for occupants of buildings or in amenity areas or open spaces include:

- Ramsgate;
- Manston;
- St Nicholas-at-Wade; and
- Pegwell Bay".

6.8.88. During the course of the Examination, location specific issues were identified for:

- Manston Green [[REP8-068](#), [REP9-074](#)];
- Smugglers Leap caravan park [[REP3-010](#)];
- Herne Bay [[REP3-246](#), [REP8-097](#)]; and
- West Stourmouth [[EV-016 to EV-016b](#)].

6.8.89. TDC in its LIR [[REP3-010](#)] stated at paragraphs 4.3.11 to 4.3.12:

"The proposed scheme does not mitigate the significant effects on schools, noise sensitive receptors and gardens and the ability of the mitigation proposed to remove significant effects has not been demonstrated in the ES. Consequently, the proposed development is not considered to fully accord with the requirements of the "saved" policies and the draft policies with regards to effects and suitable mitigation.

Subject to the DCO being approved any new developments will need to demonstrate that they have considered noise exposure from an operating Manston Airport to ensure that there are no significant effects from aircraft noise and should make reference to the Association of Noise Consultants document Professional Practice Guidance on Planning and Noise (ProPG) for good acoustic design of residential developments. For schools, guidance is available in Building Bulletin 93".

6.8.90. DDC highlighted [[REP3-227](#)]:

"Adverse noise effects have been identified in 5 locations including West Stourmouth (located in the Dover District) where noise would increase to a point where there would be a perceived change in quality of life."

6.8.91. Unrepresented Thanet Residents Against a Cargo-Hub [[REP8-097](#)] state it:

"...continues to fear that a large-scale freight operation at Manston would have an extremely negative impact, not only on the 40,000 people who

live close to the flight path in Ramsgate, but to many others in Thanet and beyond, especially Herne bay. RSP's own documentation states it would have a 'significant adverse effect' on the town (of Ramsgate). [...] RSP's failure to present adequate environmental assessment, noise mitigation and financial compensation."

Caravan parks

- 6.8.92. The Applicant's response to ExQ3 [[REP7a-002](#)], specifically Ns.3.6, highlighted that it is not possible to comment on how effective noise insulation and ventilation will be on caravan park homes without undertaking a detailed survey and inspection. The effectiveness will depend on the existing sound insulation performance provided by the caravan walls, roof and glazing [[REP8-011](#)].
- 6.8.93. This issue is explored further and concluded on in the Examination section below.

Manston Green

- 6.8.94. Manston Green is located approximately 1km to the east of the Manston Airport runway. Cogent, are the owners of the Manston Green development, which benefits from an outline planning permission, with all matters reserved except access, for 785 dwellings, highways infrastructure works (including single carriageway link road), a primary school, small scale retail unit, community hall and public open space (LPA ref: OL/TH/14/0050). The Reserved Matters application for the first of the three phases of the development has been submitted and is under consideration by TDC (LPA ref: R/TH/19/0499) [[REP8-068](#)].
- 6.8.95. Cogent [[REP8-068](#), [REP9-074](#)] has raised concerns about noise impacts on the Manston Green development and whether these impacts can be mitigated but does not object to the airport stating that "*it could be valuable asset in boosting the regional economy through investment and employment creation*". Cogent and the Applicant have not been in a position to agree a SoCG [[REP4-015](#)].
- 6.8.96. Cogent believed the noise assessment undertaken for the Proposed Development is considered to be flawed as it does not adequately assess the noise impacts on Manston Green. The consent for Manston Green was granted subject to a planning condition that prevented development in areas with unacceptable noise levels. Cogent believed that the ExA's original dDCO [[PD-018](#)] will trigger the insulation and ventilation scheme at the 60dB contour, in order to mitigate the impacts of the airport, which will be applicable to Manston Green. Cogent believe that a condition on the grant of the DCO should ensure that all dwellings within the Manston Green development that require mitigation is provided by the Applicant [[REP9-074](#)].
- 6.8.97. This issue is explored further and concluded on in the Examination section below.

A contour-based noise limit capping the annual average noise level (LAeq) produced by ATM's and GA movements.

- 6.8.98. The Applicant proposed that forecasts for the area enclosed by the 50dB(A) LAeq,16hr (07:00 to 23:00) contour shall not exceed 35.8 sq km, and the area enclosed by the 40dB(A) LAeq,8hr (23:00 to 07:00) contour shall not exceed 47.4 sq km [[REP9-014](#)].
- 6.8.99. A report on the contour area limits described in the NMP [[AS-579](#)], based on actual flights for the calendar year will be produced within three months of the end of each year for the Community Consultative Committee. A fine shall be paid by the airport operator to the Community Trust Fund of £10,000 for every percentage point that the actual contour exceeds the limits set out in the NMP [[AS-579](#)].
- 6.8.100. Five10Twelve [[REP6-036](#)] raised a series of questions regarding the contour area cap. These questions informed ExQ4 Ns.4.1 [[PD-020](#)], which asked the Applicant:
- What is the 'noise contour area cap'?
 - Where is this 'noise contour area cap' set out, described or drawn?
 - How would the Applicant know if this 'noise contour area cap' were ever to be breached given it plans to install just a few noise monitors, several kilometres away from the airport?; and
 - What would happen if this 'noise contour area cap' were breached – what would be the consequential penalty?
- 6.8.101. This issue is explored further and concluded on in the Examination section below.

Schools

- 6.8.102. A number of IPs referenced concerns about the impact of the Proposed Development on schools [eg [RR-1953](#)]. TDC in its LIR [[REP3-010](#)] state:
- "4.3.16 Significant effects are predicted at seven schools from a change in noise levels. Despite the significant effects no mitigation is proposed as the schools do not lie within the 63 dB LAeq,16hr contour for noise insulation. Kent County Council and TDC will need to take this into account for school developments and the outdoor educational curriculum.*
- 4.3.35 The proposed development at Manston Airport is shown to cause significant effects to residential, school and community receptors from daytime and night time noise levels. The proposed development will lead to significant noise effects that worsen with time and may not be adequately mitigated."*
- 6.8.103. DDC referenced the 60dB LAeq,16hr threshold, although only to suggest that this should be applied as the wider day time noise contour [[RR-0490](#)]. PHE requested clarification of what would constitute a 'reasonable' level of noise insulation and ventilation [[RR-1608](#)].
- 6.8.104. The ExA considered noise insulation for schools at ISH3 [[EV-016 to EV-016b](#)] and through written questions. This issue is explored further and concluded on in the Examination section below.

Noise monitoring

6.8.105. The NMP [[AS-579](#)] at section 16 commits to:

"Permanent fixed noise monitoring terminals will be located under each of the aircraft departure flight paths at a distance of 6.5km from the start of take-off roll.

During the Day Time Period the operator of any departing aircraft that exceeds 90 dB LASmax at the relevant noise monitoring terminal will be subject to a penalty of £2000 and a further penalty of £150 for each additional decibel exceeded above 90 dB LASmax.

The operator of any flight departing between 0600 and 0700 aircraft that exceeds 82 dB LASmax at the relevant noise monitoring terminal will be subject to a penalty of £2000 and further penalties of £150 for each additional decibel exceeded above 82 dB LASmax.

The level of fines levied shall be increased on an annual basis in line with inflation."

6.8.106. The ExA notes that noise monitoring at 6.5km from the start of take-off roll is a standard requirement for UK airports⁸⁹. The ExA proposed a new R23 for the dDCO in order to reinforce the establishment of a robust monitoring, auditing and reporting regime⁹⁰ for the Proposed Development in line with Schedule 4, Section 7 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 [[PD-018](#)]:

"No part of the authorised development is to begin operation until a monitoring, auditing and reporting plan for the register of environmental actions and commitments has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the highway authority, the Environment Agency, Historic England, the Civil Aviation Authority and Natural England to the extent that it relates to matters relevant to their function."

6.8.107. This was introduced in order to reinforce the robust monitoring, auditing and reporting regime for the Proposed Development in line with Schedule 4 Section 7 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The Applicant accepted this new Requirement [[REP9-002](#), page 12].

6.8.108. The airport operator is required to establish a Community Consultative Committee in accordance with section 35 of the Civil Aviation Act 1982 (as amended) and with the guidance contained in Guidelines for Airport Consultative Committees (DfT, 17 April 2014)⁹¹. The ExA considered the

⁸⁹ Available at: <https://www.caa.co.uk/Consumers/Environment/Noise/Noise/>

⁹⁰ R23 is not just a noise issue but covers monitoring in all aspects of potential effects

⁹¹ Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/618544/guidelines-airport-consultative-committees.pdf

role of the Community Consultative Committee during the Examination [[EV-016 to EV-016b](#) and [PD-014](#)].

6.8.109. This issue is explored further and concluded on in the Examination section below.

Human Rights

6.8.110. The European Court of Human Rights (ECHR) applies certain protocols in relation to noise disturbance. Article 8 – the right to respect for private and family life in *Hatton vs. UK* (2003) 37 ECHR 28, paragraph 96 of the judgment stated:

"There is no explicit right in the convention to a [...] quiet environment, but where an individual is directly and seriously affected by noise [...] an issue may arise under Article 8..."

6.8.111. Article 1 of Protocol 1 – the protection of property has also been the subject of a judgment in *Thomas & Ors v Bridgend County BC* (2011) EWCA Civ 862, where the claimant argued that noise from a road was a breach of Article 1 by interfering with the peaceful enjoyment of possessions (ie the claimant's house) and they should be entitled to compensation, the Court concluded that as there was no compensation offered, that was a breach of Article 1 [[REP6-012](#), response to Ns.2.24].

6.8.112. With regard to the general requirement under the PSED, decision makers need to take into account the potential effect of noise from a proposed development or activity and if any discrimination may arise from the effect on noise receptors.

6.8.113. Human Rights were explicitly raised by IPs in the following representations including:

- [[REP1-063](#), [REP7-019](#), [REP8-096](#), [AS-069](#)]; and
- at OFHs and ISHs [[EV-008a to EV-008c](#), [EV-010a to EV-010c](#), [EV-015](#), [EV-016 to EV-016b](#), [EV-017](#), [EV-027](#) and [EV-027a](#)].

6.8.114. This issue is explored further and concluded on in the Examination section below.

Health effects

6.8.115. Exposure to noise can have effects on sleep and general annoyance and can lead to chronic health effects (eg heart disease and hypertension). Health effects were explicitly raised by IPs in the following representations:

- [[AS-029](#), [RR-1608](#), [REP3-066](#), [REP3-126](#), [REP3-158](#), [REP3-287](#), [REP5-051](#), [REP5-052](#), [REP5-081](#), [REP5-084](#), [REP5-103](#), [REP5-137](#), [REP6-057](#), [REP6-063](#), [REP8-080](#), [REP8-089](#)]; and
- at OFHs and ISHs [[EV-008a to EV-008c](#), [EV-010 to EV-010c](#), [EV-015](#), [EV-016 to EV-016b](#), [EV-017](#), [EV-027](#) and [EV-027a](#)].

6.8.116. This issue is explored further and concluded on in the Examination section below.

Other related matters

- 6.8.117. The Examination considered the interaction between the assessment of noise and vibration impacts and the assessment of adverse effects on integrity considered as part of the Applicant's Habitats Regulations Assessment [APP-044], in particular noise impacts on bird populations. The key noise issues considered included:
- Management of construction activities with potential to give rise to disturbance effects for designated bird species of the Thanet Coast and Sandwich Bay SPA and Ramsar (in functionally linked land adjacent to the airport and at the outfall in Pegwell Bay);
 - the implications of operational bird scaring techniques for birds (primarily golden plover) using land functionally linked with the Thanet Coast and Sandwich Bay SPA and Ramsar; and
 - the implications of flight paths and overflying aircraft for bird disturbance in the designated European sites in Pegwell Bay and on the north Thanet Coast adjacent to Herne Bay.
- 6.8.118. These matters have been addressed in detail in Chapter 7 of this recommendation report and are not considered further here.

Relevant policy considerations

Introduction

- 6.8.119. Chapter 3 of this report details the overarching regulatory and policy considerations which informed the examination of the Proposed Development. Only those policies which are directly relevant to noise and those which have been explicitly referenced in the Examination are considered here.

International Civil Aviation Organisation

- 6.8.120. At an international level, standards governing aircraft noise emissions are set by the ICAO. In the UK, the DfT and Defra are responsible for regulating the various environmental aspects of the aviation industry.
- 6.8.121. The ICAO is the body that oversees the regulation of civil aviation internationally. The primary ICAO policy on aircraft noise is the 'Balanced Approach to Aircraft Noise Management', details of which are contained within Doc 9829 AN/451 ('Guidance on the Balanced Approach to Aircraft Noise Management').
- 6.8.122. ICAO Resolution A33-7 ('the Balanced Approach') recognises that effective land-use planning policy is also required to ensure that activities near to airports are compatible with aviation. The primary goal of the Balanced Approach is to:

*"Address noise problems on an individual airport basis and to identify the noise-related measures that achieve maximum environmental benefit most cost-effectively using objective and measurable criteria."*⁹²

⁹² Available at: <https://www.icao.int/environmental-protection/Pages/noise.aspx>

- 6.8.123. In order to achieve its goal, the Balanced Approach introduces four principals that should be considered when managing aircraft noise:
- Reduction of noise at source for example by making aircraft quieter by setting noise standards;
 - land-use planning and management, for example zoning of land with regards to noise;
 - noise abatement operational procedures that reduce the noise impact on the ground; and
 - operating restrictions, for example those which restrict the noisiest aircraft.
- 6.8.124. The ExA considers that the Balanced Approach is important and relevant.

Civil Aviation Authority

- 6.8.125. In relation to noise, the CAA⁹³ states that:

"...the CAA has three key roles around aviation noise:

- *Deciding whether or not the design of contracted airspace can be changed (in accordance with government, law and noise policy). We are currently reviewing and consulting on our airspace change decision process. Detailed information is available on our airspace change pages.*
- *Monitoring noise around UK airports and publishing information about noise levels and impact. We do this for a range of customers including the UK Government, airport operators, airspace change proposers and local authorities.*
- *Collaborating on and reviewing research into the effects of noise and how they can be reduced, and offering advice to Government on these effects.*

The CAA does not:

- *Make decisions about the amount of noise that is considered damaging or annoying for people;*
- *Make decisions about particular plans for airports, such as expansions."*

Independent Commission on Civil Aviation Noise

- 6.8.126. The role of the Independent Commission on Civil Aviation Noise (ICCAN) is to act as a credible and authoritative voice on civil aviation noise issues. The ICCAN is an advisory non-departmental public body, sponsored by the DfT. It began work in January 2019.
- 6.8.127. EU Regulation 598/2014 (on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC).

⁹³ Available at: <https://www.caa.co.uk/Consumers/Environment/Noise/Noise/>

- 6.8.128. In 2016 EU Regulation 598/2014 came into force and Directive 2002/30/EC (on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports) was repealed.
- 6.8.129. The Regulation relates to the procedures concerning the introduction of noise-related operating restrictions and connects together Directive 2002/49/EC (the END), with the European Civil Aviation Conference (ECAC) Doc 29 (Report on Standard Method of Computing Noise Contours around Civil Airports) and the ICAO Balanced Approach.
- 6.8.130. It should be noted that EU Regulation 598/2014 is 'regulation' and therefore unlike Directive 2002/30/EC, it is directly binding on Member States and therefore does not need to be transposed into national law as a Directive would be.

The Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003

- 6.8.131. In the UK, The Aerodromes Regulations 2003 implements into UK law the provisions of EU Directive 2002/30/EC concerning the Balanced Approach. In order to obtain an Aerodrome Certificate an application will have to be submitted to the CAA in accordance with Regulation (EU) 2018/1139 (the EASA Basic Regulation) and Commission Regulation (EU) No 139/2014 or in accordance with Article 212 of the Air Navigation Order 2016 (ANO). The Aerodrome Certificate application will require the Applicant to submit details of how they intend to satisfy all of the operational requirements laid down in the regulation including environmental management [[REP4-006](#)].

Noise Policy Statement for England

- 6.8.132. The aim of the NPSE is to provide clarity regarding current policies and practices to enable noise management decisions to be made within the wider context, at the most appropriate level, in a cost-effective manner and in a timely fashion. It sets out the Government's long-term noise policy vision supported by noise policy aims.
- 6.8.133. The Explanatory Note to the NPSE at paragraph 2.9 under the heading 'How should the Noise Policy Statement for England be used?' notes that noise is complex and that:

"...there are currently no European or national noise limits which have to be met, although there can be specific local limits for specific developments... Unlike many other pollutants, noise pollution depends not just on the physical aspects of the sound itself, but also the human reaction to it. Consequently, the NPSE provides a clear description of desired outcome from the noise management of a particular situation."

The Explanatory Note at paragraph 2.20, under the heading 'What do the aims of the Noise Policy Statement for England mean?' refers to two established concepts from toxicology that are being applied to noise as a means of measuring its impacts upon health and quality of life and refers as an example to their use by the WHO. They are:

- NOEL – No observed effect level. This is the level below which no effect can be detected; and
- LOAEL – Lowest observed adverse effect level. This is the level above which adverse effects on health and quality of life can be detected.

6.8.134. The NPSE then extends these concepts for its own purpose which it states 'leads to the concept of a significant observed adverse effect level':

- SOAEL – Significant observed adverse effect level. This is the level above which significant adverse effects on health and quality of life occur.

6.8.135. The NPSE states that it is not possible to give a single objective noise-based measure that defines a SOAEL that is applicable to all sources of noise for all situations. It acknowledges that the SOAEL is likely to be different for different noise sources, for different receptors and at different times.

6.8.136. The NPSE sets out the long-term vision of Government noise policy at paragraph 1.6:

"Noise Policy Vision

Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development."

6.8.137. The NPSE states at paragraph 1.7⁹⁴ that:

"Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life."*

6.8.138. The ExA considers that the NPSE is important and relevant.

Airports National Policy Statement

6.8.139. Paragraph 1.12 of the ANPS states:

"The Airports NPS provides the primary basis for decision making on development consent for a North-West runway at Heathrow Airport and is an important consideration with regard to other applications for runways and airport infrastructure in London and the South East of England".

⁹⁴ Virtually the same wording as paragraph 5.68 of the ANPS

6.8.140. The ANPS is an important consideration with regard to applications for runways and airport infrastructure in London and the South East.

6.8.141. Noise impacts of airport expansion are assessed in general at paragraph 5.44 to 5.45 of the ANPS. Decision-making considerations are set out in paragraphs 5.67 to 5.68. Paragraphs 5.44 to 5.45 state:

"5.44 The impact of noise from airport expansion is a key concern for communities affected, and the Government takes this issue very seriously. High exposure to noise is an annoyance, can disturb sleep, and can also affect people's health. Aircraft operations are by far the largest source of noise emissions from an airport, although noise will also be generated from ground operations and surface transport, and during the construction phase of a scheme.

5.45 Aircraft noise is not only determined by the number of aircraft overhead, but also by engine technologies and airframe design, the paths the aircraft take when approaching and departing from the airport, and the way in which the aircraft are flown."

6.8.142. Paragraphs 5.67 to 5.68 of the ANPS go on to say:

"5.67 The proposed development must be undertaken in accordance with statutory obligations for noise.^[95] Due regard must have been given to national policy on aviation noise, and the relevant sections of the Noise Policy Statement for England,¹⁵⁹ the National Planning Policy Framework,¹⁶⁰ and the Government's associated planning guidance on noise.¹⁶¹ However, the Airports NPS must be used as the primary policy on noise when considering the Heathrow Northwest Runway scheme, and has primacy over other wider noise policy sources.

5.68 Development consent should not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management and control of noise, within the context of Government policy on sustainable development:

- *Avoid significant adverse impacts on health and quality of life from noise;*
- *Mitigate and minimise adverse impacts on health and quality of life from noise; and*
- *Where possible, contribute to improvements to health and quality of life".*

6.8.143. The ExA considers that the ANPS is important and relevant for the purposes of s105.

National Networks Policy Statement

6.8.144. This sets out the need for and the Government's policies to deliver, development of NSIPs on the national road and rail networks in England. It provides planning guidance for promoters of NSIPs on the road and rail

⁹⁵ EU Regulation 598/2014; The Environmental Noise (England) Regulations 2006, NPSE, NPPF paragraph 123 (or any successor document), PPG on noise

networks, and the basis for the examination by the ExA and decisions by the Secretary of State. Paragraphs 5.186 to 5.200 set out the policy considerations with respect to noise and vibration, which include the requirement to assess transport noise effects and demonstrate measures taken to minimise noise emissions. The policy references the NPSE aims. The ExA considers it to be of very limited relevance to the Proposed Development but it is consistent with other relevant policy on the requirements to minimise noise emissions.

NPPF and PPG

6.8.145. Paragraph 170 requires that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability."

6.8.146. Paragraph 180 states:

6.8.147. *"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

a). mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁰; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b). identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason;"

6.8.148. The ExA considers that the NPPF is important and relevant for the purpose of s105.

6.8.149. The noise section of the PPG advises on how planning can manage potential noise impacts in new development. It complements the approach set out in the NPSE.

6.8.150. The ExA considers that the PPG on noise is important and relevant.

Aviation Policy Framework

6.8.151. Published in 2013 by DfT, the APF sets out the Government's policy on aviation and sets out the parameters within which the AC would work. Section 3.1 deals with noise predominantly. Paragraph 3.12 states the Government's overall policy on aviation noise is:

"...to limit and where possible, reduce the number of people in the UK significantly affected by aircraft noise."

6.8.152. The ExA considers that the APF is important and relevant.

Draft UK Airspace Policy: A framework for balanced decisions: on the design and use of airspace

6.8.153. The draft UK Airspace Policy was published in 2017 and outlines the Government's draft future policy for airspace. The policy aligns the Government's noise policy (NPSE) with decision making on airspace and aviation noise. Furthermore, the policy suggests that noise affects are observed from 51dB LAeq,16hr (ie LOAEL), based on the CAA Survey of Noise Attitudes 2014 (SoNA) and from 45dB LAeq,8hr during the night. At the time of the application for the Proposed Development the policy has been commented on within the Summary report of consultation feedback (October 2017) and these comments have been considered within the Consultation Response on UK Airspace Policy: A framework for balanced decisions on the design and use of airspace (October 2017). The key result in terms of criteria is the proposed reduction in the noise metric for LOAEL from 54dB(A) LAeq,16hr to 51dB LAeq,16hr.

6.8.154. The ExA considers that the draft UK Airspace Policy is important and relevant.

CAA Survey of Noise Attitudes 2014: Aircraft

6.8.155. The SoNA report was published by the CAA as CAP 1506 in 2017 and describes the research undertaken by the CAA on attitudes to aircraft noise around airports in England and also how attitudes relate to noise exposure indices commonly used by the industry (for example LAeq,16hr). However, whilst the survey was undertaken around nine UK airports, the majority of responses were from people living around Heathrow.

6.8.156. The report examined alternative metrics to determining annoyance from aircraft noise and recommends the continued use of the LAeq,16hr indicator as a way of measuring annoyance (page 41).

6.8.157. However, even though the report recommends the continued use of the LAeq,16hr indicator it found that, unlike previous research that suggested annoyance started (ie LOAEL) at 57dB LAeq,16hr, sensitivity to aircraft noise has increased and therefore annoyance due to aircraft noise can begin at 51dB LAeq,16hr. Furthermore, the level at which people could be 'highly annoyed' by aircraft noise is now 54dB LAeq,16hr and that annoyance levels were likely to increase with increasing noise exposure levels.

6.8.158. The report also found that non-acoustical factors often influence annoyance, for example time of day, socio-economic status, age, expectations and length of residence.

6.8.159. The ExA considers that the SoNA report is important and relevant.

Air Navigation Guidance (DfT, 2017)

- 6.8.160. Guidance to the CAA on its environmental objectives when carrying out its air navigation functions and to the CAA and wider industry on airspace and noise management. The guidance sets out considerations for noise implications of proposed airspace changes.
- 6.8.161. Whilst the responsibility for ACPs rest with the CAA, the principles of the guidance are considered to be important and relevant in the consideration of noise impacts.
- 6.8.162. The ExA considers that the Air Navigation Guidance is important and relevant.

Thanet Local Plan 2006 'Saved' Policies

- 6.8.163. TDC LIR [[REP3-010](#)] identified the a number of aviation-related policies in the LP.

- 6.8.164. Policy EC2 – Kent International Airport:

"Proposals that would support the development, expansion and diversification of Kent International Airport will only be permitted subject to the following requirements: [...]"

4. Any application for development for the purpose of increasing aircraft movements in the air or on the ground, auxiliary power or engine testing, must be supported by an assessment of the cumulative noise impact and the effectiveness of mitigation measures to be implemented in order to minimise pollution and disturbance. The acceptability of proposals will be judged in relation to any identified and cumulative noise impact, the effectiveness of mitigation and the social and economic benefits of the proposals."

- 6.8.165. Policy D1 – Design Principles:

"1) All new development is required to provide high quality and inclusive design, sustainability, layout and materials.

2) A new development proposal will only be permitted it

(b) is compatible with neighbouring buildings and spaces through overlooking, noise or vibration, light pollution, overshadowing, loss of natural light, or sense of enclosure."

- 6.8.166. Policy EP7 – Aircraft Noise:

"Applications for noise sensitive development or redevelopment on sites likely to be affected by aircraft noise will be determined in relation to the latest accepted prediction of existing and foreseeable ground noise measurement of aircraft noise.

Applications for residential development will be determined in accordance with the following noise exposure categories. NEC predicted aircraft noise levels (dbl aeq.0700-23.00)

(a) <57 noise will not be a determining factor

(b) 57-63 noise will be taken into account in determining applications, and where appropriate, conditions will be imposed to ensure an adequate level of protection against noise (Policy EP8 refers).

(c) 63-72 planning permission will not be granted except where the site lies within the confines of existing substantially built-up area. Where residential development is exceptionally granted, conditions will be imposed to ensure an adequate level of protection against noise (Policy EP8 refers).

(d) >72 residential development will not be permitted

Applications for non-residential development including schools, hospitals and other uses considered sensitive to noise will not be permitted in areas expected to be subject to aircraft noise levels exceeding 60 dA(A) unless the applicant is able to demonstrate that no alternative site is available. Proposals will be expected to demonstrate adequate levels of sound insulation where appropriate in relation to the particular use."

6.8.167. Policy EP8 – Aircraft Noise and Residential Development:

*"...when planning consent is granted for residential development on any land expected to be subject to a level of aircraft noise of above 57db(a)**, such consent will be subject to provision of a specified level of insulation to achieve a minimum level of sound attenuation in accordance with the following criteria:*

NEC predicted aircraft minimum noise levels attenuation required (db(a) (frequency range 100-3150 hz)

(a) <57 no attenuation measures required

(b) 57-63 20db

(c) 63-72 30db

*** laeq 57db 07:00 to 23:00."*

6.8.168. The ExA considers that the saved policies of the LP are important and relevant for the purpose of s105.

Draft Thanet Local Plan to 2031 Policies⁹⁶

6.8.169. TDC's LIR [[REP3-010](#)] identified relevant policies in the eLP.

6.8.170. Policy QD03 – Living Conditions:

"All new Development should:

1) Be compatible with neighbouring buildings and spaces and not lead to the unacceptable living conditions through overlooking, noise or

⁹⁶ Council submitted the draft Local Plan to the Secretary of State for Communities and Local Government on 30 October 2018, for independent review by the Planning Inspectorate

vibration, light pollution, overshadowing, loss of natural light or sense of enclosure."

6.8.171. Policy SE01 – Potentially Polluting Development:

"Development with potential to pollute will be permitted only where:

- 4) Applicable statutory pollution controls and siting will effectively and adequately minimise the impact upon existing and proposed land uses and the environment including the effects, including cumulative effects, on health, the natural environment such as significant natural and heritage assets, or general amenity resulting from the release of pollutants to water, land or air or from noise, dust, vibration, light, odour or heat; and; and*

In determining individual proposals, regard will be paid to:

2) The economic and wider social need for the development; and

3) The visual impact of measure needed to comply with any statutory environmental quality standards or objectives.

4) where there is an impact and the development is acceptable, a suitable mitigation is proposed to the satisfaction of the pollution control regimes. Permission for development which is sensitive to pollution will be permitted only if it is sufficiently separated from any existing or potential source of pollution as to reduce pollution impact upon health, the natural environment or general amenity to an acceptable level, and adequate safeguarding and mitigation on residential amenity."

6.8.172. Policy SE06 – Noise Pollution:

"In areas where noise levels are relatively high, permission will be granted for noise-sensitive development only where adequate mitigation is provided, and the impact of the noise can be reduced to acceptable levels.

Development proposals that generate significant levels of noise must be accompanied by a scheme to mitigate such effects, bearing in mind the nature of surrounding uses. Proposals that would have an unacceptable impact on noise sensitive areas or uses will not be permitted."

6.8.173. The ExA is mindful that the eLP is currently being examined and whilst it is at an advanced stage of production, the above policies could be subject to change. Nonetheless, the ExA considers the policies important and relevant.

Relevant noise guidance

WHO Burden of disease from environmental noise: Quantification of healthy life years lost in Europe (2011)

6.8.174. This document provides a methodology for measuring the burden of disease from environmental noise, including aviation using a process called the DALY and summarises the evidence on the relationship between environmental noise and health effects. The DALY methodology

measures the combined years lost due to premature death and the time lost due to years lived at less than full health.

Environmental Noise Measurement and Calculation

- 6.8.175. 'ISO 9613-2 1996: Acoustics (ISO9613) – Attenuation of sound during propagation outdoors: Part 2 General method of calculation' describes the methodology for calculating the attenuation of sound propagation outdoors. The methodology is intended to be used for the prediction of environmental noise and outputs are expressed as LAeq.
- 6.8.176. 'BS 7445-1:2003 (BS7445-1) Description and measurement of environmental noise – Part 1: Guide to quantities and procedures' provides guidance for describing and measuring noise from all sources. The standard recommends equivalent continuous A-weighted sound pressure level (LAeq) as the most appropriate basic noise indicator.
- 6.8.177. 'BS 7445-2:1991 (BS7445-2) Description and measurement of environmental noise – Part 2: Guide to the acquisition of data pertinent to land use' provides guidance for describing noise, including tonal and impulsive adjustments, for the purposes of assessing compatibility of the noise environment with land use.
- 6.8.178. 'BS 7445-3:1991 (BS7445-3) Description and measurement of environmental noise – Part 3: Guide to application of noise limits' provides guidance for the specification of noise limits (but does not provide noise limits) and describes methods for acquiring data to enable noise limits to be set.

Construction Noise and Vibration Calculation and Assessment

- 6.8.179. 'BS 5228-1:2009+A1-2014 (BS5228-1) Code of practice for noise and vibration control on construction and open sites - Part 1: Noise' provides guidance on the assessment and control of noise from construction sites, along with suggestions for the derivation of guideline noise limits. BS 5228-1 also provides a methodology for calculating noise from construction and provides reference information for noise from construction plant. The 'ABC Method' and '+5 dB(A)' method presented within Annex E require an understanding of existing ambient sound levels at nearby dwellings.
- 6.8.180. Part 2 'BS5228-2:2009+A1-2014 (BS5228-2) Code of practice for noise and vibration control on construction and open sites. Vibration' sets out basic methods of vibration control for construction and open sites. It considers the legislative background to vibration control provides guidance concerning methods of measuring vibration and assessing its impacts on the environment. Significance criteria are based on human dose responses and are expressed in terms of Peak Particle Velocity (PPV).

Road Traffic Noise Calculation and Assessment

- 6.8.181. Calculation of Road Traffic Noise (CRTN) 1988 is a prediction methodology for road traffic noise. Using detailed information on two-

way traffic flows, percentage of HGV movements, road gradient, vehicle speed, ground conditions and screening, the methodology calculates the propagation of noise from roads. Although CRTN is predominantly a prediction methodology, it also provides advice on measurements, including a “*shortened measurement procedure*” whereby a continuous measurement taken for three hours between 10:00 and 17:00 can be converted to the LA10,18h.

Design Manual for Roads and Bridges Vol. 11 – Environmental Assessment (2011)

- 6.8.182. Design Manual for Roads and Bridges (DMRB) contains advice on the assessment of noise from road traffic, particularly from new and altered roads and sets out the following assessment methods on Volume 11 Section 3 Part 7 HD 213/11. It sets out a method for undertaking a tiered approach to assessment by scoping first, conducting a simple assessment and, if it is clear that the project under assessment will result in noise and vibration changes greater than the threshold levels, conduct a detailed assessment.

Acoustic design of schools: performance standards Building Bulletin 93 February 2015 (Department for Education)

- 6.8.183. This document supersedes section 1 of ‘Building Bulletin 93’ (BB93) published in 2003. It sets out minimum performance standards for the acoustics of school buildings and describes the normal means of demonstrating compliance with the Building Regulations. It also provides guidance in support of The School Premises (England) Regulations 2012 and The Education (Independent School Standards) Regulations 2014.

SAE-AIR-1845 Procedure for the Calculation of Airplane Noise in the Vicinity of Airports (1986)

- 6.8.184. The Aerospace Information Report (AIR) describes the methodology used by aircraft noise modelling software for calculating sound exposure levels from aircraft.

ECAC Doc.29 3rd Edition (2005)

- 6.8.185. The report on ‘Standard Method of Computing Noise Contours around Civil Airports’ provides guidance on aircraft noise modelling and is consistent with the methodology presented in SAE-AIR-1845.

Institute of Environmental Management and Assessment Guidelines for Environmental Noise Impact Assessment (IEMA)(2014)⁹⁷

- 6.8.186. These guidelines aim to provide guidance for undertaking a noise impact assessment applicable for all types of projects, regardless of the size, where noise effects are likely to happen.

⁹⁷ Appendix 12.3 of [[APP-057](#)]

- 6.8.187. The need to take into account the noise features (such as continuous / intermittent / periodic, frequency content, time of occurrence) and the NSRs' perception of the noise is emphasised.
- 6.8.188. The guidelines define the concepts of noise impact as the difference in the acoustic environment before and after implementing the proposals.
- 6.8.189. The guidelines provide guidance on how the noise impact assessment shall be carried out and where it fits within the EIA process. The process requires the following activities:
- Scoping;
 - Baseline condition: showing understanding and description of the existing acoustic environment including NSRs;
 - Impact identification;
 - Effect description: an assessment of the significance of the expected noise impact at the NSRs;
 - Significance evaluation: an evaluation of the effects to determine their significance;
 - Identification of mitigation measures; and
 - Monitoring of the noise effects post-consent.

Findings

Assessment methodology, study area and necessary restrictions

- 6.8.190. The Applicant in Chapter 12 of the ES [[APP-034](#)] outlines the relevant policy, legislation and guidance that has informed the assessment (Section 12.2), and the data gathering methodology that was adopted as part of the assessment (Section 12.3). This leads on to a description of the scope of the assessment (Section 12.4), the overall baseline conditions (Section 12.5 and Appendix 12.2), the environmental measures incorporated into the Proposed Development (Section 12.6) and the assessment methodology (Section 12.7 and Appendix 6.3 [[APP-044](#)]). The chapter discusses and concludes with the results of the assessment (Sections 12.8 to 12.13) and a summary of the significance of the Proposed Development's noise and vibration impacts (Section 12.14). Chapter 12 is supported by Figures 12.1 to 12.22 [[APP-040](#)]. ES Chapter 12, paragraph 12.1.5 sets out the limitations to the assessment.
- 6.8.191. The ES is supported by technical appendices 12.1 to 12.4 [[APP-057](#)]; figures 12.1 to 12.13 [[APP-042](#)]; construction noise management measures in the CEMP [[APP-011](#)]; and noise mitigation commitments in the REAC [[APP-010](#)] and NMP [[APP-009](#)].
- 6.8.192. The Applicant's assessment in Chapter 12 of the ES [[APP-034](#)] and the associated appendices [[APP-057](#)] comprises:
- Baseline noise survey based on BS7445 and BS4142 survey methods;
 - Construction noise assessment based on BS5228-1 'ABC' method;

- Construction vibration assessment – based on BS5228 and Transport and Road Research Laboratory 'Research Project 429'⁹⁸;
 - Construction traffic and operational traffic noise assessment based on the DMRB and CRTN methods;
 - Operational noise assessment for industrial and commercial sound (fixed plant)⁹⁹;
 - Operational noise assessment for aircraft noise – modelling based on the Federal Aviation Administration's (FAA) INM and calculations of noise propagation based on ISO9613-2¹⁰⁰. The use of INM is discussed further below.
 - Noise mitigation provided through the CEMP, REAC and NMP.
- 6.8.193. Ground-based noise sources have been modelled using three-dimensional information within proprietary noise modelling software (LimA v.11.2). Digital information has been incorporated into the model including a Digital Terrain Model (DTM), and datasets describing the location of buildings, bridges, barriers, and other obstacles to sound propagation [[APP-057](#)].
- 6.8.194. Receptors considered in the assessment include residential receptors, non-residential community receptors (eg schools, places of workshop and medical facilities) and quiet areas. These are referred to as tranquil areas in the NPPF. No quiet areas are identified in the ES [[APP-034](#)].
- 6.8.195. As highlighted above, the proposed mitigation documents (CEMP, REAC and NMP) went through multiple iterations during the course of the Examination.
- 6.8.196. The Applicant's environmental management of the construction works associated with the Proposed Development will be delivered via the implementation of the CEMP [[REP9-017](#)]. It outlines the environmental procedures that require consideration throughout the construction process in accordance with legislative requirements and construction industry best practice guidance (secured via R6 in dDCO). Section 5.8 of the CEMP details the construction noise and vibration impacts and the proposed control measures.
- 6.8.197. The Applicant's environmental management measures associated with the operation of the Proposed Development will be delivered via the implementation of a separate OEMP [[REP9-011](#)]. The only mitigation measures related to the operation of the Proposed Development included in the CEMP are those which are relevant to parts of the Proposed Development which will be operational before construction is completed. Noise aspects and impacts and the proposed control measures during

⁹⁸ Ground-borne vibration caused by mechanical construction works

⁹⁹ No assessment undertaken as no design detail available – the Applicant proposes a method based on BS4142 for subsequent development

¹⁰⁰ Manston Airport was previously modelled using INM as were other airports undertaking airspace change proposals consistent with CAA's CAP 725 guidance, and for airport noise mapping under the Environmental Noise Directive (2002/49/EC) [[APP-034](#)]

operation are detailed in pages 15 to 16 of Table 4.3 of [[REP9-011](#)]. This is secured via R7 in the dDCO.

6.8.198. REAC [[REP11-008](#)] summarises the Applicant's committed mitigation measures, including noise and vibration, within the chapters of the ES and associated appendices [[APP-034](#) and [APP-057](#)]. Cross-references are provided to the 'Requirements' that will secure the commitments in the DCO. Table 2.1 contains the actions and commitments relating to construction of the Proposed Development and Table 3.1 contains those relating to the operation of the Proposed Development. Appendix A details the management plans which will be in place during construction and operation of the Proposed Development, to enforce the mitigation measures within the REAC. Table 2.1 at pages 8, 27, 31 to 34 and 38 details specific noise control measures during construction and Table 3.1 at pages 52, 62 to 63, 68, 73 to 79, 82 and 87 to 90 details specific noise control measures during operation [[REP11-008](#)]. The REAC is secured via R7 of the dDCO. The NMP went through nine iterations during the course of the Examination, with a final version submitted as [[AS-579](#)] on the final day of the Examination.

6.8.199. During the Examination the Applicant undertook and submitted further technical notes and assessment information in response to concerns raised. These include:

- Appendices to the Applicant's response to ExQ1 including revised Construction tables in response to NS.1.22 and car parking noise assessment in response to NS.1.25 [[REP3-187](#)];
- updated noise contour maps [[REP4-021](#)];
- review of potential noise mitigation measures [[REP4-022](#)];
- data on DALYs [[REP4-027](#)];
- its written summary of oral representation at ISH3 and appendices [[REP5-010](#)];
- Manston noise and AQ flows – KCC model Year 2 [[REP8-021](#)];
- noise and air quality traffic flows – KCC model [[REP8-023](#)];
- appendices to Applicant's response to ExQ2 including additional noise contour maps submitted in response to NS.2.11 and NS.2.12 [[REP6-014](#)];
- appendices to the Applicant's response to ExQ3 including its response to NS.3.2 regarding noise contours for schools; its response to NS.3.3 regarding combined noise study, flow diagram and results tables for combined road and air noise; and its response to NS.3.7 regarding eligibility for Manston noise insulation and ventilation scheme [[REP7a-003](#)];
- updated versions of the CEMP [[REP6-024](#), [REP6-025](#), [REP7a-008](#), [REP7a-009](#)] with a final version submitted at D9 [[REP9-017](#), [REP9-018](#)];
- updated versions of the REAC [[REP4-020](#), [REP4-108](#), [REP7a-012](#), [REP7a-013](#), [REP8-018](#), [REP8-019](#)] and a final version submitted at D11 [[REP11-008](#), [REP11-009](#)]; and
- updated versions of the NMP [[REP3-196](#), [REP3-198](#), [REP4-023](#), [REP4-107](#), [REP5-008](#), [REP5-009](#), [REP6-021](#), [REP6-022](#), [REP7a-021](#), [REP7a-022](#), [REP8-004](#), [REP8-005](#), [REP9-014](#), [REP9-015](#)] with a final version

submitted as an additional submission on the 9 July 2019 [[AS-579](#), [AS-580](#)].

- 6.8.200. Additional noise contour information to inform the ExA's recommendation in respect of the HRA was also submitted as discussed in Chapter 7 of this report, including:
- Ecology noise contour maps [[REP4-018](#)], provided at D4; and
 - appendices to responses to EC.2.6 (including additional noise contour maps) [[REP6-014](#)].

- 6.8.201. The ExA's review of these documents informs the findings of the Examination in respect of noise and vibration. It should be noted that the ExA considers all of these documents to be important and relevant to the Examination and inform the EIA. As a result, the ExA considers that the additional studies should therefore be considered as comprising part of the ES, to ensure that a worst-case has been assessed.

Baseline noise conditions

- 6.8.202. Baseline noise refers to the noise environment in an area prior to the construction and / or operation of the Proposed Development that may affect it¹⁰¹. Baseline noise levels can serve several purposes in the assessment process:
- They provide a context for the noise levels predicted to arise from the Proposed Development;
 - they are required as a formal part of the noise assessment process; and
 - they may demonstrate that the noise environment is already unsatisfactory [[APP-034](#)].
- 6.8.203. In order for baseline noise levels to fulfil any of these functions, they must be the values expected at the relevant time for the phase of the Proposed Development being considered. This may be at some future date because the Proposed Development will not be at its peak operational state for several years and because its noise emissions will not be constant throughout its operating life [[APP-034](#) and [APP-057](#)].
- 6.8.204. In such circumstances different baseline years may be relevant for the construction and operating phases and neither of them will be the same as the situation at the time the assessment is conducted. Although it is possible to measure noise levels at the time an assessment is conducted, this may not be the relevant time for which the baseline noise levels are required. Baseline noise levels may therefore be determined by direct measurement, by prediction, or by a combination of these methods [[APP-034](#)].
- 6.8.205. The ExA noted that the:

¹⁰¹ IEMA Guidelines for Environmental Noise Impact Assessment, 2014

- quality of baseline data;
- the use of the LAeq,16hr noise metric; and
- the selection of locations for monitoring to establish the noise baseline were queried by IPs:
 - [[RR-0009](#), [RR-0490](#), [RR-0555](#), [RR-1072](#), [RR-1228](#), [RR-1419](#), [RR-1453](#), [RR-1623](#), [RR-1754](#), [RR-1941](#), [RR-1942](#), [RR-2026](#)];
 - [[AS-069](#)];
 - at OFHs and ISHs [[EV-008a to EV-008c](#), [EV-010 to EV-010c](#), [EV-015](#), [EV-016 to EV-016b](#), [EV-017](#), [EV-027](#) and [EV-027a](#)]; and
 - [[REP3-012](#), [REP4-051](#), [REP5-034](#), [REP5-103](#), [REP5-111](#), [REP5-121](#), [REP6-036](#), [REP6-049](#), [REP6-057](#), [REP7-019](#), [REP8-029](#)].

6.8.206. The ExA considers that the accuracy of the baseline is important to ensure that an accurate assessment of effects can be undertaken, which would inform an accurate requirement for noise mitigation that would mitigate the effects of noise should the Proposed Development proceed.

6.8.207. The objective is to identify those locations most sensitive to or likely to be adversely affected by the Proposed Development. The ExA noted that not all of these receptors would necessarily have the same degree of sensitivity [[EV-016 to EV-016b](#)]. This variation was taken into account during the ExA's examination of the assessment process. Sensitive receptors that the Applicant considered when determining the baseline noise levels for the Proposed Development included in [[APP-042](#), figures 12.1 and 12.2]:

- Dwellings¹⁰²;
- schools / colleges;
- hospitals;
- community facilities (including libraries, surgeries, health centres);
- places of worship;
- wildlife sites¹⁰³; and
- sites such as those of special historic interest, and Conservation Areas.

6.8.208. The Applicant in Tables A12.3.2 and A12.3.3 [[APP-057](#)] identified potential sensitive receptors during construction and operation for the assessment to determine the study area. The Applicant confirmed that all baseline sound monitoring was undertaken in accordance with BS7445-1 and a baseline survey report is included as Appendix 12.4 [[APP-057](#)]. The format and methodology of the baseline survey was discussed with TDC prior to undertaking any surveys [[REP6-011](#)].

6.8.209. The Applicant identified the baseline noise levels at residences close to the airport, where sound measurements were taken over a period of 24 days from Sunday 26 February 2017 to Wednesday 22 March 2017. Further to TDC's request, an additional survey was undertaken at the

¹⁰² Including caravan parks

¹⁰³ These are dealt with in the biodiversity section of this chapter and in Chapter 7 HRA

Nethercourt Estate from 10 October 2017 to 30 November 2017, a period of 20 days [[APP-057](#)].

- 6.8.210. The Applicant pointed out at ISH3 [[EV-016 to EV-016b](#)] that the instrumentation used for the sound surveys was set up to simultaneously log, LAeq,T, LA90,T, LA10,T, and LAFmax sound levels over continuous five-minute sampling periods ('T'). All measurements were undertaken in accordance with the methodologies presented in BS 7445-1 and BS 4142 [[APP-057](#)]. All sound monitoring was completed using an IEC 61672-13 Class 1 Rion NL31 Sound Level Meter (SLM) and microphones were positioned at height of 1.2m above ground level in a free-field position [[APP-057](#)]. Field calibration checks of the SLMs were undertaken before and after each measurement. Each SLM used for the surveys was within two years of calibration and each calibrator was within one year of calibration [[APP-057](#)].
- 6.8.211. At ISH3 [[EV-015](#)] the Applicant was asked by the ExA to provide an overview of the baseline noise conditions across the study area making reference to the figures shown in Table 12.2 of the ES [[APP-034](#), page 12 to 8]) supported by detailed measurements in Appendix 12.4 [[APP-057](#)]. In line with the agenda supplied by the ExA [[EV-015](#)] the following areas were the focus of this overview:
- Ramsgate;
 - Manston;
 - Pegwell Bay;
 - Wade;
 - West Stourmouth; and
 - Herne Bay.
- 6.8.212. Section 12.4 of the ES [[APP-034](#)] set out two types of baseline measurement, long term measurements which were taken in the immediate vicinity of the airport and short-term observation and characterisation measurements. Long-term measurements were taken in the area closest to the airport and the observation and characterisation measurements were used to establish the baseline conditions in the wider study area.
- 6.8.213. The Applicant explained that it obtained LAeq,T measurements which provided a continuous A-weighted average noise level that took into account all noise events. They were evaluated with 5-15-minute noise samples. This process was described in section 12.3 of the ES [[APP-057](#)].
- 6.8.214. The Applicant explained at ISH3 that these samples were taken during two periods between February and March 2017 and October and November 2017 [[EV-016 to EV-016b](#)]. The ExA asked the Applicant to clarify whether or not this could be considered to represent a typical summer's day¹⁰⁴. The Applicant explained that 92-day summer average

¹⁰⁴ Conventional LAeq,16hr noise exposure contours produced for major airports, are calculated for an average summer day over the period from 16 June to 15

noise assessment is used in aircraft noise assessment to reflect busier aircraft schedules at most airports in the summer months [[EV-016 to EV-016b](#)]. The Applicant stated that baseline survey measurements do not need to be undertaken in the summer months to support an aircraft noise assessment. In addition, the ES clarifies that, due to high winter demand for perishable products (fresh fruit, vegetables and cut flowers), the ES assessment of aviation noise impacts is based on a typical busy day in winter [[APP-034](#)].

- 6.8.215. TDC did not express any concerns on this issue [[REP8-029](#)]. The ExA raised NS.1.19 [[PD-007](#)] requesting that the CAA comment on the appropriateness of using a typical busy day in winter as the basis for assessment. The CAA [[REP3-231](#)] stated that:

"...if it is the case that the most adverse effects will be experienced in the winter months then it is open to a sponsor to explain to the CAA why this is the most appropriate methodology".

- 6.8.216. The ExA was satisfied with the Applicant's explanation of the relevant monitoring period and that the use of a typical busy day in winter is an appropriate metric based on the proposed operation of the airport.

- 6.8.217. Mark de Pulford queried the use of the LAeq,16hr metric [[AS-069](#)] as he claimed:

"Continuing reliance on equalised/averaged noise calculations masks the clarity and reality of impact analysis."

- 6.8.218. The Applicant pointed to the SoNA. The report examined alternative metrics to determining annoyance from aircraft noise and recommends the continued use of the LAeq,16hr indicator as a way of measuring annoyance [[APP-057](#)] stating:

*"There is, however, no evidence to suggest that any of the indicators assessed is better than LAeq, 16h."*¹⁰⁵

- 6.8.219. The ExA has no reason to disagree with the SoNA conclusion on this matter. The ExA notes that this metric is also supported by the Draft UK Airspace Policy.

- 6.8.220. The quality of the baseline data collected was raised at ISH3 [[EV-016 to EV-016b](#)]. The Applicant was asked by the ExA to provide a note on the proportion of the daytime and night-time baseline noise monitoring readings removed due to wind speeds being above 5 m/s [[EV-015](#)]. The Applicant pointed to Appendix 12.4 of the ES [[APP-057](#)] which included summary statistics for each long-term baseline survey location (LT1 to

September inclusive, for traffic in the busiest 16 hours of the day, between 07:00 and 23:00 local time as discussed in CAP 1616a Airspace Design: Environmental requirements technical annex

¹⁰⁵ Paragraph 5.23 on page 41 of:

<http://publicapps.caa.co.uk/docs/33/CAP%201506%20FEB17.pdf>

LT7). The ExA noted that in line with best practice, noise measurements which occur during precipitation and / or average wind speed greater than 5ms-1 have been removed from the baseline sound recordings. The Applicant, as an example, highlighted receptor LT1 where 28% of measurements during the day (07:00 to 23:00) were affected by rain and or wind. The Applicant explained that these measurements were discarded from the analysis before the baseline noise level for that time period was derived. Similar statistics were provided for the other time periods assessed. The occurrence of wind >5ms-1 or precipitation was determined using a weather station mounted at baseline survey location LT3 – Grove House [[REP5-010](#)].

6.8.221. TDC in its review of this issue state in Table 2.1 [[REP8-029](#)]:

"The response clarifies that the baseline measurement periods with wind speed > 5ms-1 have been removed in line with best practice rather than just the "Periods affected by rain %" as indicated by the final table header. The exclusion of the data during periods of rain and wind speeds greater than 5ms-1 is agreed as part of best practice. No further action is requested".

6.8.222. The ExA was satisfied with the evidence provided because TDC expressed that the matter required no further action.

6.8.223. Mark de Pulford [[REP5-103](#)] raised questions about the validity and relevance of the applicant's main noise monitors at the noise issue-specific hearing ISH3 [[EV-016 to EV-016b](#)] ie the seven locations used for the long-term sound measurements for the characterisation of existing local noise as presented in the Applicant's EIA [[APP-034](#), Table 12.3].

6.8.224. Mr de Pulford stated [[REP5-103](#)] that:

"It will be seen from the map and table below that the siting appears to have more to tell us about the applicant's use of the membership of Save Manston Airport than the acoustical environment which will be most impacted by the proposed development. All 7 long term monitors were in the back gardens of people actively engaged in trying to get the airport reopened. The sitings do not appear to follow the logic of the flight path and they seem studiously to avoid Ramsgate itself, even though that is (as the applicant has admitted) where the majority of his victims will be located."

6.8.225. Nethercourt Action Group [[REP5-111](#)] stated:

"We would also like the examiner to question RSP as to the location of the noise monitor used to get a baseline decibel reading for Nethercourt as we have had feedback that it was placed on the property of pro-airport residents who support RSP. The location of every noise monitor used by RSP seems to at the address of a Save Manston Airport member. If this is the case it is hardly independent & open to all sorts of interference."

- 6.8.226. The Applicant confirmed that all baseline sound monitoring was undertaken in accordance with BS7445-1 [[REP5-010](#)], which is the industry standard for noise monitoring.
- 6.8.227. TDC did not express any concerns regarding the siting of noise monitors and it was not made clear by IPs to the ExA what “*interferences*” would aim to achieve.
- 6.8.228. In light of this, the ExA did not consider that further consideration of this matter was required.
- 6.8.229. The ExA raised a number of minor clarification points in ExQ1 [[PD-007](#)] such as inconsistencies in baseline data tables and application of vibration criteria. The ExA received responses to these questions in the Applicant’s response to ExQ1 [[REP3-195](#)] and considers that the matters have been satisfactorily addressed.
- 6.8.230. Because of the evidence provided by the Applicant and TDC’s general satisfaction documented above, the ExA is content the baseline survey was adequate for assessing the impact of the Proposed Development. The Applicant used the relevant British Standards and followed its procedures to gather baseline data. No evidence was presented to indicate that the relevant policy and guidance was not properly followed. In summary the ExA considers that the baseline information has been determined using the relevant industry guidance and is adequate to inform the assessment of impacts as part of the EIA.

Noise impact assessment

- 6.8.231. The ExA [[EV-016 to EV-016b](#)] explored, in detail, those areas where there were differences of opinion about the robustness of the Applicant’s methodology and findings for the noise assessment [[APP-034](#), [APP-042](#) and [APP-057](#) appendices 12.2 and 12.3]:
- SOAEL and the application of the NSPE [[PD-007](#), [PD-010b](#), [PD-014](#)];
 - construction;
 - contour noise plots [[APP-034](#), [APP-042](#)];
 - ATMs;
 - QC;
 - night flights [[APP-034](#), [APP-057](#), [REP9-014](#)];
 - fleet mix;
 - airspace change proposals;
 - use of Runway 28;
 - the use of an INM as opposed to CAA’s ANCON;
 - uncertainty in the assessment [[PD-020](#), Ns.4.2]; and
 - road traffic modelling and the cumulative effect of road traffic and aircraft noise [[APP-034](#), [REP6-016](#)].

Significance observed effect level and the application of the NPSE

- 6.8.232. A number of IPs queried the Applicant’s setting of the threshold for insulation and ventilation compensation at 63db LAeq,16hr.

- 6.8.233. The ExA considered current and emerging aviation policy regarding LAeq,16hr contours. The APF paragraph 3.17 states that:
- "We will continue to treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance."*
- 6.8.234. Paragraph 3.37 states that:
- "The Government also expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals, exposed to levels of noise of 63 dB LAeq,16h or more. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered."*
- 6.8.235. The CAA recent findings on Aircraft Noise and Annoyance (February 2018)¹⁰⁶ refers to UK policy in relation to an 'annoyance threshold' and highlights 57dB LAeq,16hr as marking the approximate onset of significant community annoyance. The third paragraph page 6 states that:
- "The government published their Response to their Airspace Consultation in 2017 and acknowledged the evidence from the SoNA study, which showed that sensitivity to aircraft noise has increased, with the same percentage of people reporting to be highly annoyed at a level of 54 dB LAeq,16hr as occurred at 57 dB LAeq,16hr in the past."*
- 6.8.236. Paragraph 3.122 of Aviation 2050 states that:
- "The government therefore proposes the following noise insulation measures:*
- *to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr..."*
- 6.8.237. DDC noted [[RR-0490](#)] that these levels are greater than those given with respect to acoustic insulation under the Heathrow Northwest Runway consultation in January 2018¹⁰⁷ which refers to 60dB LAeq,16hr contours for an inner zone and 57dB LAeq,16hr or the full 55dB Lden¹⁰⁸ contours for an outer zone.
- 6.8.238. Manston Airport Fair Noise Insulation Compensation (MAFNIC) argued [[REP9-097](#)]:
- "We also note the Examining Authority's rationale for this to be that the Government is currently consulting on a change in relevant policy and that it would be prudent for the Applicant to secure sufficient funding*

¹⁰⁶ Aircraft Noise and Annoyance: Recent findings, CAP 1588

¹⁰⁷ Available at: <https://aec.heathrowconsultation.com/wp-content/uploads/sites/5/2019/04/190329-hep-nip-framework-v3.pdf>

¹⁰⁸ Lden (day-evening-night noise level) is the A-weighted, Leq (equivalent noise level) over a whole day, but with a penalty of +10 dB(A) for night-time noise (22:00 to 07:00) and +5 dB(A) for evening noise (19:00 to 23:00)

based on a 60dB LAeq (16 hour) threshold rather than the its current plan of 63dB LAeq (16 hour).

Whilst we are very appreciative of the Examining Authority's direction to the Applicant in this regard we do not believe it goes far enough.

To avoid argument later and to make a robust recommendation to the Secretary of State we respectfully request that the Examining Authority require the Applicant to commit to parity between this scheme and the Noise Mitigation Plans associated with other UK Airport expansion schemes and offer noise insulation and ventilation compensation from 57dB LAeq (16 hour)".

- 6.8.239. The ExA proposed a revised daytime threshold in order to align the daytime noise threshold with current and emerging policy including the Government's proposed changes currently the subject of consultation [[PD-015](#)] as follows:

"Residential properties with habitable rooms within the 60dB LAeq (16 hour) day time contour will be eligible for noise insulation and ventilation detailed in Noise Mitigation Plan."

- 6.8.240. Responses to the ExA's proposed revised threshold [[PD-015](#)] were received from the following parties:

- ICCAN [[REP7a-033](#)] state:
 - *"However, I would draw your attention to the Government's Aviation 2050 green paper currently out for consultation, and particularly para 3.115¹⁰⁹, in which the Government proposes making more routine the setting of noise caps as part of planning approvals. While we cannot comment on the specifics of your proposal set out in Ns.3.12, nor the background and evidence of it making a positive effect, we would observe that it would be entirely in line with the Government's thinking on this issue. This will be a focus of ICCAN's work in the coming months."*
- NNF [[REP7a-038](#)] supported the new threshold;
- TDC [[REP7a-045](#)] supported the new threshold;
- PHE [[REP7a-039](#)] was not able to provide an evidence-based judgement on whether a SOAEL of 60dB LAeq,16hr, or any other level, is appropriate within the context of the wording in the NPSE or PPG; and
- MAFNIC [[REP9-097](#)] and Five10Twelve [[REP9-067](#)] proposed offering noise insulation and ventilation compensation from 57dB LAeq,16hr.

- 6.8.241. The Applicant [[REP8-015](#)] explained that it does not believe it is appropriate or necessary to impose a daytime SOAEL of 60dB LAeq,16hr [[REP8-015](#)]:

¹⁰⁹ *ibid*

- *"The concept of SOAEL originates from the Noise Policy Statement for England, and the level for SOAEL is derived from the Aviation Policy Framework; and*
- *The Noise Mitigation Plan (NMP) aims to avoid significant effects and the Applicant has therefore set the NMP trigger threshold at 63dB LAeq,16hr."*

6.8.242. It was further emphasized by the Applicant that the SOAEL had been set at 63dB LAeq,16hr to avoid significant effects, as this is the threshold at which significant effects on health and quality of life occur.

6.8.243. The Applicant [[REP8-015](#)] went on to explain that:

"2.30 For the reasons outlined above, the applicant does not believe it is appropriate to impose a 60dB threshold. Nonetheless the Applicant explained the implications of introducing a 60dB threshold. It was noted that a tiered approach can be used, with different provision at different noise levels. The Applicant approximated that the cost could be in the order of £2.75 million (63dB) (where £10,000 is offered to those within that contour, and a further £2.3 million (60dB) (where £4,000 is offered to those between the 63dB contour and the 60dB contour. To offer £10,000 to those between the 63dB and 60dB contours would add £5,750,000 to the cost of noise insulation. As current government policy is to consider offering a contribution to noise insulation at 63dB, the Applicant's preference is to keep to that contour, but will change if government policy changes.

2.31 At the request of the ExA, the Applicant has produced a technical note [Appendix ISH6-21 to this document] which clarifies where a SOAEL of 60dB LAeq,16hr has been employed at other airports."

6.8.244. In its Overall Summary of Case [[REP11-014](#)] the Applicant added that:

"Although the number of people impacted by the project is far lower than Heathrow, the Applicant recognises that this will provide little comfort to those impacted people. The Applicant has therefore been at pains to mitigate and minimise the adverse effects of noise on the local population."

6.8.245. It concludes that:

"The noise mitigation package as now proposed is extremely generous and goes a long way to minimising the effects of aircraft noise. It complies with government policy in the Noise Policy Statement for England and the Airports National Policy Statement (paragraph 5.68)."

6.8.246. ICCAN observed the proposed daytime SOAEL of 60dB LAeq,16hr [[REP7a-033](#)]:

"...would be entirely in line with the Government's thinking on this issue."

6.8.247. The ExA acknowledges that the 63dB LAeq,16hr SOAEL threshold is consistent with current government policy but recognises that there is an increasing body of evidence to suggest that sensitivity to aviation noise has increased and that the emerging policy context seeks to address this

issue. Consequently, **the ExA concludes that a revised daytime SOAEL threshold is appropriate in order to align the daytime noise threshold with emerging policy. The revised daytime SOAEL 60dB LAeq,16hr will be secured via R9b in the dDCO. The ExA concludes that R9b will mitigate noise impacts adequately.**

Construction

- 6.8.248. The Applicant confirmed that the environmental management of the noise and vibration from construction works associated with the Proposed Development will be delivered via the implementation of the CEMP [[REP9-017](#)]. The CEMP outlines the environmental procedures that will be implemented throughout the construction process in accordance with legislative requirements and construction industry best practice guidance. The Applicant argues that the CEMP will ensure that the adverse effects from the construction phase of the Proposed Development, on the environment and local communities, are minimised. The CEMP is secured via R6 in the dDCO.
- 6.8.249. The Applicant's REAC summarises the committed mitigation measures within the chapters of the ES and associated appendices [[REP11-008](#)]. Cross-references are provided to the dDCO Requirements that will secure the environmental mitigation commitments. Table 2.1 of the REAC contains the actions and commitments relating to construction of the Proposed Development (pages 31 to 34 detail the mitigation measures for noise and vibration effects during construction). Appendix A details the management plans which will be in place during construction of the Proposed Development, to enforce the mitigation measures outlined in the REAC. The REAC is secured via R7 in the dDCO.
- 6.8.250. The CEMP, REAC and associated masterplans will be discharged by TDC (see Chapter 10 of this report for further details).
- 6.8.251. **The ExA concludes that concerns regarding construction noise and vibration effects have been dealt with adequately by the Applicant via:**
- R6 – CEMP; and
 - R7 – REAC.

Air Transport Movements

- 6.8.252. The number of ATMs assessed by the Applicant in the ES was a matter of concern initially in the Examination because the Applicant's original dDCO [[APP-006](#)] assumed that ATMs were uncapped, whereas a fixed number of movements had been assessed. The issues were clarified through a series of ExA written questions clarified (eg AQ.1.19, E.1.2, ND.1.31, ND.1.42 [[PD-007](#)]). In addition, the ExA recommended the insertion of a new R19a on its second dDCO [[PD-018](#)] to secure that ATMs are capped to the level assessed in ES and that the assessment represents a worst case. The revised wording is as follows:

"(1) The operation of the airport is subject to—

- a) a total annual cargo air transport movement limit of 17,170;
- b) a total annual passenger air transport movement limit of 9,298; and
- c) is subject to a total annual General Aviation movement limit of 38,000."

6.8.253. The Applicant response to R19a is set out in [[REP9-002](#)]:

"As stated during ISH8 the Applicant is content for Requirement 19a to be modified but prefers the following formulation:

(1) The operation of the airport is subject to-

- (a) a total annual air transport movement limit of 26,468;*
- (b) a total annual passenger air transport movement limit of 9,298; and*
- (c) a total annual General Aviation movement limit of 38,000.*

The resultant wording would have the desired effect of limiting the proportion of passenger air transport movements (and their comparatively greater impacts on road traffic) while, at the same time, allowing the Applicant the commercial flexibility to take up the annual air transport limit with cargo aircraft.

The effect that an increase in the proportion of cargo air transport movements (and corresponding change in fleet mix) might have on the noise impacts of the development will be addressed by the proposed noise contour cap which will ensure that noise levels cannot exceed those addressed in the environmental statement."

6.8.254. Five10Twelve proposed further amendments to the Requirement in [[REP9-056](#)]:

"Requirement'19a" "(1) The operation of the airport is subject to

- (a) a total annual cargo air transport movement limit of 17,170, of which no more than 12,860 'cargo' aircraft' movements' can' be' by' Turbofan' (jet)' aircraft;*
- (b) a total annual passenger air transport movement limit of 9,298; and*
- (c) is subject to a total annual General Aviation movement limit of 5,840"*

6.8.255. Five10Twelve pointed to the air quality and acoustic benefits of Turbofan aircraft and claimed the Applicant had not assessed the worst-case scenario in the ES [[REP9-056](#)].

6.8.256. The ExA put a question to the Applicant in ExA question Ns.2.3 [[PD-010b](#)] on whether they had modelled the worst-case metrics¹¹⁰ in the ES [[APP-033 to APP-035](#)]. The Applicant in response stated [[REP6-012](#)]:

"Yes the Applicant has modelled the worst case scenario in the ES.

¹¹⁰ 26,468 ATMs and 38,000 GA

All the metrics referred to have been modelled as part of the noise assessment within Chapter 12 of the ES [APP-033,034,035] as described below [...]

[...] on a typical busy day, 99 GA movements are included in the noise model which would equate to 36,135 GA movements per annum. It is acknowledged that the air quality forecast used a more conservative figure of 38,000 movements however the increase of 1865 GA movements represents only 2.6% of the total number of aircraft flying out of Manston, they are light aircraft and therefore QC exempt and they are not predicted to overfly urban areas. The variation would therefore not be expected to change the evaluation of significance presented in the ES [APP-033,034,035]."

6.8.257. The ExA further pursued the issue of whether a worst-case assessment had been undertaken at ISH6 where date secured input parameters for updated air quality and noise assessments assessment were requested in order to confirm the basis for the fleet mix used in both assessments [EV-027 and EV-027a]. The information submitted confirmed that the metrics used were 26,468 ATMs and 38,000 GA [REP8-015, Appendix ISH6-19].

6.8.258. **The ExA concludes that its proposed R19a (R21(1) in the rdDCO) is necessary in order to more closely align this Requirement with the balance of ATMs assessed in the ES [APP-034]. It does not consider that the Applicant's or Five10Twelve's proposals would accurately reflect what was actually assessed in the ES.**

Night flights

6.8.259. The Applicant's first NMP included a provision for scheduled night flights between 23:00 to 07:00 [APP-009]. The Applicant's proposal for night flights was vigorously opposed by many IPs on the grounds of the medical evidence of the effects on sleep and general annoyance which can lead to chronic health effects [eg REP3-275 to REP3-286].

6.8.260. TDC in its LIR [REP3-010] states:

"4.3.9 There are potential impacts resulting from night time flights leading to sleep disturbances and awakenings. Cargo operations are more likely to occur 24 hours a day to meet business needs and are have less operational limitations than passenger flights. Therefore, any night time flights will need to be robustly assessed and carefully monitored.

4.3.13 In the opening year, up to 115 residential dwellings are forecast to be exposed to significant annoyance and disturbance as a result of aircraft noise. In year 20, up to 225 residential dwellings are forecast to be exposed to significant annoyance, disturbance and sleep disturbance as a result of aircraft noise."

6.8.261. NNF in [REP4-056] state:

"43. Please note that in spite of his protestations about night flights, the applicant has not resiled from his request to allow QC4-rated aircraft at

night. These have long been banned as too noisy at the London airports. Given the applicant's need to compete in a declining cargo-only market coupled with Manston's well attested geographical limitations it is implausible that he will operate with no or very limited night flights, despite his repeated public assurances. The Davies Commission team concluded that "switching on Manston" would require significant regulatory and financial inducements.²¹ The absence of an explicit ban on planned night flights in the application and the proposal for a negotiable quota tend to suggest the applicant's intention to prop up an airport operation at Manston by capturing the bottom end of the freight market – noisy QC4 night flights banned at the majority of other UK airports. "

6.8.262. The Applicant in its Overall Summary of Case [[REP11-014](#)] stated:

"Taking account of the representations that have been received and discussions at the examination hearings, the Applicant has proposed a range of measures to mitigate the impacts of noise. Those measures include, amongst other things:

a. A ban on aircraft between 11pm and 6am, other than late arrivals, emergency and humanitarian flights (going beyond that required of Heathrow in the Airports National Policy Statement in both extent and scope);

f. A ban on night-time flights (i.e. effectively between 0600 and 0700) of aircraft with a quota count of 4 or higher."

6.8.263. The ExA considers that the Applicant's restrictive provisions are consistent with the direction of Government policy contained in the ANPS at paragraphs 3.54 and 5.62, which require a scheduled night flight ban of six and a half hours between 23:00 to 07:00. Accordingly, the ExA incorporated the following restrictive wording into new R19b [[PD-018](#)]:

"No aircraft can take-off or be scheduled to land between the hours of 2300 and 0600".

6.8.264. The Applicant agreed with this new Requirement [[REP9-002](#)].

6.8.265. **The ExA concludes that new R19b (R21(2) in the rdDCO) along with new R9c (see below) will mitigate and minimise noise disturbance between 23:00 to 07:00 hours.**

Quota counts

6.8.266. Noise QCs were introduced at the London airports in the early 1990s as a means to restrict night flights and to encourage use of quieter aircraft. Under the QC system, aircraft are given a QC classification and aircraft movements (arrivals or departures) count towards the total noise quota for that airport. There are seven QC bands (0.25, 0.5, 1, 2, 4, 8, 16), with the loudest aircraft classified as QC 16 and the quietest aircraft as QC 0.25. Below QC 0.25, aircraft are exempt. Aircraft may have different QC for take-off and arrival [[APP-009](#)]. The QC for an airport may vary across the year.

6.8.267. The Applicant's NMP proposed an annual QC of 3028 during the night-time period and a ban on QC 8 and 16 aircraft from night flying.

6.8.268. The revision of the NMP submitted at D5 [[REP5-008](#)] stated:

"1.7 The airport will be subject to an annual quota between the hours of 2300 and 0700 of 3028. Each landing and take-off at the airport during the Night Time Period that time period is to count towards this annual quota. An aircraft is deemed to have taken off or landed during the time period if the time recorded by the appropriate ATC control unit as 'airborne' or 'landed' respectively falls within it;

1.8 Emergency flights and flights operated by relief organisations for humanitarian reasons will not count towards the quota set in paragraph 1.7, or the cap set in paragraph 1.9, and will not be subject to the restrictions in paragraph 1.4."

6.8.269. Many IPs contended that the QC of 3028 proposed by the Applicant was excessive. NNF in [[AS-156](#)] state:

"RSP has asked for a Quota Count budget for the hours 2300 to 0700 of 3,028 QC points. It was perfectly clear in the ISH on Environmental Issues on 5th June 2019 that RSP had no idea what its 3,028 QC points would translate into in terms of a number of ATMs and the type of aircraft. Indeed, RSP seemed doubtful under questioning as to whether it would be possible to "retrofit" ATMs to its QC budget. We find this astonishing."

6.8.270. Allan Welcome in [[AS-576](#)] states:

"I refer to the Applicant's Answers to Fourth Written Questions dated 29/06/19 (TR020002/D9/FWQ Examination Document). At Ns 4.10, under the heading Quota Count Night Time, the Applicant says:

The applicant is therefore willing to reduce the quota count to 2000 (365X5 being 1825), but this would be on the basis that late-arriving, emergency and humanitarian flights would be excluded from that total. If they are to be included as at present, then the Applicant would wish to keep the original figure of 3028." Applicant's Response: The NMP (at TR020002/D9/2.4) has been amended to reflect this, at paragraph 1.8. If the Examining Authority allows this, it will be exposing the local residents to the threat of an unlimited number of night flights."

6.8.271. Anne-Marie Nixey in her RR stated [[RR-0137](#)]:

"Firstly, the night time quota proposed is unclear and it suggests that aircraft of a QC4 status would be able to land or arrive at night. I live exactly a mile away from the end of the runway, in a 4 storey 1850's Victorian building, on the highest point in Ramsgate. Planes used to go over this house at approximately 300ft above the roof of the house. Therefore the prospect of night time flying would effect mine, and my family's sleep greatly."

6.8.272. Taking into account the concerns of IPs, the ExA proposed a new R9c on "Quota Counts" in its second dDCO [[PD-018](#)]:

"(a) The airport will be subject to an annual noise quota of [numeric] between the hours of 0600 and 0700.

(b) Any aircraft which has a quota count of 8 or 16 cannot be scheduled to take off or land at the airport between the hours of 0600 and 0700."

- 6.8.273. The Applicant was asked to reflect on this and came back with a reduced QC of 2000 [[REP9-002](#)]:

"The Applicant has amended the Noise Mitigation Plan submitted at Deadline 9 to reflect the commitments given in the ExA's draft requirements.

The quota applied to the 0600 to 0700 period in the Noise Mitigation Plan is now 2000.

The Applicant has extended the effect of the ExA's requirement (b) to any aircraft with a quota count of 4 and above.

The Applicant is content that requirements mirroring the Applicant's Noise Mitigation Plan commitments are introduced to the DCO."

- 6.8.274. The Applicant's NMP [[AS-579](#)] makes no reference to the exclusion of late arriving humanitarian or emergency night flights from the QC.

- 6.8.275. This requirement is now secured through R9c of the dDCO [[PD-018](#)], which now states:

"R9c: "(a) The airport will be subject to an annual noise quota of 2000 between the hours of 0600 and 0700.

(b) Any aircraft which has a quota count of 4, 8 or 16 cannot be scheduled to take-off or land at the airport between the hours of 0600 and 0700."

- 6.8.276. This new Requirement is designed to secure the relevant commitments in paragraphs 1.6, 1.7, 1.8 and 1.9 of the NMP [[AS-579](#)] through the dDCO whilst taking into account the implications of the restrictions on flights between the hours of 23:00 and 06:00 introduced at R19b (R21(2) in the rdDCO). With QC 4 classified aircraft and above removed between 06:00 and 07:00 only quieter aircraft will be allowed. **The ExA concludes that between 06:00 and 07:00 this Requirement will mitigate and minimise noise disturbance because only aircraft with lower noise emissions ie QC<4 will be allowed. This is secured via R9c.**

Fleet mix

- 6.8.277. The operational noise assessment is underpinned by fleet mix assumptions. Changes in the aircraft assumed in the fleet mix have potential to affect noise modelling outputs and the assessment of noise impacts.

- 6.8.278. The Applicant in response to Ns.2.18 stated [[REP6-012](#)]:

"The Applicant has committed to a noise contour area cap. This has been included into the latest Noise Mitigation Plan [APP-009]. Adherence to the

Noise Mitigation Plan [APP-009] means that the noise effects of Manston Airport will not exceed those assessed in the ES."

6.8.279. The Applicant went on to state at ISH2 [[EV-014 to EV-014d](#)] that the noise assessments were made on the basis of the specific fleet mix set out in Appendix 3.3. of the ES [[APP-044](#)], including by reference to the individual aircraft and their engine types operated by the named airlines in that appendix. The Applicant at ISH2 [[EV-014 to EV-014d](#)] made clear that conventional integrator operations are no longer expected at Manston and that such movements would be made instead by 'new' e-commerce integrators operating a different pattern of flights not requiring night operations.

6.8.280. York Aviation on behalf of SHP queried the Applicant's new model [[REP5-032](#)]:

"Given that 48% of the movements in Year 20 are shown in the ES (Appendix 3.3) to be by a conventional integrator, of which half were expected to be using quiet ATR-72 turbo-prop aircraft, the substitution of these movements by a 'New' integrator, expected to use more Boeing B737 types rather than turbo-props, means that the fleet mix assessed is almost certain to understate noise exposure relative to what is now proposed.

[...] Given the likely change in the nature of the operators and the fact that several of the airlines do not operate freighter aircraft of the types specified (see York Aviation 2019 Report para. 3.10), there can be no confidence that the noise assessment is robust".

6.8.281. The ExA proposed a new R9d [[PD-018](#)]:

"The area enclosed by the 50dB(A) Leq16hr (0700 2300) contour shall not exceed 35.8 sq.km, and the area enclosed by the 40dB(A) Leq8hr (23.00 07.00) contour shall not exceed 47.4 sq. km."

6.8.282. This proposed new Requirement is designed to secure the relevant commitments in paragraph 2 of the NMP [[AS-579](#)] through the dDCO. The ExA has secured the "noise contour area cap" in the dDCO through R9d. The Applicant agreed with this new Requirement [[REP9-002](#)].

6.8.283. Five10Twelve in [[REP9-062](#)] state:

"1.5. In any event, the mechanisms described by the Applicant at paragraph 1.12 of the NMP and specifically referred to and highlighted at Clarification item 27 appear to have no bearing on the question at hand since it refers only to an LAeq16hr contour of 50dB. This level of noise impact does not even register on the noise contours submitted by Five10Twelve Ltd and undertaken by the CAA since the ERCD noise contours are produced starting at 51dB as per (CAP1616)".

- 6.8.284. The Applicant explained in response to Ns.4.1 that the contours are based on WHO Guidelines¹¹¹ with the 50dB contour representing the daytime LOAEL. There are two types of contour that can be calculated using the relevant noise model (ANCON/INM); being a 'prospective contour' of the aircraft expected to be flown, and the 'actual contour' of the aircraft that actually flew. A prospective contour allows an airport operator to know beforehand whether the airport will comply with a noise contour cap and, if not, adjust its proposed 'movements' (ie number and type of aircraft) accordingly [[REP9-006](#)].
- 6.8.285. The ExA considers that noise contour area cap represents a reasonable approach to mitigate and minimise the population exposed to aircraft noise above the LOAEL set out above within the context of the Balanced Approach to the management of aviation noise¹¹². The noise contour area cap is secured via R9d in the dDCO. **The ExA concludes that this will mitigate noise effects adequately.**

Airspace change proposals

- 6.8.286. An application for development consent is examined in accordance with the legislative requirements of the PA2008 and is primarily concerned with the land-use consent and issues relating to powers that would be authorised by the DCO. The ACP is distinct from the DCO process and is concerned with the detailed design of airspace and specific flight paths, which have implications for operational noise impact assessment. It requires the submission of an ACP application which is a separate consenting regime (see Section 3.5 of this report).
- 6.8.287. Paragraph 9.86 of the Applicant's Planning Statement [[APP-080](#)] stated:
- "The noise assessment has been prepared without exact details relating to airspace options, operating principles and aircraft flight paths. These will be formalised through an Airspace Change Proposal (ACP) which is a separate consenting regime that will happen after any DCO is granted for the Proposed Development. The ACP will be submitted through the Civil Aviation Authority's (CAA) airspace change process and the potential noise effects will be assessed again at that time following the CAA guidance within the Civil Aviation Publications (CAP)."*
- 6.8.288. The ES has considered a range of indicative prototype airspace route options [[APP-034](#) and [APP-057](#)]. The exact airspace options and aircraft flight paths will be formalised through an ACP [[APP-086](#)]. The Applicant provided information relating to the potential variation in noise impact which may result during the ACP. The Applicant stated [[EV-016 to EV-016b](#)] that the sensitivity for indicative flight paths was described in Appendix 12.3 of the ES [[REP1-013](#)].

¹¹¹ WHO Guidelines for Community Noise (1999), WHO Night Noise Guidelines for Europe (2009)

¹¹² EU Regulation 598/2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach

- 6.8.289. The CAA takes decisions on ACP applications submitted to it in accordance with the process set down in CAP 1616, and in doing so considers a range of factors set out in s70 of the Transport Act 2000 including safety, security, operational and environmental impacts such as aircraft noise and emissions. The CAA is required to take account of any guidance on environmental objectives given to it by the SoS when carrying out its air navigation functions. The current guidance is dated November 2018¹¹³.
- 6.8.290. The ACP process will therefore provide opportunities for communities to engage on future airspace options through an extensive consultation process as well as the preparation of a separate ES which will be required to accompany the ACP application to the CAA¹¹⁴.
- 6.8.291. ICCAN's role in the ACP is set out at page 20 of CAP 1616¹¹⁵ [[REP3-231](#)].
- 6.8.292. Table 12.1 'Limitations' in the ES [[APP-034](#)] sets out the next stage of the process:
- "In addition to the DCO application for the airport, the exact airspace options, operating principles and aircraft flight paths will be formalised through an Airspace Change Proposal (ACP), which is a separate consenting regime that will happen after the airport receives its powers under the DCO.' ... 'This means that the assessment of aircraft noise presented in this ES is based on indicative prototype routes which will be subject to authorisation and/or modification via the ACP, hence the impact of aircraft noise will be subject to change during that process.' (emphasis added)."*
- 6.8.293. CAA in response to Ns.1.24 [[REP3-231](#)] state:
- "The applicant has submitted a Statement of Need in accordance with stage 1A of the airspace change process. The CAA would not expect detailed flight path options to be available before consultation and consideration of consultation responses is undertaken by the Sponsor. This is forecast to occur between about 60-70 weeks from commencement of the process at stage 1A if no delays are experienced."*
- 6.8.294. The Applicant states that the Manston ACP application can be followed on the CAA website under ID ACP-201875 [[REP8-015](#)].
- 6.8.295. In Ns.2.19 [[PD-010b](#)] the ExA questioned whether a worst-case assessment would need to be based on flightpaths previously operated

¹¹³ Available at: <https://publicapps.caa.co.uk/docs/33/CAP1616E2noninteractive.pdf>, see also <http://publicapps.caa.co.uk/docs/33/CAP1616b%20changes%20made%20in%20the%20second%20edition.pdf>

¹¹⁴ *ibid*

¹¹⁵ *ibid*

when the airport was open. The Applicant in its response [[REP6-012](#)] states:

"No; this would not be a likely or credible worst case. It is highly unlikely that the identical flight paths, vertical and lateral, that were used when the airport was previously open would be accepted by the CAA as they would not represent best practice (having been based on obsolescent equipment and procedures) in the context of the requirements of CAP1616, and of FASI S, which demands (in relation to departure and arrival routes) that the CAA to adopt the best possible outcome in balancing noise and CO2 emissions, fuel burn, local air quality and tranquillity effects."

6.8.296. The CAA in its SoCG [[REP4-006](#)] with the Applicant states:

"3.1.4 As part of the development of their DCO application submission, RiverOak has developed 'swathes' within which departing and arriving aircraft may travel to allow an assessment as part of the Environmental Statement.

3.1.5 The CAA requires the change sponsor of any permanent change to the published airspace design to follow its CAP 1616 airspace change process. In contemplating any airspace change proposal RiverOak must consider the impacts on others and the implications those impacts may have, and engage with them appropriately. This may include engagement with the general public, their elected representatives, environmental impact groups, other airspace users, airport operators, and air navigation service providers. RiverOak's engagement activities and consultation on its proposed change will be subject to scrutiny by the CAA at different gateways throughout the process.

3.1.6 The indicative flight paths (swathes) used in the DCO Environmental Impact Assessment (EIA) and consultation will likely form the geographic scope for the airspace design options. A comprehensive list of design options will be developed and evaluated by Riveroak against set criteria and design principles (set through engagement with stakeholders) at Stage 2 of the CAP1616 process."

6.8.297. The CAA has an agreed SoCG with the Applicant [[REP4-006](#)]. It has not raised any concerns regarding the Applicant's approach to the ACP [AS-117]. Consequently, the ExA has no reason to disagree with the Applicant's response. In addition, should the flight paths assessed as part of the ACP differ to the extent that likely significant effects not assessed as part of the Applicant's ES were to be identified, the ExA considers that this could potentially constitute a material change and require a material change application to be submitted to the SoS.

6.8.298. **The ExA concludes that with an agreed SoCG in place between the CAA and the Applicant [[REP4-006](#)] and the requirement to seek a material change, in the event of a substantive departure from proposed flight paths it is satisfied that the potential for new or previously unassessed impacts to arise to be limited.** Since the ACP process follows behind the DCO process in this instance, the ExA has not

ascribed any weight to the ACP process in reaching its conclusions and making recommendations.

Use of Runway 28

- 6.8.299. In England, the prevailing wind direction is from the South West (for approximately 70% of the time [[REP3-187](#)]). Aircraft typically seek to take off or land into the wind. In the case of Manston, this typically means taking off to the west and landing from the east. With opposing wind direction, the operation would be reversed. Below certain windspeeds there is the potential to choose to take-off or land in either direction.
- 6.8.300. Runway preferences are a means of mitigating impacts by selecting operations that limit impacts on local communities. For example, taking off towards the west and landing towards the east would limit impacts on Ramsgate. Manston Airport has one runway but two runway thresholds – Runway 10 approaching from the western end of the airport and Runway 28 approaching from the eastern end of the runway.
- 6.8.301. The Applicant has considered a number of operating procedures to minimise the effects of noise including inset thresholds, increased runway length, steeper approach profiles and a runway preference scheme to minimise the overflight of the most densely populated areas including Ramsgate [[APP-034](#), [APP-057](#) page 16 of Appendix 12.3]. Inset thresholds, runway length' approach profiles and runway preference are discussed further in the operations section of this report.
- 6.8.302. TDC in its LIR states at 4.3.32 [[REP3-010](#)]:
- "There is a preference to use Runway 28 for take-offs and Runway 10 for landings and whilst the Applicant will 'seek' to operate the airport in this way, there is currently nothing to prevent the airport from being operated in a different manner. This could mean that Runway 10 could be used for takeoffs and Runway 28 for landings so that aircrafts will overfly Ramsgate causing adverse noises impacts to the residential areas."*
- 6.8.303. ExQ1 Ns.1.35 [[PD-007](#)] and IPs [[EV-008 to EV-008c](#), [REP3-010](#)] queried whether historic monitoring data and previous airport usage was capable of confirming how probable the proposed runway preferences identified in the NMP [[APP-009](#)] are for take-offs on Runway 28 / landing on Runway 10.
- 6.8.304. The Applicant [[REP3-195](#)] states that:
- "When weather conditions allow, and taking into account other operational and safety considerations including runway utilisation, the Applicant, then Airport operator / owner, will seek to operate take-offs from Runway 28 and landings on Runway 10 subject to such operations being in accordance with CAA guidance and the aircraft operator's own limitations and safety management systems."*

The Applicant has made a study into the use of the above 'Preferential Runway Strategy'; however this will not always be achievable due to prevailing wind and runway conditions. The results of the study were sensitive to rain fall and changes in wind direction. However, the study shows that around 70% of landings could be made to Runway 10 and that up to 80% of take offs could be made from Runway 28."

- 6.8.305. The runway preference scheme was predicted by the Applicant to offer large reductions in the population adversely effected by noise and therefore the airport operator will seek to operate take-offs from Runway 28 and landings on Runway 10 subject to such operations being in accordance with CAA guidance and the aircraft operator's own limitations and safety management systems [[AS-579](#), paragraph 14].
- 6.8.306. The runway preference scheme was not taken into account for the purposes of the assessment presented in the ES. The ExA considers that this approach is precautionary, since runway preferences are subject to prevailing weather conditions and given that the runway preference scheme is subject to later approvals. The ExA notes that the Applicant also argues [[AS-579](#)] that it expects that the CAA would seek to adopt the least impacting flight path option and as such the assessment provided within the ES represents a worst-case scenario¹¹⁶.
- 6.8.307. **The ExA concludes the Runway 28/10 preference scheme does not contribute any mitigation for noise effects assessed in the ES as it is subject to a subsequent approval in the ACP process by the CAA described above.**

Use of Integrated Noise Model

- 6.8.308. The Applicant noted that historically airports in the UK generally use one of two noise models to calculate air noise; the ANCON, developed and maintained by the UK CAA or the INM, produced by the US FAA [[APP-057](#)].
- 6.8.309. The ExA in Ns.1.20 [[PD-007](#)] queried the justification for the use of INM modelling [[APP-034](#), [APP-057](#)] rather than Aviation Environmental Design Tool (AEDT) in assessing noise impacts.
- 6.8.310. The Applicant responded [[REP3-195](#)]:
- "...the aircraft noise assessment ES Appendix 12.3. 'Choices of noise model' [[APP-057](#)] confirms that:*
- a. AEDT "gives similar if not identical results to INM 7.0d"; and*
 - b. all commercially available aviation noise models (AEDT, ANCON and INM) must conform to standards for aircraft noise prediction produced by the ICAO, European Civil Aviation Conference (ECAC) and Society of Automotive Engineers (SAE), namely SAE-AIR-1845 (1986)⁶ and ECAC Doc.29 (2016).*

¹¹⁶ *ibid*

INM was first used for assessing aircraft noise for the Proposed Development in 2016 to define the extent of Category 3 land referencing interests and consultation areas as well as to consider mitigation measures such as flight paths and displaced thresholds. Paragraph 1.19 of CAP1616a Airspace design: Environmental requirements technical annex states that "For consistency and comparison purposes, if a noise model is already in use at an airport, the same model should be used for the assessment of any airspace change proposal related to that airport." In this case, given the comparable results likely to be derived from INM and AEDT it was not considered necessary to adopt a new model at the point where the assessment itself was completed."

6.8.311. Following a request from the ExA at ISH3 [[EV-016 to EV-016b](#)] the Applicant provided a list of UK airports at which the INM is employed [[REP5-010](#)]:

"Three example airports have been identified that used the Integrated Noise Model to develop their current Noise Action Plans (hyperlinks to the action plans are provided):

- *East Midlands 2019-2023 Noise Action Plan*
- *Luton 2019-2023 Noise Action Plan*
- *Belfast 2013-2018 Noise Action Plan"*

6.8.312. In 2015 the INM was replaced by AEDT also produced by FAA, however due to the release of AEDT the FAA stopped supporting INM and therefore will not update the model or its associated database with new aircraft technology [[APP-057](#)].

6.8.313. The CAA states in CAP 1521¹¹⁷ at paragraph 66, that following the release of AEDT version 2c in March 2017, AEDT:

"...gives similar if not identical results to INM 7.0d"

and therefore advocates the use of AEDT as an alternative to its own ANCON model for use on airspace change proposals.

6.8.314. The Applicant stated in Appendix 12.3 of [[APP-057](#)]:

"There are significant similarities between the INM, AEDT and ANCON models in terms of their calculation methodologies. All models are based on the same guidance material produced by the ICAO, European Civil Aviation Conference (ECAC) and Society of Automotive Engineers (SAE), namely SAE-AIR-1845 (1986) and ECAC Doc.29 (2016). SAE-AIR-1845 describes the methodology used by aircraft noise modelling software for calculating sound exposure levels from aircraft and ECAC Doc. provides guidance on aircraft noise modelling, and is consistent with the methodology presented in SAE-AIR-1845."

¹¹⁷ Available at:

http://publicapps.caa.co.uk/docs/33/CAP1521_Environmental_Annex.pdf

- 6.8.315. The Applicant stated that for the purposes of modelling aircraft air noise for the Proposed Development INM has been used [REP3-195]. All options appraisal work and modelling presented as part of the PEIR were undertaken using INM. AEDT has not been used because at the point in time when options appraisal and work for the PEIR commenced early versions of AEDT were not endorsed for use in UK. Furthermore, it is considered that for the Proposed Development, both AEDT and INM produce near identical outputs. The Applicant noted this is because the primary change between INM and AEDT is the incorporation of new and next generation aircraft into AEDT, however, the schedule of aircraft movement produced for the Proposed Development considers aircraft in use today, which are included in the INM database [APP-057].
- 6.8.316. The ExA has requested confirmation for the basis of noise modelling. The Applicant has confirmed that INM has been used and has justified this based on previous use of the INM model at the airport and probability of generating similar results. The CAA has not raised any concerns regarding the Applicant's use of the INM model [REP4-006]. Evidence was provided that EMA and Luton airport have used INM in their 2019-2023 Action Plans [REP5-010].
- 6.8.317. **The ExA concludes that the use of INM was adequate and justified for the purposes of the aircraft noise modelling of the Proposed Development.**

Uncertainty in INM modelling outputs

- 6.8.318. The 2017 EIA Regulations at Schedule 4 paragraph 6, require a description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved. The ExA examined the potential modelling uncertainty through hearings and questions.
- 6.8.319. At ISH3 the ExA [EV-016 to EV-016b] questioned the level of uncertainty associated with the noise modelling. In its noise summary submitted at D5 [REP5-010] the Applicant responded that there was a level of uncertainty associated with any model, as its accuracy is dependent on its parameters. The Applicant confirmed that the INM was a validated noise model [REP5-010].
- 6.8.320. The ExA requested confirmation of how the modelling uncertainty had been quantified in NS.2.14 [PD-010b]. The Applicant responded [REP6-012]:
- "Within the assessment uncertainty is not explicitly quantified. INM, as is the case with all noise models uses validated aircraft noise performance databases provided by ICAO. AEDT, INM and ANCON (the CAA model) use the same database.*
- Furthermore, the Applicant has committed to a noise contour area cap. This has been included into the latest Noise Mitigation Plan [APP-009].*

Adherence to the Noise Mitigation Plan [APP-009] means that the noise effects of Manston Airport will not exceed those assessed in the ES."

- 6.8.321. The Applicant went on in its response to Ns.2.14 on uncertainty in modelling [[PD-010b](#)] to say [[REP6-012](#)]:

"In terms of understanding the differences between the various models and any uncertainty within them, the Applicant invites the ExA to consider CAP 1736 Edinburgh Airport Noise Calculations and Comparisons with Measurements which describe a comparison of noise contours with measured data using the CAAs ANCON model. The paper provides some guidance on the accuracy of noise models used to calculate long term exposure to aircraft noise. Paragraph 48 of the attached states:

[...] it is worth noting that while there are steps that can be taken to create and improve noise analysis, the standard margin of error in calculating long-term average noise exposure is ± 1 dB and the uncertainty in noise measurements recorded by high quality noise monitors sited appropriately is of a similar order. Care should therefore be taken in over-relying or interpreting variations or differences within these parameters."

- 6.8.322. The implications of +/-2 dB is considered below for schools.

- 6.8.323. **The ExA concludes that uncertainty in the assessment modelling has been adequately addressed because the Applicant has explicitly quantified it as +/- 2dB and in the ExA's view this adequately meets the requirements of the 2017 EIA Regulations.**

Noise contour plots

- 6.8.324. The Applicant confirmed that noise contours had been prepared using INM v.7.0d. Manston Airport was previously modelled using INM as were other airports undertaking airspace change proposals consistent with CAA's CAP 725 guidance, and for airport noise mapping under the END (2002/49/EC) [[APP-034](#), [APP-042](#) figures 12.4 to 12.13, [APP-057](#)].

- 6.8.325. ES Appendix 12.2 [[APP-057](#)] set out the regulatory position in respect of noise-related operating restrictions as follows:

"In 2016 EU Regulation 598/2014 came into force and Directive 2002/30/EC (on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports) was repealed. The Regulation relates to the procedures concerning the introduction of noise related operating restrictions and connects together Directive 2002/49/EC ('the Environmental Noise Directive'), with the ECAC Doc 29 (Report on Standard Method of Computing Noise Contours around Civil Airports) and the ICAO Balanced Approach."

- 6.8.326. It goes on to state that ECAC Doc 29 3rd Edition was followed which provides guidance on aircraft noise modelling and is consistent with the methodology presented in SAE-AIR-1845 [[APP-057](#), Appendix 12.3].

- 6.8.327. Five10Twelve and NNF called into question whether the noise contours produced as part of the Applicant's noise modelling provided a reasonable worst-case assessment and commissioned the ERCD of the CAA to produce alternative noise contour plots to the Applicant's based on the ERCD standard approach for noise contour production to support their argument [[AS-108](#), AS-119, [AS-156](#)].
- 6.8.328. The ExA considered the implication of different noise models for the worst-case assessment. Regarding the use of ANCON or INM, the INM software is commercially available from the FAA whereas ANCON is not commercially available and, as such, any modelling undertaken using ANCON must be undertaken by the CAA [[AS-120](#) and [AS-156](#)]. The ExA notes that the 2017 EIA Regulations do not specify that a particular model must be used to undertake an assessment and the ExA's conclusion above that the use of INM is adequate and justified for the purposes of the aircraft noise modelling and is used at other airports. On this basis the ExA does not afford additional weight to the use of ANCON as opposed to INM.
- 6.8.329. The ExA at ISH 6 [[EV-027](#) and [EV-027a](#)] requested that the Applicant provide an evidenced based response to:
- Five10Twelve noise contour modelling undertaken by ERCD; and
 - NNF noise contour modelling undertaken by ERCD.
- 6.8.330. In response the Applicant has prepared a technical note [[REP8-015](#), Appendix ISH6-27]). The Applicant in Table 27.1 of ISH6-27 'Comparison of the assessments conducted by the Applicant, Five10Twelve and NFF' stated that the main differences in outputs arose from differences in assumptions regarding the following input parameters:
- Take-off and approach profiles;
 - flight paths;
 - modal splits; and
 - fleet mix.
- 6.8.331. The Applicant [[REP8-015](#)] maintained that:
- "...in terms of direct comparison, it is considered that the most likely source of difference between the contours/population affected is the different flight paths adopted, with a possible minor contributor being the flight profiles."*
- 6.8.332. The Applicant concludes that:
- "...it is not possible to comment on any difference associated with the aeroplane noise level input data as this has not been provided for ANCON."*
- 6.8.333. Five10Twelve states in [[REP5-074](#)] that the Applicant's noise contours cannot be relied upon and those commissioned by Five10Twelve and produced by ERCD represent a more realistic representation of the likely significant effects of the Proposed Development.

6.8.334. Five10Twelve contend that the supporting tables produced by ERCD and submitted to the ExA [[AS-120](#)] demonstrate that the impact of substituting the Applicant's noise contours with those produced for Five10Twelve by ERCD is significant in terms of population and households affected, particularly at noise levels lower than 63dB. At 60dB, for example, 1,350 households are impacted, based on the 70% West, 30% East contour), as opposed to 883 households estimated under the Applicant's current noise contours [REP11-029].

6.8.335. NNF contend that the Applicant's contours mask the reality that its proposals for Proposed Development represent material harm for tens of thousands of people. NNF contend that the Applicant has significantly underestimated the population numbers affected and ignores the fact that this is a vulnerable population in UK health terms, and one that is not currently exposed to noise from aviation operations [[AS-156](#)].

6.8.336. The ExA asked the Applicant to comment on the Five10Twelve and NNF contours in Ns.4.3 [[PD-020](#)]. The Applicant states [[REP9-006](#)]:

"An updated version of the Applicant's technical note provided at Deadline 8 [REP8-015] (in response to Clarification Item 27) has been prepared to address differences between the NNF and Applicant's approach and is included in the Appendices to this submission at Appendix Ns.4.3 in TR020002/D9/4WQ/Appendices.

In broad terms, the assumptions used by NNF (and Five10Twelve) are not consistent with those used for the ES. The approach used in the ES was based on detailed analysis of likely flight path options and detailed consideration of numerous other factors. The crude approaches adopted by NNF and Five10Twelve are not truly comparable with the approach adopted in the ES which is considered appropriate and robust, as described in chapter 12.6 of the Environmental Statement [APP-034]".

6.8.337. The ExA notes that the Five10Twelve contours result in a difference in area exposed to the SOAEL and hence have a different conclusion with respect to the population exposed above the SOAEL presented in the ES [[APP-034](#)].

6.8.338. The ExA acknowledges that both alternative studies produced different noise levels than those reported in the ES [[APP-034](#)] and different noise levels between each other. However, the ExA also notes that the Applicant, Five10Twelve and NNF have all used different input parameters and hence that different noise results would be expected from each of their results. The ExA has considered the fleet mix above and is satisfied that ES has assessed the development that has been applied for, which is of course to be the subject of a separate CAA ACP process, as described above.

6.8.339. The CAA in response to Ns.1.14 [[PD-007](#)] on potential scenarios in the ACP process state [[REP3-231](#)]:

"Given the nature of the CAP1616 process the applicant can only undertake a noise assessment without the exact details relating to

airspace options. CAP1616 is a transparent and detailed process whereby all possible options should be considered and evaluated against the airspace change design principles. Design principles can only be set through a two-way process with stakeholders, which may include the local community. Given the level of engagement and consultation required throughout the process, it would be premature to make any assessment as to whether any other scenario not assessed by the applicant in its noise assessment could possibly reach the stage where it would be genuinely proposed as a final option to the CAA."

- 6.8.340. The ExA has noted that the exact airspace options, operating principles and aircraft flight paths will be formalised through an airspace change proposal, which is a separate consenting regime administered by the CAA. This means that the assessment of aircraft noise presented in the ES [[APP-034](#)] is based on indicative prototype routes which will be subject to authorisation and / or modification via the ACP.
- 6.8.341. The CAA's response to Ns.1.14 above and a signed and agreed SoCG between the CAA and the Applicant [[REP4-006](#)] gives the ExA confidence the Applicant has adequately assessed and modelled noise levels in the ES [[APP-033](#), [APP-034](#) and [APP-057](#)].
- 6.8.342. The ExA recognises that the ERCD produced contours for Five10Twelve and NNF, which are based on ANCON are prepared to a robust standard but that the contours lack direct comparability with the Applicant's contours due to differences in modelling assumptions.
- 6.8.343. The ExA has therefore drawn conclusions based only on the Applicant's modelled noise contours.
- 6.8.344. **The ExA concludes that the operation of the Proposed Development will be limited to the noise effects reported in the ES [[APP-034](#)] through a noise contour area cap secured by R9d in the DCO and described in the NMP [[AS-579](#)].**

Road traffic modelling and the cumulative effect of road traffic and aircraft noise

- 6.8.345. Road traffic noise was assessed using CRTN, which addresses the LA10,18hr between 06:00 to 24:00. The ExA raised a series of questions in relation to assessment of road traffic noise [[PD-007](#)]. The questions raised included:
- Whether an assessment of road traffic noise had been undertaken for the period prior to 06:00, when a peak in passenger traffic was identified (Ns.1.17). The Applicant committed to provide an assessment of road traffic noise in the night-time period for D6 [[REP6-016](#)].
 - Whether car parking noise has been assessed (Ns.1.25). The Applicant committed to provide an assessment of car parking noise at D6 [[REP6-016](#)].
- 6.8.346. The ExA raised a number of minor clarification points in ExQ1 [[PD-007](#)] relating to eg the interface between different noise models and traffic

noise from secondary business uses. The ExA received responses to these questions in the Applicant's response to ExQ1 [REP3-195] and considers that the matters have been satisfactorily addressed.

6.8.347. The ExA and other IPs queried the approach to the combined assessment of aviation and road traffic noise [PD-007, Ns.1.18].

6.8.348. TDC in its LIR [REP3-010] stated:

"4.3.20 The combined effects of the noise sources (aircraft, plant, construction and traffic) has not been assessed and as such the combined effect of the sources has not been considered. Further information is proposed to be requested from the applicant in the form of overlapping construction noise levels and also the combined noise levels from the proposed development".

6.8.349. A response to this point was made at ISH3 [EV-016 to EV-016b] as summarised in [REP5-010]. The Applicant stated that in relation to the contour noise plots, aircraft noise and airfield ground noise were combined. The Applicant stated that traffic noise was not included in the model as its contribution to the noise environment at receptors affected by aircraft noise was expected to have a negligible effect based on road traffic noise screening criteria applied in the ES [APP-034]. The Applicant has explained this further at Action 5 on page 5 of Appendix 1 [REP5-010].

6.8.350. The ExA accepts the reasoning for ruling out a combined assessment of effects based on the negligible impact of traffic at the receptors affected by aircraft noise.

6.8.351. KCC was revising the TSTM prior to the submission of the DCO application and it was not available for third party use. The Applicant used a spreadsheet-based model to assess the impact of the Proposed Development on traffic (see the traffic and transport section of this chapter for further information).

6.8.352. At D6, the Applicant prepared and submitted [REP6-016] a summary of the potential effects arising from the use of the TSTM to assess the traffic impact resulting from the Proposed Development. It formed a direct response to the ExA's request to make available further work associated with use of the TSTM, as detailed in Tr.1.5 [REP3-195], submitted at D3. [REP6-016] comprises an addendum to the ES [APP-033, APP-034, APP-035] and includes a chapter considering the changes and resultant effects on the noise and vibration chapter. The revised modelling includes a proposed Manston-Haine link road (see the traffic and transport section of this chapter), which the Applicant subsequently confirmed in its response to TR.2.1 [REP6-017] would not be included in the application.

6.8.353. At the traffic and transport hearing (ISH7) [EV-028a to EV-028c] discussions regarding road capacity rather than noise highlighted that the original TA [APP-061] and the revised TA [REP5-021] do not model any vehicle movements associated with passenger flight departures or

arrivals in the AM Peak period (see the traffic and transport section of this chapter). These movements have implications for noise impacts on schools.

- 6.8.354. The ExA proposed a new R19c (R21(3) and (4) in the rdDCO) restricting air transport passenger departures and arrivals in its dDCO [[PD-018](#)]:

"No passenger air transport departures can take place between the hours of 09.00 and 12.00 and no passenger air transport arrivals can take place between the hours of 07.00 and 08.00."

- 6.8.355. This new R19c (R21(3) in the rdDCO) was proposed in order to ensure that vehicle movements associated with passenger arrivals and departures do not impact on the AM Peak period. The ExA considers that this addresses the risk that the Proposed Development could give rise to unassessed effects due to road traffic noise.

- 6.8.356. The Applicant concluded that [[REP6-016](#)]:

"3.4.4 The following receptor locations are exposed to noise levels above the SOAEL for road traffic noise, with and without the Proposed Development at night, during the construction phase:

- *Pouces Cottages (Receptor location RTN32); and*
- *Smugglers Leap (Receptor location RTN65).*

3.4.5 These receptors are also forecast to be exposed to noise levels above the SOAEL for aircraft noise in Year 20, hence they will be eligible for sound insulation under the sound insulation grant scheme described in Section 12.5 of the ES [[APP-033, 034,035](#)] in Year 20.

3.4.6 Provision of this sound insulation in Year 2, if accepted by the property owner, would reduce noise inside dwellings during the night time such that it does not reach a level where it will significantly affect residents at Pouces Cottages and Smugglers Leap".

3.4.7 The following receptors are subject to combined permanent effects of road traffic noise and aircraft noise:

- *Properties on Bell Davies Drive, Manston (Receptor Location RTN32)."*

- 6.8.357. The Applicant confirmed that indirect effects on individual residential receptors that up to three properties are expected to be exposed to noise levels above the night time SOAEL of 55 dB LAeq,8hr. These dwellings will be exposed to significant annoyance and disturbance, and sleep disturbance associated with the Proposed Development [[REP6-016](#)].

- 6.8.358. The ExA considers that the three properties will be eligible for the noise insulation and ventilation scheme for residential properties and will avoid significant adverse effects on health and quality of life. The scheme takes into account both daytime and night-time noise exposure and is secured via R9 of the DCO and described in the NMP [[AS-579](#)]. The ExA is satisfied that this will mitigate and minimise the cumulative effects of road traffic and aircraft noise.

6.8.359. **The ExA concludes that the cumulative effects of road traffic and aircraft noise has been adequately assessed.**

Proposed Mitigation

Caravan parks

6.8.360. TDC in its LIR [[REP3-010](#)] states:

"4.3.34 The following recommendations are made:

- *The Noise Mitigation Plan needs to be updated with a revised noise insulation scheme with consideration of uptake of the scheme to avoid significant effects and a consideration of heritage assets and Caravan Parks."*

6.8.361. The ExA's question Ns.3.6 [[REP7a-002](#)] to the Applicant, asked how effective noise insulation and ventilation would be for caravan park homes that fall under the noise insulation scheme. The Applicant's response [[REP8-011](#)] highlighted that it is not possible to comment on how effective noise insulation and ventilation would be on caravan park homes without undertaking a detailed survey and inspection. The effectiveness would depend on the existing sound insulation performance provided by the caravan walls, roof and glazing [[REP8-011](#)].

6.8.362. The ExA at ISH6 [[EV-027](#) and [EV-027a](#)] requested the Applicant to provide a note on the apparent uncertainty over the effectiveness of noise insulation and ventilation schemes for the residential caravan park at Smugglers Leap. The Applicant produced a technical note [[REP8-015](#), Appendix ISH6-25]. The Applicant states that the effectiveness of insulation will depend on the existing sound insulation performance provided by the caravan walls, roof and glazing. These parameters are likely to depend on the:

- Age of the caravan;
- specific type;
- design;
- construction; and
- condition of the caravan.

6.8.363. The Applicant noted that in 2015, 'BS 3632:2015 Residential park homes' was published, which makes recommendations for sound insulation and ventilation for permanently occupied moveable buildings. The Applicant argued that sound insulation of mobile homes is rarely investigated, so there is a lack of credible evidence regarding sound insulation which could be relied on [[REP8-015](#)].

6.8.364. The Applicant has agreed at paragraph 2.10 of the NMP [[AS-579](#)] that in the case of permanently occupied moveable buildings such as caravans, an assessment will be carried out to establish the effectiveness of sound insulation and ventilation. Should it prove impossible to achieve an appropriate level of acoustic performance as defined by BS 3632:2015, relocation will be considered in line with the provisions of Section 5 of the NMP [[AS-579](#)].

- 6.8.365. The ExA considers that the NMP has been updated to include consideration of the effectiveness of noise insulation for caravan parks and notes its commitment at paragraph 2.10 of the NMP [AS-579] to consider relocation provisions [AS-579, Section 5] if an acoustic assessment demonstrates noise insulation measures are not effective.
- 6.8.366. The ExA also notes that the NMP is secured via R9 in the dDCO [PD-018]. The ExA considers that in the absence of certainty regarding the effectiveness of caravan noise insulation, effects exceeding SOAEL cannot be excluded for caravan parks including the 40 homes at Smugglers Leap.

Manston Green

- 6.8.367. Cogent [REP5-059] states:
- "The noise assessment is flawed and without further assessment and mitigation it could prejudice the development of Manston Green, the future residents of the development and prevent the delivery of much needed housing."*
- 6.8.368. Cogent believed the noise assessment undertaken for the Proposed Development is considered to be flawed as it does not adequately assess the noise impacts on Manston Green. The consent for Manston Green was granted subject to a planning condition that prevented development in areas with unacceptable noise levels. Cogent believed that the ExA's second dDCO [PD-018] will trigger the insulation and ventilation scheme at the 60dB contour, in order to mitigate the impacts of the airport, which will be applicable to Manston Green. Cogent believe that a condition on the grant of the DCO should ensure that all dwellings within the Manston Green development that require mitigation is provided by the Applicant [REP9-074].
- 6.8.369. The Applicant provided details of the noise assessment including contours to Cogent which are detailed in [REP6-014, Appendix NS.2.12]. Appendix Ns.2.12 [REP6-014] demonstrated that no properties in the current Manston Green development masterplan fall within the 63dB LAeq,16hr (daytime) or 55d BLAeq,8hr contour (night-time) for aircraft noise. The Applicant [REP8-015] noted that properties do however lie between LOAEL and SOAEL but that Cogent is required by its planning permission to "provide noise insulation within the building design".
- 6.8.370. The Applicant noted that TDC had imposed a planning condition [REP3-187], Condition 35 Appendix OP.1.10] regarding the need for the developers of Manston Green to mitigate the effects of noise arising from the reopening of the airport. The Applicant believes there is nothing in the wording of that condition suggesting that anyone other than the Manston Green developer should provide any necessary mitigation [REP8-015]. Cogent submitted an application under Section 73 of The Town and Country Planning Act 1990 (TCPA1990) on the 26 June 2019 to remove condition 35 of planning permission reference OL/TH/14/0050, granted on 13 July 2016 [REP8-015].

6.8.371. The ExA considers that the wording of the extant condition 35 places the onus on the Manston Green developer to provide any necessary noise mitigation. The ExA considers that Cogent's application to remove condition 35 confirms this.

6.8.372. **The ExA concludes that Cogent is responsible for provision of appropriate mitigation in respect of aviation noise at Manston Green, in accordance with the provisions of its current development consent.**

A contour-based noise limit capping the annual average noise level (L_{Aeq}) produced by ATMs and GA movements

6.8.373. In response to IP questions, the ExA in Ns.4.1 [[PD-020](#)] asked the Applicant:

- What is the 'noise contour area cap'?
- Where is this 'noise contour area cap' set out, described or drawn?
- How would the Applicant know if this 'noise contour area cap' were ever to be breached given it plans to install just a few noise monitors, several kilometres away from the airport?; and
- What would happen if this 'noise contour area cap' were breached – what would be the consequential penalty?

6.8.374. The Applicant elaborated on how a contour-based noise limit capping the annual average noise level (L_{Aeq}) produced by ATMs and GA movements would work [[REP9-006](#)]¹¹⁸, in its response to Ns.4.1 [[PD-020](#)]:

"i. Based on the above, the 'noise contour area cap' would be the area within which a 'prospective contour' for the proposed movements (i.e. number and type of aircraft) for the next year. If it didn't, then the airport operator would have to adjust the proposed movements until it did. This 'prospective contour' would be based on a standard easterly / westerly mode split (i.e. the average for the last (say) 5 years). This prospective contour would be produced by the airport operator using a specified noise model (ANCON or AEDT) and the output reported to TDC a specified period before the start of the year to demonstrate compliance with the requirement. In addition, the 'actual contours' would also reported to TDC within three months after the year.

[...] The 'area' of the contour cap at para 1.11 of the Noise Mitigation Plan (REP6-021) is 35.8 sq km for the 50 dBA L_{Aeq} 16hr (daytime) contour and is 47.4 sq km for the 40 dBA L_{Aeq} 8hr (night-time) contour. This is an 'area' that is intended to be used as an 'area cap' for any 'prospective contour' produced under the mechanism described above.

[...] iv. The advantage of a 'prospective contour', rather than just relying on an 'actual contour', is that you prevent any breach in advance. In other words, if your proposed movements for the year produce a

¹¹⁸ EMA also uses a contour-based noise limit: <https://live-webadmin-media.s3.amazonaws.com/media/5943/ema-noise-action-plan-2019-2023-final.pdf> [[REP5-010](#), Table 2.1 Item 3]

'prospective contour' that is larger than the square kilometres in the cap, then you cannot fly that many / type of aircraft. It would then be necessary to adjust the number / type of aircraft to be flown."

- 6.8.375. The Applicant explained there are, two types of contour that can be calculated using the relevant noise model INM, a 'prospective contour' of the aircraft expected to be flown, and the 'actual contour' of the aircraft that actually flew. A prospective contour allows an airport operator to know beforehand whether the airport will comply with a noise contour cap and, if not, adjust its proposed 'movements' (ie number and type of aircraft) accordingly.
- 6.8.376. The Applicant explained further that the airport operator will forecast a 'prospective contour' each year and report that to TDC and the Community Consultative Committee in order to demonstrate that it will comply with the noise contour cap requirement. It is that 'prospective contour' that will be the control mechanism and the airport operator would have to operate within its forecast of numbers and types of aircraft, reflected in paragraph 1.12 of the NMP [AS-579]. In addition, the airport operator should report the 'actual contour' after the event. If this exceeded either contour then a fine would be paid to the Community Trust Fund proportionate to the level of the exceedance, as set out in paragraph 7.1.5 of the NMP [AS-579].
- 6.8.377. The Applicant in summary [REP11-014] stated that:
- "If the 'prospective contour' was compliant but the 'actual contour' was nevertheless greater than the cap, then that would result in a fine being paid into the Community Trust Fund, by virtue of the Noise Mitigation Plan [REP9-014]."*
- 6.8.378. The ExA proposed a new R9d for a contour-based noise limit capping the annual average noise level (LAeq) produced by ATM's and GA movements in its second dDCO [PD-018]:
- "The area enclosed by the 50dB(A) Leq16hr (0700-2300) contour shall not exceed 35.8 sq.km, and the area enclosed by the 40dB(A) Leq8hr (23.00-07.00) contour shall not exceed 47.4 sq. km."*
- 6.8.379. The Applicant agreed with this new Requirement [REP9-002] and explained in its response to Ns.4.1 [REP9-006] that a noise contour cap mechanism is not controlled by monitors; it is controlled by running an air noise model with the proposed movements for the year to produce a 'prospective contour' and then checking that the 'area' of that contour is less than the number of square kilometres in the noise contour cap (in this case 35.8 sq km for the 50 dBA LAeq,16hr contour and 47.4 sq km for the 40 dBA LAeq,8hr contour); similarly with the actual movements.
- 6.8.380. **The ExA concludes that the noise contour cap based on a 'prospective contour', rather than just relying on an 'actual**

contour', will be capable of preventing any breach in advance¹¹⁹. If the proposed movements for the year produce a 'prospective contour' that is larger than the square kilometres in the cap, then it will not be possible to fly that many / type of aircraft. The Applicant would then be required to adjust the number / type of aircraft to be flown. The contour area cap is secured in the DCO via R9d. The ExA considers that noise contour area cap combined with an absolute limit on ATMs (as set out in R21(1) of the rdDCO) represents a reasonable approach to mitigate and minimise the population exposed to aircraft noise above the LOAEL set out above within the context of the Balanced Approach to the management of aviation noise¹²⁰.

Schools

- 6.8.381. ES paragraph 12.5.13 [APP-034] outlines the proposed noise insulation scheme for noise-sensitive school and community buildings, which is based on the extent of the 60dB LAeq,16hr contour. Schools are shown as sensitive receptors in ES Figures 12.1 and 12.2 [APP-042]. The NMP sets out the provisions for noise mitigation and states that a 'reasonable' level of noise insulation and ventilation would be provided for relevant schools [APP-009]. No exceedances of the thresholds are predicted to occur in the ES [APP-034].
- 6.8.382. The issue of noise mitigation for schools and the relevant noise threshold to trigger provision of noise insulation and ventilation was considered at ISH3 and was the subject of ExQ1 eg Ns 1.1, Ns 1.29 and SE.1.9 [PD-007]; ExQ2 eg Ns.2.10 and Ns.2.16 [PD-010b]; ExQ3 eg Ns.3.2 [PD-014]; and ExQ4 eg F.4.18, Ns.4.2, Ns.4.6 [PD-020]. The questions focussed on the issue of the definition of 'reasonable' in terms of noise insulation and ventilation, eligibility for noise insulation and ventilation and effects of different scenarios for the assessment of noise effects on indoor and outdoor teaching.
- 6.8.383. In response to Ns.1.29 [REP3-195] the Applicant stated that a reasonable level of noise insulation and ventilation meant:

"Taking account of the existing building structure:

- *a level of insulation and ventilation designed to achieve acoustic conditions inside classrooms consistent with BB93: acoustic design of schools – performance standards; or*
- *where existing conditions already exceed acoustic conditions defined in BB93, a level of insulation and ventilation designed to maintain existing acoustic conditions inside classrooms*
- *Alternative ventilation which avoids overheating in classrooms."*

¹¹⁹ EMA also uses a contour based noise limit: <https://live-webadmin-media.s3.amazonaws.com/media/5943/ema-noise-action-plan-2019-2023-final.pdf> [REP5-010, Table 2.1 Item 3 of]

¹²⁰ EU Regulation 598/2014 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach

- 6.8.384. The ExA is satisfied that reference to the standard for acoustic design of schools constitutes a reasonable basis for mitigation.
- 6.8.385. The ExA [[PD-010b](#), Ns 2.16] queried whether a distorted timetable (ie where an increased number of flights immediately after the night-time ban) could result in instances of exceedances of the LAeq,16hr over 30-minute periods. The Applicant responded [[REP6-012](#)] that in this scenario, the Chatham and Clarendon Grammar School and the Elms Nursery School (see ES figures 12.1 and 12.2 [[APP-042](#)]) may reach the 60dB LAeq,16hr precautionary level and therefore be eligible for noise insulation, if a +/-1dB uncertainty is considered.
- 6.8.386. As noted in the Applicant's written summary of oral submission put at ISH6 [[REP8-015](#)], with a larger +2dB uncertainty a number of schools could exceed the 60dB threshold but this would only be likely to occur approximately 20 years into operation.
- 6.8.387. The Applicant has now committed to providing £139,000 per year for affected schools for 20 years, to be spent on noise insulation or other measures to benefit pupils and to be distributed to each school annually, as reflected in the s106 UU in favour of KCC submitted on the day the Examination closed [[AS-583](#)].
- 6.8.388. The Applicant believes that as the noise effects will not occur until many years after the airport commences its operations, the build-up in funding during this time should be sufficient to provide the necessary mitigation. The Applicant states that in any case:
- "...all schools should be assessed on a case-by-case basis in order that the needs of individual schools can be taken into account rather than offering a one-size-fits-all solution."*
- 6.8.389. **The ExA concludes that because the £139k/year will build up to £2.78M over 20 years this should be adequate funding for insulation and together with R19 (R21 in the rdDCO) will mitigate and minimise the noise effects on schools.**
- 6.8.390. The ExA proposed a new R19c (R21(3) and (4) in the rdDCO) restricting air transport passenger departures and arrivals in its dDCO [[PD-018](#)]:
- "No passenger air transport departures can take place between the hours of 09.00 and 12.00 and no passenger air transport arrivals can take place between the hours of 07.00 and 08.00."*
- 6.8.391. This new R19c (R21(3) in the rdDCO) was proposed in order to ensure that vehicle movements associated with passenger arrivals and departures do not impact on the AM Peak period. This is considered necessary as the original TA [[APP-061](#)] and the revised TA [[REP5-021](#)] do not model any vehicle movements associated with passenger flight departures or arrivals in the AM Peak period (see traffic and transport section of this chapter).

6.8.392. This proposal arose from the traffic and transport hearing [[EV-028a to EV-028c](#)] in regard to the impact on the road capacity rather than on noise, but as KCC's response shows below, it has noise implications particularly for schools.

6.8.393. KCC in its response to Ns.4.6 [REP9-024] stated:

"The County Council considers that any limitation of air traffic movements during school operating times would be welcomed as this would limit the impact of any noise pollution on the schools and children affected."

6.8.394. The Applicant responded [[REP9-002](#)]:

"The Applicant does not agree with the drafting of this requirement.

As stated in its revised Noise Mitigation Plan [REP8-004] submitted at Deadline 8 the Applicant is content to commit to a prohibition on passenger flight departures between 0900 and 1130 but not between 0900 and 1200. The extension of this period by half an hour will be detrimental to the expected operation of the passenger offering at the airport. In the absence of a ban on passenger flight departures between the hours of 1130 and 1200 the effects associated with passenger flight departures will not exceed those assessed within the Transport Assessments.

The Applicant opposes the imposition of a ban on passenger ATM arrivals between the hours of 0700 and 0800 in its entirety. There is no justification for this prohibition as the effects have been assessed in the Transport Assessments and no significant effects arise."

ExA's considerations

6.8.395. Mitigation proposals for schools, were the subject of much debate at the hearings. As stated above, the Applicant has now committed to providing £139,000 per year for affected schools for 20 years, to be spent on noise insulation and ventilation or other measures to benefit pupils, based on 1% of the per-pupil funding of the schools concerned, and to be distributed to each one annually, as reflected in the s106 UU submitted by the Applicant on the final day of the Examination [[AS-583](#)]. The Applicant believes that as the noise effects will not occur until many years after the airport commences its operations, the build-up in funding during this time should be sufficient to provide the necessary mitigation [[AS-579](#)].

6.8.396. **The ExA concludes that this commitment as reflected in the s106 UU in favour of KCC submitted by the Applicant on the final day of the Examination [[AS-583](#)] will be sufficient to address insulation and ventilation needs.** The ExA considers that because the £139k / year building up to £2.78M over 20 years will be sufficient funding for insulation / ventilation mitigation and, together with R19 (R21 in the rdDCO) will mitigate and minimise the noise effects on schools adequately.

6.8.397. The ExA would advise the SoS to confirm with KCC whether they find the UU acceptable.

Noise monitoring

6.8.398. The Applicant produced a draft s106 Agreement in the course of the Examination which included annual financial contributions for noise monitoring. The contribution is reflected in the s106 UU in favour of TDC submitted by the Applicant on the final day of the Examination [[AS-584](#)]:

"...means the annual payment of £10,000 (ten thousand pounds) to be Index Linked and used towards the Noise Monitoring Assessment Contribution Purposes."

6.8.399. The ExA notes the proposed financial contributions for monitoring.

6.8.400. The ExA proposed a new R23 in the ExA's second dDCO [[PD-018](#)] in order to reinforce the establishment of a robust monitoring, auditing and reporting regime for the Proposed Development in line with Schedule 4, Section 7 of the 2017 EIA Regulations which was accepted by the Applicant. This is considered in Chapter 10 of this report.

6.8.401. **The ExA concludes that R23 will provide an effective control for monitoring, auditing and reporting of aircraft noise and will assist effective assessment and mitigation of noise effects from the Proposed Development.**

Community Consultative Committee

6.8.402. The Community Consultative Committee (described in paragraphs 7 to 9 of the NMP [[AS-579](#)]) will be the body responsible for making recommendations to the airport operator relating to:

- Claims for noise insulation and ventilation;
- claims for relocation; and
- for administering applications to the Community Trust Fund.

6.8.403. The Community Consultative Committee will include an independent chair and secretary who will be paid by the airport operator.

6.8.404. The independent chair will be appointed in consultation with TDC, DDC and CCC. Following appointment, the independent chair will establish the terms of reference for the committee based on the NMP. The chair will also be responsible for appointing the secretary.

6.8.405. The Community Consultative Committee will comprise representatives from:

- TDC;
- DDC;
- CCC; and
- individuals (number of and election procedure to be defined by the independent chair) representative of users of the airport; and

- community representatives to be elected annually under a procedure to be defined by the independent chair and secretary in consultation with those public bodies listed above.
- 6.8.406. The airport operator will produce an annual report to be submitted to the Community Consultative Committee that will include as a minimum the following information:
- An aviation forecast for the next calendar year to include all flights (passenger, freight and GA) expected to take off and land at the airport; and
 - forecast LAeq noise contours.
- 6.8.407. The Applicant noted that the NMP [[AS-579](#)] commits the airport operator to producing an annual report to be submitted to the Community Consultative Committee.
- 6.8.408. The Community Consultative Committee will review all reports received from the airport operator. The airport operator will be expected to formally respond to any recommendations made by the Community Consultative Committee, taking any actions deemed necessary within the bounds of the NMP [[AS-579](#)].
- 6.8.409. The airport operator will establish a Community Trust Fund into which all penalties applied under paragraphs 16 and 17 of the NMP [[AS-579](#)] will be paid.
- 6.8.410. The proceeds of the fund established under paragraph 9 of the NMP [[AS-579](#)] will be applied by the Community Consultative Committee.
- 6.8.411. The airport operator will contribute £50,000 per annum to the Community Trust Fund. This sum will be reviewed annually in consultation with the Community Consultative Committee.
- 6.8.412. The Community Consultative Committee was secured via R18 in the ExAs first dDCO [[PD-015](#)]:
- "Community Consultative Committee 18.—*
- (1) No part of the authorised development is to begin operation until the undertaker has established a community consultative committee pursuant to section 35 of the 1982 Act.*
- (2) The constitution and proceedings of the community consultative committee established under sub-paragraph (1) must be in accordance with the consultative committee guidance."*
- 6.8.413. The ExA proposed an amendment to R18 in its dDCO [[PD-018](#)]:
- "Substitute the phrase "must be commenced" for the phrase "is to begin operation" in (1)."*
- 6.8.414. This was introduced in order to seek to secure the establishment of the Community Consultative Committee as set out in Section 8 of the revised

draft NMP [[REP7a-021](#)] before the commencement of the Proposed Development.

6.8.415. The Applicant agreed with this amendment [[REP9-002](#)].

6.8.416. **The ExA concludes that Community Consultative Committee's role is properly secured via R18 in the DCO and that the timing of establishment of the committee will precede commencement to ensure the timely delivery of the Applicant's noise mitigation commitments.**

Human Rights

6.8.417. Human Rights in respect to noise were explicitly raised by IPs in the following representations including:

- [[RR-0494](#), [RR-0928](#), [RR-1468](#), [RR-1831](#), [RR-1873](#)];
- [[REP1-063](#), [REP7-019](#), [REP8-096](#), [REP9-027](#), [AS-069](#)]; and
- at OFHs and ISHs [[EV-008a to EV-008c](#), [EV-010 to EV10-010c](#), [EV-015](#), [EV-016 to EV-016b](#), [EV-017](#), [EV-027](#) and [EV-027a](#)].

6.8.418. For example, the RR from Dr R L Symonds [[RR-0494](#)] states, in respect of noise, that "Article 8 of the European Convention on Human Rights would inevitably be engaged" and that from P Kerss [[RR-1468](#)] states that "My concern is that due consideration is given to the "right of individuals to the peaceful enjoyment of their property" under the Human Rights Act of 1998." Soraya Coxon [[RR-1831](#)] states that, "The re-opening of Manston Airport as a cargo hub with the inevitable day and night flights would drastically affect our health, happiness and emotional wellbeing - these being basic human rights".

6.8.419. The Applicant was asked in ExA question Ns.2.24 to provide a reasoned argument as to whether the Applicant considers that the HRA1998 is engaged, given that ES Chapter 12 paragraph 12.7.70 [[APP-034](#)] states that in specified locations:

"The effect would be characterised as a perceived change in quality of life for occupants of buildings in these communities, Article 8 of Schedule I to the Human Rights Act 1998 and Article 1 of the First Protocol to that Act are engaged in such locations."

6.8.420. The Applicant's response was as follows [[REP6-012](#)]:

"Article 8 of Schedule I to the Human Rights Act 1998

As recognised by Powell and Rayner v UK (1990) 12 EHRR 355 and Hatton v UK (2003) 37 EHRR 28, noise from an airport has the potential to engage Article 8 of Schedule I to the Human Rights Act 1998, being interference of a type falling within the scope of Article 8.

However, the interference with Article 8 referred to at ES Vol 2, Chapter 12 [APP-034], 12.7.70 is justified under Article 8(2). As recognised in Powell and Rayner, regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the

community as a whole. In that case the European Court found, on balancing the rights of the householders and the general interest of the public in access to air travel, that there was no violation of Article 8. Likewise, in Hatton v UK, the European Court found that government was entitled to conclude that the economic benefits of the airport outweighed the rights of those affected. Similarly, the Applicant's case is that the interference referred to at ES Vol 2, Chapter 12 [APP-034], 12.7.70 is proportionate, and therefore lawful.

Article 1 of the First Protocol to the Human Rights Act 1998

Aircraft noise is in certain circumstances capable of engaging Article 1 of the First Protocol to the Human Rights Act 1998. European Commission in Powell and Rayner said that Article 1 is "mainly concerned with the arbitrary confiscation of property and does not, in principle, guarantee a right to the peaceful enjoyment of possessions in a pleasant environment. It is true aircraft noise nuisance of considerable importance both as to level and frequency may seriously affect the value of real property or even render it unsaleable and thus amount to a partial taking of property, necessitating payment of compensation" aircraft noise may constitute a violation of Article 1 if it is so significant that it constitutes a loss of value of the property.

In the case of Dennis v Ministry of Defence (2003) EWHC 793 (QB), Times 6.5.03, an award was made on that basis where RAF jet aircraft produced deafening, highly intrusive and frightening noise which was found to constitute a very serious interference.

The Applicant does not consider that the noise referred to at ES Vol 2, Chapter 12 [APP-034] is of the severity that would engage Article 1. In any event, the Applicant considers that any interference is justified under Article 1(2) being proportionate, and therefore lawful."

6.8.421. Tricia Hartley raised Human Rights [[REP8-096](#)] stating:

"As I understand it, the Human Rights Act requires that individuals whose enjoyment of their homes and liberty is compromised by a Government decision must have been given sufficient information and opportunity to challenge this. Time is running out for RSP Ltd to provide residents with the information they have been asking for."

6.8.422. The ExA notes that the Applicant has engaged in statutory consultation during Pre-application regarding the Proposed Development.

6.8.423. The Applicant acknowledges that noise from an airport has the potential to engage Article 1, in certain circumstances and Article 8 of Schedule I to the HRA1998, being interference of a type falling within the scope of both of those Articles. The Applicant does not however consider that the noise from the Proposed Development would engage Article 1 in this case. The Applicant also believes that in respect of Article 8, following *Powell and Rayner v. UK and Hatton and Others v UK*, the interference referred to at ES Vol 2, Chapter 12 [[APP-034](#)] paragraph 12.7.70 is proportionate, and therefore lawful.

- 6.8.424. It is necessary to consider the noise that would occur if development consent were to be granted and whether this engages Article 1 and Article 8.
- 6.8.425. The ExA considers that although noise has potential to engage Article 1, the character of noise from the Proposed Development is not such as to engage Article 1, noting the case of *Dennis v Ministry of Defence* as referenced by the Applicant. Consent is not sought for operation of military jet aircraft or any other aircraft which would result in interference of a similar character. The ExA considers that noise from the Proposed Development does have potential to engage Article 8.
- 6.8.426. It is necessary to assess whether the interference with the rights of individuals is for a legitimate purpose - in this case the wider public interest in providing the airport, which includes the assessment of the need for the airport.
- 6.8.427. The ExA notes that whilst granting consent for the provision of an airport would be in accordance with the law, it has concluded at Chapter 5 of this report that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports. In light of this conclusion the ExA has considered the wider public interest of the Proposed Development against the interference.
- 6.8.428. The ExA notes that both of the cases cited by the Applicant relate to noise at Heathrow Airport and in both cases, the judgements emphasise the significance of that airport, eg *Powell and Rayner v. the UK* states that it:
- "...occupies a position of central importance in international trade and communications and in the economy of the United Kingdom".*
- 6.8.429. The ExA therefore considers that the scale of the socio-economic benefit is important when considering the wider public interest and whether to allow interference with individual rights. *Hatton and Others v. the UK* also highlights that a fair balance is required to be struck under Article 8 of the convention. In the following paragraphs, the ExA considers the socio-economic benefit against the potential impact of the Proposed Development, considers the mitigation measures and concludes on whether the interference predicted by the Applicant is proportionate.
- 6.8.430. Section 6.8 of this Recommendation Report considers the socio-economic benefits of the Proposed Development that would accrue to the communities of Thanet and concludes that the socio-economic benefits of the Proposed Development are overstated but outweigh the socio-economic impacts of the Proposed Development. The socio-economic benefits are in turn dependent on the need case. The ExA has concluded in Chapter 5 of this report that the Applicant has been unable to demonstrate sufficient need for its proposals, additional to (or different from) the need which is met by the provision of existing airports.

- 6.8.431. The ExA therefore considers that although the Proposed Development offers some benefit to the community of Thanet as a whole, the lack of demonstrable need means that the likely scale of benefit of opening a freight airport at Manston to the UK economy is low.
- 6.8.432. Turning to the issue of impact, the ExA notes its conclusions above that the Applicant has made efforts to avoid the impacts of night noise, noise impacts on schools and for residential receptors, however, the following residual negative noise impacts may arise:
- Potential relocation of residents subject to the relocation assistance scheme;
 - disruption due to noise insulation and ventilation works;
 - possible night-time noise impacts due to emergency flights and flights for humanitarian purposes;
 - potential impacts on residential caravans; and
 - non-mitigable noise impacts on outdoor amenity spaces (eg residential gardens, PRoW etc).
- 6.8.433. In considering Article 8, **the ExA concludes that the proposed interference with the Human Rights of individuals is not justified in the public interest or proportionate when balanced against lack of demonstration of sufficient need for the development, the likely scale of benefit and the negative noise impacts that may still arise.**
- 6.8.434. The ExA has considered the implications of noise impacts from a Human Rights perspective. **The ExA concludes that the Applicant has been unable to demonstrate sufficient need for its proposals, additional to (or different from) the need which is met by the provision of existing airports, socio-economic benefits of the development are overstated, the benefits are further reduced with the residual noise impacts.**
- 6.8.435. **The ExA concludes that the proposed interference with the Human Rights of individuals is not justified in the public interest and the degree of interference would not be proportionate.**

Health effects

- 6.8.436. A number of IPs noted that exposure to noise can have effects on sleep and general annoyance and can lead to chronic health effects (eg heart disease and hypertension). Health effects were explicitly raised by IPs in the following representations:
- [[AS-029](#), [RR-1608](#), [REP3-066](#), [REP3-126](#), [REP3-158](#), [REP3-287](#), [REP5-017](#), [REP5-051](#), [REP5-052](#), [REP5-081](#), [REP5-084](#), [REP5-103](#), [REP5-137](#), [REP6-057](#), [REP6-063](#), [REP8-080](#), [REP8-089](#)]; and
 - at OFHs and ISHs [[EV-008a to EV-008c](#), [EV-010 to EV10-010c](#), [EV-015](#), [EV-016 to EV-016b](#), [EV-017](#), [EV-027](#) and [EV-027a](#)].

- 6.8.437. The Proposed Development would result in significant impacts on a large number of receptors during operation. This would affect both residential receptors and non-residential receptors.
- 6.8.438. The Applicant addressed health effects in Chapter 15 of the ES [[APP-034](#)]. This chapter presented the findings of a HIA that assessed whether the construction and operational activities associated with the Proposed Development are predicted to beneficially or adversely affect public health and wellbeing through environmental and socio-economic pathways. The assessment also considered, where possible, the spatial and social distribution of impacts, to investigate and address any disproportionate outcome for any sensitive community group. It also outlined measures to mitigate adverse effects and improvements to enhance beneficial effects.
- 6.8.439. The chapter was supported by the following appendices [[APP-058](#)]:
- Appendix 15.1: HRA;
 - Appendix 15.2: Community Profile; and
 - Appendix 15.3: Health Evidence Base.
- 6.8.440. The potential for risks to life or health resulting from major accidents and disasters was assessed in Chapter 17: Major Accidents and Disasters [[APP-035](#)], and potential health risks associated with climate change were assessed in Chapter 16: Climate Change [[APP-034](#)].
- 6.8.441. The Applicant stated at paragraphs 12.1.2, 12.6.4 and 13.4.9 of the ES [[APP-034](#)]:
- "12.1.2 Noise and vibration can have an effect on the environment and on the quality of life, health and well-being of individuals and communities. It can also pervade and affect the quality of natural resources.*
- 12.6.4 The identified criterion for the assessment of impacts has been informed by the aims of the Government's Noise Policy to avoid 'significant adverse' impacts and 'minimise adverse' impacts on health and quality of life. The effect levels in relation to adverse impacts on health and quality of life are set out as in Table 12.4.*
- 13.4.9 Health can reflect a range of other indicators such as deprivation, crime and unemployment."*
- 6.8.442. The Applicant at paragraph 15.7.8 of the ES [[APP-034](#)] states:
- "Given the multidisciplinary nature of health and the strength of evidence for each health pathway, the individual assessment protocols (i.e. for changes in air or noise exposure), have been applied to inform a judgement on the magnitude and distribution of change, based upon:*
- *the magnitude of potential impacts;*
 - *the sensitivity of the communities affected; and*
 - *identified local health needs and objectives."*

6.8.443. In Ns.1.4 [[PD-007](#)] the ExA asked the Applicant to point to where in the ES [[APP-033](#), [APP-034](#) and [APP-044](#)] sensitivity of the communities and local health objectives were considered. The Applicant's response stated [[REP3-195](#)]:

"Bullet items 2 and 3 have been considered in Chapter 15 of the ES [[APP-034](#)] and Appendix 15.1 [[APP-058](#)].

Section 3 of Appendix 15.1 discusses the sensitivity of communities affected, based on analysis of the Community Profile data in Appendix 15.2. Paragraphs 15.4.2 and 15.7.6 in Chapter 15 then confirm that the sensitivity has been considered as 'high' for the assessment.

Paragraphs 3.20–3.22 and Table 3.1 in Appendix 15.1 set out the health needs and objectives identified by the Kent Health and Wellbeing Board's Joint Strategic Needs Assessment, by the Kent Director of Public Health during consultation, and by policy in the NPPF. These local health priorities, needs and objectives are then summarised in Table 15.2 of Chapter 15.

Paragraphs 15.7.10 and 15.7.11 in Chapter 15 set out how these factors have been used to inform the judgement of effect significance, tailored to local circumstance, priority and need.

Paragraph 15.8.39 in Chapter 15 is one example of this applied in practice to the significance of health effect from employment generation. The paragraph refers to the magnitude of employment levels with health outcomes, the sensitivity of affected communities, the embedded enhancement measures and the relevant local health objectives in supporting the judgement of an overall 'moderate beneficial' significance of effect.

Paragraph 15.8.27 in Chapter 15 is a further example, where the information about baseline health (community sensitivity) has been applied to a precautionary judgement of a 'minor adverse' significance of effect. In the assessment of noise impacts on health and wellbeing, paragraph 15.8.15 refers to relevant health needs/objectives and paragraph 15.8.11 considers particular sensitive receptors (healthcare facilities) within the context of the overall 'high' sensitivity of the community specified in paragraph 15.7.6. These factors, together with the magnitude of impacts (predicted health outcomes) reported in that section, have informed the significance of effect predicted."

6.8.444. The ExA notes that PHE agreed in principle with the Applicant's approach to assessment of health effects in the EIA [[REP5-017](#)].

6.8.445. IPs questioned the use of the Basner 2006 study¹²¹ to assess the impact of awakenings. The ExA requested that the Applicant make a copy of

¹²¹ Aircraft noise effects on sleep: Application of the results of a large polysomnographic field study. The Journal of the Acoustical Society of America 119, 2772 (2006)

Basner 2006 available to the Examination in NS.1.3 [PD-007]. A copy was supplied in response [REP3-195, REP3-187].

6.8.446. IPs questioned at ISH3 [REP5-040, REP5-051, REP5-071, REP5-114, REP5-126] the application of the Basner 2006 study to the assessment of awakenings, since that study was based on residents already exposed to aircraft noise [EV-016 to EV-016b].

6.8.447. The Applicant acknowledged that the Basner 2006 study, which investigated awakenings in 61 residents in the vicinity of Cologne / Bonn airport over nine nights [REP5-010], was based on residents already exposed to aircraft noise. The Applicant justified the use of the study stating that there is no equivalent study for new airports, that in Year 20, local inhabitants would be habituated to noise and that in Year 2 only one additional event in excess of 80dB LAmax was anticipated on an average night. The Applicant also noted that with the proposed ban on night flights the awakening would be anticipated to be in the less sensitive 06:00 to 07:00 period [REP5-010].

6.8.448. In Ns.1.5 [PD-007] the ExA asked the Applicant to provide the evidence which demonstrates that noise insulation is effective at mitigating the adverse psychological and physiological health outcomes associated with aviation noise. The Applicant's response stated [REP3-195]:

"The assessment relating to psychological and physiological health outcomes and the effectiveness of noise insulation can be found in Chapter 15 of the ES [APP-034]."

6.8.449. The Applicant in Table 2.1 of [REP5-010, Item 12] stated:

"Our study of additional awakenings was undertaken in Year 2 and Year 20. In Year 20, the surrounding population will have become habituated to aircraft noise. In Year 20 the number of events was significantly below the threshold for triggering additional awakenings.

In Year 2, the forecast aircraft movements are much lower. In Year 2 paragraph 12.7.56 of the ES [APP-033,034,035] stated that "N-above contours demonstrate that residential properties in the vicinity of the Proposed Development will be exposed to up to one aircraft noise event in excess of 80 dB LASmax on an average night ". This is a very low number of noise events. Because of this, and whilst the Basner research is based on people already exposed to aircraft noise, it is considered unlikely that an equivalent study for a new airport would alter the conclusions of the ES for the opening, even if such a study was available.

It should also be noted that the ban on scheduled night flights between 23:00 and 06:00 will mean that typically flights will be limited to the hour between 06:00 and 07:00 which is a less sensitive part of the night period."

6.8.450. The ExA queried the assertion that surrounding populations will become habituated to aircraft noise in Ns.2.17 [PD-010b]. The Applicant responded [REP6-012]:

"As described above it has been seen in laboratory that probability of noise causing physiological reactions is higher during the first nights of a laboratory experiment compared to the last nights of the experiment, indicating that habituation can happen quickly."

6.8.451. The ExA were not persuaded by the Applicant's response on habituation to ExA question Ns.2.17 [REP6-012] because study sample size was small and the study was conducted on an existing operational airport. Manston Airport has not been operational since 2014 so the population cannot be described as habituated. This contributed to the ExA's proposed ban on scheduled night flights between 23:00 to 06:00 secured via R19b in the dDCO (R21(2) in the rdDCO). Since there will be no scheduled night flights the ExA considers that awakenings are a less significant issue.

6.8.452. The Applicant and PHE in their SoCG [REP5-017] stated:

"Justification for Conclusions on Sleep Disturbance

We agree with the Applicant's approach of assessing sleep disturbance in terms of both the number of noise induced awakenings and the number of people highly sleep disturbed. We welcome the additional clarity provided by the Applicant in relation to the conclusions drawn for this assessment in points 4.1.11-4.1.14 and confirm that this reflects recent discussions between the parties."

6.8.453. The Applicant and PHE in their SoCG [REP5-017] stated:

"Magnitude and sensitivity of health impacts

4.1.16 PHE also sought clarity concerning where the magnitude of impact, sensitivity of communities affected and identified local health needs and objectives were shown to have been considered in the judgement of significance of effects. The parties agree in principle that the Applicant's responses to the first written questions Ns.1.4 (with regard to noise impacts on health) and E.1.9 (with regard to other health pathways) provide this clarification, with the following addendum to E.1.9:

*"Paragraph 15.8.39 is one example of this applied in practice to the significance of health effect from employment generation. The paragraph refers to the magnitude of employment levels and health outcomes, the sensitivity of affected communities, the embedded enhancement measures and the relevant local health objectives (all of which had been detailed in preceding paragraphs) in **supporting the judgement of an overall 'moderate beneficial' significance of effect.**" (the ExA's emphasis)*

6.8.454. The Applicant's proposed development was vigorously opposed by many IPs on the grounds of the medical evidence of the effects on sleep and general annoyance which can lead to chronic health effects (eg heart disease and hypertension).

6.8.455. PHE in its SoCG [REP5-017] state:

"We welcome the Applicant's commitment in 4.1.10 to carry out additional assessments which address annoyance as a health outcome; and quantify it in terms of Disability Adjusted Life Years (DALYs). This will enable meaningful comparisons to be made between different health outcomes and different risk factors. It will also broaden the accessibility of the results from the noise assessment to a wider audience."

6.8.456. The ExA has given very careful consideration to health effects from noise. As part of the Examination, the ExA has asked numerous written questions and gathered evidence at OFHs and ISHs.

6.8.457. The Applicant believes that its relocation offer, noise insulation and ventilation measures are expected to reduce noise exposure within the home, and therefore to help reduce annoyance and sleep disturbance. Noise insulation measures are also expected to reduce noise within other eligible sensitive buildings, and therefore to help reduce disruption to their use. The causal pathways for adverse health outcomes from noise exposure ultimately relate back to these effects. A reduction in interior noise levels after mitigation would therefore be expected to lead to a proportional reduction in adverse health and wellbeing outcomes.

6.8.458. The ExA considers that the combination of a ban on night flights (except in the 06:00 to 07:00 period), a relocation offer for those affected by UAEL, noise insulation and ventilation for those affected by noise levels above a reduced SOAEL threshold and the use of a QC and contour area cap will control noise health effects. These measures are secured through the rdDCO via:

- R6 – CEMP and REAC;
- R7 – OEMP and REAC;
- R9 – Noise mitigation;
 - R9b – Daytime SOAEL set at 60dB;
 - R9c – QCs; and
 - R9d - Contour area cap; and
- R21 - Banning night flights.

6.8.459. **The ExA concludes that noise insulation and ventilation measures will mitigate and minimise noise effects for residents in closest proximity to the airport subject to the more significant noise impacts and will result in a minimisation of potential health impacts.** The ExA conclusions on caravan parks is shown above, which states:

"The ExA considers that in the absence of certainty regarding the effectiveness of caravan noise insulation, effects exceeding SOAEL cannot be excluded for caravan parks."

6.8.460. The ExA is unable to conclude that noise insulation and ventilation measures for caravans will mitigate and minimise noise effects. Therefore the ExA cannot rule out the possibility of potential health effects on caravan occupants.

PSED

- 6.8.461. The ExA notes that the issue of noise is stated as being important to a range of IPs and is highlighted in those RRs quoted in Chapter 3, above, from IPs who refer to a particular protected characteristic.
- 6.8.462. In examining the Proposed Development and in proposing and seeking amendments to the dDCO, the ExA has had particular regard to the PSED and have, amongst other things, achieved the following changes to the dDCO that have been agreed by the Applicant and are incorporated into the rdDCO at Appendix D to this report should it be made:
- A limit on ATMs in total and differentially in respect of cargo, passenger and GA (R21(1));
 - a prohibition on the take-off of aircraft and a prohibition on the scheduled landing of aircraft between the hours of 23:00 and 06:00 (R21(2));
 - a prohibition on the take-off or landing of aircraft with a noise quota of 4 or above between the hours of 06:00 and 07:00 (R9(6));
 - a prohibition of the departure of passenger aircraft between the hours of 09:00 and 12:00 and a prohibition on the arrival of passenger aircraft between the hours of 07:00 and 08:00 (R20(3));
 - the setting of an annual noise quota (R9(5)); and
 - the setting of the noise contour area caps which cannot be exceeded. (R9(7)).
- 6.8.463. In addition, the ExA has proposed a lowering of the noise level at which noise insulation and ventilation shall be provided to a level lower than was proposed by the Applicant – to which the Applicant has not agreed but the ExA has included in its rdDCO.
- 6.8.464. In addition, the ExA has proposed a restriction on passenger aircraft arrivals and departures at certain hours in the morning and in the afternoon – to which the Applicant has not agreed but the ExA has included in its rdDCO.
- 6.8.465. In seeking these amendments and seeking to gain the Applicant's agreement for them, the ExA considers that it has had full regard to the duties placed upon it by the PSED.

ExA's conclusions

- 6.8.466. Noise and vibration during the construction and operation of the Proposed Development is both important and relevant and was identified as a key issue in the ExA's IAPI [[PD-005](#)]. The regulatory and policy context for the ExA's conclusions are set out in Chapter 3 and at the beginning of this chapter.
- 6.8.467. The ExA considered the appropriate noise contour to represent the noise insulation policy threshold and concluded that this should be 60dB, LAeq based on emerging policy. Whilst this will avoid exceedance of SOAEL, aviation will give rise to adverse effects not currently experienced by the local communities in Thanet.

- 6.8.468. The ExA considered the potential impact of construction noise on residents including during the night-time period and concluded that the mitigation measures set out in the CEMP and REAC that are described as best practicable means and are discharged by TDC provide the appropriate means of controlling construction noise.
- 6.8.469. The ExA considered the proposal for uncapped ATMs to be consented in the Applicant's original dDCO [[APP-006](#)] and concluded that R19a (R21(1) in the rdDCO), which provides an ATM limit was required to ensure that the dDCO would reflect the worst-case assessment presented in the ES.
- 6.8.470. The ExA considered the potential impact of night flights. Recognising that night flights were a main source of concern for communities that would be affected by aviation noise and taking into consideration the policy commitments regarding night noise in the ANPS, the ExA proposed R19b (R21(2) in the rdDCO) to restrict scheduled flights between 23:00 and 06:00 and R9c which restricts noisier aircraft between 06:00 to 07:00. The ExA concludes that these measures would help to avoid night flight noise, although the possibility that emergency flights and flights for humanitarian purposes may still occur in the night-time period means that the potential for night noise flight impacts cannot be entirely excluded.
- 6.8.471. The ExA considered the application of noise QCs to control noise impacts. R9c proposed by the ExA and accepted by the Applicant, sets a QC for aircraft in the 06:00 to 07:00 period and restricts noisier aircraft with QC 4, 8 or 16. The ExA concludes that this measure mitigates noise in the late part of the night-time quota period.
- 6.8.472. The ExA considered the use of a prospective contour to limit annual noise emissions. The contour area and relevant noise contours are secured in R9d was proposed by the ExA and accepted by the Applicant. The ExA concluded that the contour area cap represents a reasonable approach to mitigate and minimise the population exposed to aircraft noise above the day and night-time LOAEL.
- 6.8.473. The ExA considered the relevance of the ACP to noise controls. The ExA concluded that material changes in flight paths and the introduction of new or materially different significant effects introduced by the ACP could require the Applicant to apply for a material change. The ExA concluded that the ACP had no weight in making its conclusion and recommendation.
- 6.8.474. The ExA considered the implication of alternative flight operations for mitigating noise, in particular runway preferences. The ExA concluded that runway preferences did not contribute any mitigation for noise effects because it would be part of the ACP process.
- 6.8.475. The ExA considered whether it was appropriate to model aviation noise with INM. The ExA concluded that INM was an appropriate modelling tool.

- 6.8.476. The ExA considered potential uncertainty in the modelling of noise impacts. The ExA concluded that uncertainty in the modelling outputs had been assessed but could give rise to additional noise effects on schools.
- 6.8.477. The ExA considered alternative noise contours produced by Five10Twelve and NNF and concluded that differences in modelling outputs were due to differences in modelling assumptions. The ExA concluded that it was appropriate to draw conclusions on the Applicant's, rather than alternative, noise contours.
- 6.8.478. The ExA recognise that, in commissioning these alternative contours, Five10Twelve and NNF contributed greatly to the quality and focus of the discussions on this issue and to the robustness of the Examination.
- 6.8.479. The ExA considered the impact of road traffic modelling and the cumulative effect of road traffic with aviation noise. The ExA considered that road traffic and cumulative noise had been adequately assessed and is adequately mitigated via Requirements secured in the dDCO.
- 6.8.480. The ExA considered impacts on residential caravans. The ExA concluded that although the NMP had been updated to consider noise insulation of caravans, there remained potential that noise mitigation might not be possible and that SOAEL could be exceeded for up to residential caravan owners at Smugglers Leap.
- 6.8.481. The ExA considered whether the Applicant was required to provide noise insulation in respect of Manston Green properties. The ExA concluded that the responsibility for noise insulation is set out in Cogent's existing development consent for Manston Green.
- 6.8.482. The ExA considered the impact of the Proposed Development on schools and the thresholds for noise insulation. The ExA concluded that with the restriction of passenger ATMs during the period 09:00 to 12:00 and with additional committed funds in the Applicant's UU, significant adverse noise effects would be avoided for schools.
- 6.8.483. The ExA considered proposals for noise monitoring and concludes that R23 proposed by the ExA and accepted by the Applicant, provides an effective control for monitoring, auditing and reporting aircraft noise and mitigating noise effects of the Proposed Development.
- 6.8.484. The ExA considered the role of the Community Consultative Committee and concluded that this would ensure timely delivery of the Applicant's noise mitigation commitments.
- 6.8.485. The ExA considered the potential health effects of noise on local communities. The ExA concludes that noise insulation and ventilation measures will mitigate and minimise noise effects for residents in closest proximity to the airport subject to the more significant noise impacts and will result in a minimisation of potential health impacts.

- 6.8.486. The ExA considered the potential health effects of noise on local caravan parks and is unable to conclude that noise insulation and ventilation measures for caravans will mitigate and minimise noise effects. Therefore the ExA cannot rule out the possibility of potential health effects on caravan occupants.
- 6.8.487. The ExA concludes that the proposed interference with the Human Rights of individuals is not justified in the public interest and the degree of interference would not be proportionate.
- 6.8.488. In respect of the PSED, the ExA concludes that the Applicant will not be discriminatory in terms of noise effects from the Proposed Development because of the measures secured in the dDCO which will mitigate and minimise noise effects.
- 6.8.489. The NPSE states at paragraph 1.7 that:
- "Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:*
- *avoid significant adverse impacts on health and quality of life;*
 - *mitigate and minimise adverse impacts on health and quality of life; and*
 - *where possible, contribute to the improvement of health and quality of life."*
- 6.8.490. These requirements are mirrored in the ANPS.
- 6.8.491. The ExAs overall assessment of the NPSE aims is that with regard to the three aims in NPSE in paragraph 1.7:
- The ExA concludes and recommends that it has only been able to reach this overall conclusion following the proposed introduction by the ExA of the restrictions and other mitigation measures described above and stresses that should the SoS make the DCO but not include the new Requirements set out in this section, then the ExA's conclusion and recommendation would not stand;
 - the ExA concludes that the Proposed Development does on balance meet the first aim of the NPSE to avoid significant adverse impacts on health and quality of life from noise for residential and schools receptors, however the ExA considers that uncertainty in the assessment ie certainty regarding the efficacy of mitigation for up to 40 residential caravan owners means that all significant effects are not avoided. If this is the case the Applicant will consider relocation. But relocation has likely significant effects on health and quality of life, therefore in the ExA's opinion it fails to satisfy the first aim of the NPSE;
 - the ExA concludes that on balance the Proposed Development can be said to meet the second aim of mitigating and minimising adverse impacts on health and quality of life from noise; and
 - the ExA notes that the third aim is to be achieved 'where possible' and consider that the Proposed Development in introducing a new

airport cannot be concluded to improve health and quality of life from a noise perspective. However, the ExA notes that this aim is only to be applied where possible, therefore the ExA agrees that the Applicant has demonstrated that it has addressed this third aim of the NPSE.

- 6.8.492. The ExA notes the Applicant has produced a s106 UU which includes annual financial contributions for monitoring and for school insulation and ventilation mitigation [[AS-584](#)].
- 6.8.493. Following the ExA's amendments to the dDCO [[PD-018](#)] related to the control of noise and appropriate mitigation, and given the evidence presented, the Proposed Development generally accords with paragraph 1.7 of NPSE; paragraph 5.68 of the ANPS; NPPF paragraphs 170 and 180; PPG on noise 001-012; and policy in the LP with respect to KIA (Policy EC2).
- 6.8.494. Overall the ExA concludes that noise is a matter which weighs against giving development consent. This conclusion is carried forward to the ExA's overall consideration in Chapter 8 of this report.

6.9. OPERATIONS

Issues

- 6.9.1. The ExA's IAPI prepared in accordance with s88 of the PA2008 and Rule 5 of the EPR was published with the Rule 6 letter [[PD-005](#)]. The ExA had regard to the application documents and the RRs received in formulating this list. The Rule 6 letter made it clear that the list was not a comprehensive or exhaustive one and that regard would be had to all important and relevant matters in reaching a recommendation after the conclusion of the Examination. One of the main topic headings in the IAPI was that of operational issues, to include:
- Operational relationship to, and progress with, the ACP;
 - ATMs;
 - Progress with Aerodrome Certificate;
 - Night Flights;
 - Phasing; and
 - Safety.
- 6.9.2. An ISH (ISH2) considering operations was held on 21 March [[EV-013](#), [EV-014 to EV-014c](#)]. The agenda for ISH2 considered a range of issues within the overall umbrella of operations, including runway usage, scale and capacity, aerodrome certificate, airspace change, Public Safety Zones (PSZs), safeguarding, and the HRDF. Such issues drew on various questions contained in ExQ1 [[PD-007](#)] and various questions within ExQ2, ExQ3, and ExQ4 [[PD-010b](#), [PD-014](#), [PD-020](#) respectively] followed on from the similar themes.
- 6.9.3. Within the overall ISH agenda the issues were broken down further, as follows:
- Runway usage

- Historical information
- Wind directions and speeds and safety of operations
- Forecast levels of usage and practicality of preferences
- Displaced thresholds and altered glideslopes
- Scale and capacity
- Aerodrome Certificate
- ACP
- PSZs
- Safeguarding
 - Obstacle limitation surfaces
 - Wind turbines
 - Bird strikes
- HRDF

Issues arising in Local Impact Reports and Written Representations

Thanet District Council Local Impact Report

- 6.9.4. TDC notes in its LIR [REP3-010] that the NMP states that airport operator will seek to operate take-offs from Runway 28 and landings on Runway 10 subject to such operations being in accordance with CAA guidance and the aircraft operator's own limitations and safety management systems. However, TDC considers that this provides no certainty that the airport will operate in this manner (paragraph 4.3.8) and that:

"...this could mean that Runway 10 could be used for take offs and Runway 28 for landings so that aircrafts will overfly Ramsgate causing adverse noises impacts to the residential areas." (paragraph 4.3.32)

- 6.9.5. TDC also states that the:

"...flight paths used in the [environmental] assessment are based on swathes which contain probable airspace routes, which will be formalised through an Airspace Change Proposal (ACP), which is a separate consenting regime. As such there is a potential for a degree of change to the routes and aircraft noise levels. The ACP proposal will also be subject to environmental assessment and consultation with TDC and others."

- 6.9.6. With regards to major accidents and disasters, TDC notes that, while recognising that that accidents and disasters relating to airport activities are relatively low, incidents can cause significant adverse impacts and that there are residential and employment properties within 1km of the airport and significant urban areas included in the flight swathes meaning the impacts from accidents and disasters could lead to a significant loss of life.

- 6.9.7. TDC also state that the application:

"...does not include any reference to the anticipated Public Safety Zones for the airport and the potential impacts regarding the existing or future population including committed and proposed development."

Other LIRs

- 6.9.8. The discrete LIRs provided by KCC, DDC and CCC do not make any specific reference to operational issues.

Written Representations

- 6.9.9. York Aviation was employed by SHP during the Examination to consider technical aviation matters, and various reports and evidence of York Aviation concerned matters of operations, submitted at deadlines throughout the Examination [including [REP3-025](#), [REP3-303](#), [REP4-065](#), [REP4-067](#), [REP5-029](#), [REP5-032](#), [REP6-053](#), [REP6-055](#), [REP7-014](#), [REP7a-044](#), [REP8-035](#), [REP9-129](#)].
- 6.9.10. Various IPs made representations concerning runway usage and previous operations at the airport, including safety issues [including [RR-0250](#), [RR-0261](#), [RR-0318](#), [RR-0356](#), [RR-0675](#), [RR-0672](#), [RR-0709](#), [RR-0976](#), [RR-0775](#), [RR-1643](#), [RR-1653](#), [RR-1831](#), [RR-2039](#), [RR-1375](#), [REP2-014](#), [REP2-015](#), [REP3-060](#), [REP5-130](#)]. As part of the ASI [[EV-003](#)], held on 19 March 2019, the ExA visited a property which had suffered a vortex strike during the previous commercial use of the airport. Representations were also made concerning PSZ and the progress towards an aerodrome certificate and airspace change. The MoD made representations throughout the process concerning the HRDF [[AS-287](#), [REP2-017](#), [REP6-030](#), [REP7a-025](#), [REP7a-026](#), [REP8-025](#), [REP9-019](#)].
- 6.9.11. This section of the report uses largely the same issues as outlined at ISH2. Policy is included as an initial issue and historical safety matters are considered within runway usage.

Relevant policy considerations

ANPS

- 6.9.12. The ANPS states that a good design (for airports infrastructure) should meet the principal objectives of the Proposed Development by eliminating or substantially mitigating the adverse impacts of the development for example by improving operational conditions. It should also mitigate any existing adverse impacts wherever possible, for example in relation to safety or the environment. A good design will also be one that sustains the improvements to operational efficiency for as many years as is practicable, taking into account capital cost, economics and environmental impacts (paragraph 4.31).

Aviation Policy Framework

- 6.9.13. The Aviation Policy Framework (APF) states, in relation to airspace that the Government remains a strong supporter of the Single European Sky (SES) initiative, which has the potential to deliver real benefits by minimising air traffic delays, reducing aircraft fuel consumption and lowering the amount of emissions produced by the aviation sector, and also supports the implementation of the CAA's Future Airspace Strategy (FAS), which sets out the long-term vision on how we should change our airspace within the overall aim of modernising the UK's airspace system

in the context of the SES objectives. The APF notes that the implementation of the FAS can also play a significant role in delivering economic and environmental objectives in relation to aviation; for example, by improving the overall efficiency of our airspace we can also at the same time provide significant opportunities to minimise aircraft emissions and air traffic delays (paragraph 30).

- 6.9.14. At this juncture it should be noted that the FAS was superseded and replaced by the December 2018 Airspace Modernisation Strategy¹²², although “*many key elements of FAS remain relevant and are included*” in the new strategy (paragraph 3). The strategy notes that UK airspace is some of the most complex in the world, yet its design dates back to the 1950s and 1960s (paragraph 2), and sets out the ends, ways and means of modernising airspace, initially focusing on the period until the end of 2024 (paragraph 5).
- 6.9.15. The APF states that:
- “...air transport is one of the safest forms of travel and that the UK is a world leader in aviation safety. Maintaining and improving that record, while ensuring that regulation is proportionate and cost-effective, remains of primary importance to the UK.”*
- 6.9.16. It goes on to note that “*...since 2003, rules and standards for aviation safety in Europe have increasingly been set by the European Aviation Safety Agency (EASA)*”, with the document stating that the UK is continuing to work closely with EASA to ensure that a high and uniform level of civil aviation safety is maintained across Europe (paragraph 31).
- 6.9.17. The APF notes that the Government fully recognises the ICAO Assembly Balanced Approach to aircraft noise management, which includes the reduction of aircraft noise via noise abatement operational procedures (paragraph 3.7).
- 6.9.18. The APF also states that airport operators to whom DfT Circular 01/2003 on safeguarding (see below) applies should maintain safeguarding maps to reflect potential proposals for future development of airports and ensure they are certified by the CAA, to ensure that the airport operator is consulted by the LPA over any planning applications which might conflict with safe operations at the airport, or nearby (paragraph 5.10).
- 6.9.19. The APF states that safety is a fundamental requirement for aviation, including at the local level. For people living and working near airports, safety is best assured by ensuring the safe operation of aircraft in flight. However, in areas where accidents are most likely to occur the Government seek to control the number of people at risk through the PSZ system. The document states that the Government will continue to protect those living near airports by maintaining and, where justified,

¹²² Available at:

<https://publicapps.caa.co.uk/docs/33/CAP%201711%20Airspace%20Modernisation%20Strategy.pdf>

extending the PSZ system (paragraphs 5.14 to 15). This is considered further below.

Emerging aviation policy

- 6.9.20. The December 2017 Aviation 2050: the future of UK aviation consultation paper¹²³ (Aviation 2050) notes that individual airspace change proposals at a lower level (below 7,000ft) are usually brought forward by airports. These individual airspace changes must comply both with national noise policy and be integrated with upper level (above 7,000ft) airspace design, which is led by NATS (paragraph 3.20). Changes to the design of UK airspace are proposed by an airspace change sponsor, usually an airport (for lower level airspace), with the CAA making a decision on whether to approve the airspace change proposals brought forward following assessment of the sponsor's evidence and consultation through its new ACP, introduced in January 2018. The Government believes it is essential that communities are able to understand the technical detail contained within airspace change consultations so that they can engage fully with them (paragraph 3.22).
- 6.9.21. The document also recognises that there is a particular and immediate challenge in the south of the UK to coordinate multiple airspace changes across different airports in order to modernise our highly congested airspace. NATS has produced a feasibility report into airspace modernisation in the south of the UK, which has been assured by the CAA (paragraph 3.23).
- 6.9.22. Aviation 2050 notes that the UK is recognised as a world leader in aviation safety, with an exemplary safety record which helps to ensure consumer confidence and international trust in the UK's regulatory regime (paragraph 6.1). It does however note that while the UK is proud of its current safety record across all areas of the aviation system, risk remains concentrated outside of scheduled commercial passenger flights in both fixed wing aircraft and helicopters. 78% of accidents, serious incidents (including near misses with scheduled aircraft) or high severity occurrences involved GA aircraft, in some cases having an impact on third parties (paragraph 6.13). The document also notes risks associated to aviation from drones and lasers (Chapter 6).
- 6.9.23. In summary therefore, Government policy notes that a well-designed airport in terms of operational efficiency can provide mitigation towards the adverse effects of the airport, and notes that safety is fundamental requirement for aviation.

DfT Circular 01/2003 – Safeguarding aerodromes, technical sites and military explosives storage areas¹²⁴

¹²³ Available at: <https://www.gov.uk/government/consultations/aviation-2050-the-future-of-uk-aviation>

¹²⁴ Available at: <https://www.gov.uk/government/publications/safeguarding-aerodromes-technical-sites-and-military-explosives-storage-areas>

6.9.24. Civil aerodromes are licensed in order to ensure that certain types of flights use only those aerodromes which provide a range of facilities in accordance with internationally agreed safety criteria (Annex 2). The CAA is responsible for being satisfied that a licensed aerodrome is safe for use by aircraft, having regard to the physical characteristics of the aerodrome and its surroundings which is a continuing responsibility. In addition, a requirement is placed on the licensee (the airport operator) to take all steps to ensure that the aerodrome and its surrounding airspace are safe at all times for use by aircraft (Annex 2). Certain civil aerodromes selected on the basis of their importance to the national air transport system are therefore officially safeguarded in order to ensure that their safe operation (Annex 2). The Proposed Development would require an aerodrome licence.

DfT Circular 01/2010 – Control of development in airport public safety zones¹²⁵

- 6.9.25. PSZs are areas of land at the ends of runways at the busiest airports, within which development is restricted, where the policy objective remains not to increase the number of people living, working or congregating in PSZs and, over time, to see the number reduce where circumstances allow (Annex, paragraph 1). Where necessary, the Government expect airport operators to offer to buy property which lies wholly or partly within those parts of the zones where the risk is greatest (Annex, paragraph 6).
- 6.9.26. The administration of PSZ policy is carried out by the CAA, who have responsibility for the implementation of new PSZs and the review and update of existing PSZs, as instructed by DfT.
- 6.9.27. The implementation of PSZ policy at civil airports is based on modelling work carried out using appropriate aircraft accident data to determine the level of risk to people on the ground around airports. This work determines the extent of individual risk contours, upon which a person remaining in the same location for a period of a year would be subjected to a particular level of risk of being killed as a result of an aircraft accident. PSZ policy is based predominantly on individual risk, while extending beyond it in relation to particular types of development such as transport infrastructure and to temporary uses. The areas of the PSZs correspond essentially to the 1 in 100,000 individual risk contours as calculated for each airport, based on forecasts about the numbers and types of aircraft movements fifteen years ahead. The circular states that the SoS regards the maximum tolerable level of individual third-party risk of being killed as a result of an aircraft accident as 1 in 10,000 per year. At some airports, the 1 in 10,000 individual risk contour extends beyond the airport boundary and includes occupied property (Annex, paragraph 2).

¹²⁵ Available at: <https://www.gov.uk/government/publications/control-of-development-in-airport-public-safety-zones>

- 6.9.28. The circular notes that the PSZs represent a simplified form of the risk contours, in order to make the zones easier to understand and represent on maps, and also in recognition of the necessarily imprecise nature of the forecasting and modelling work, with in some cases the resultant shape of the PSZs being that of an elongated isosceles triangle and in others the triangle is slightly modified to form an elongated five-sided shape. In all cases the PSZs are based on the landing threshold for each end of the runway and taper away from the runway (Annex, paragraph 2).
- 6.9.29. As above, PSZs are based upon risk contours modelled looking fifteen years ahead, in order to allow a reasonable period of stability after their introduction and are remodelled at intervals of about seven years, based on forecasts about the numbers and types of aircraft movements fifteen years ahead (Annex, paragraph 3).
- 6.9.30. PSZs are established at all the airports for which modelling work produced 1 in 100,000 individual risk contours of a sufficient size to justify doing so. PSZs may from time to time be established at other airports if the modelled level of individual third-party risk in their vicinity fifteen years ahead justifies this (Annex, paragraph 8).
- 6.9.31. There is a general presumption against new or replacement development, or changes of use of existing buildings, within PSZs. In particular, no new or replacement houses, mobile homes, caravan sites or other residential buildings should be permitted, nor should new or replacement non-residential development be permitted (Annex, paragraph 10). However, the circular does state that, outside the 1 in 10,000 PSZ it is not considered necessary to refuse permission for an extension or alteration to a dwelling which is for the purpose of enlarging or improving the living accommodation for the benefit of the people living in it, or could not reasonably be expected to increase the number of people working or congregating in or at the property beyond the current level or a change of use of a building or of land which could not reasonably be expected to increase the number of people living, working or congregating in or at the property or land beyond the current level. Other types of development may be acceptable in a PSZ such as long stay car parking, open storage, public open space, allotments or golf courses (Annex, paragraph 11). Manston Airport does not currently have a PSZ.

Thanet Local Plan 2006 'Saved' Policies

- 6.9.32. The ExA considers that the most relevant saved policy from the LP [REP3-010] relating to operations is Policy EC2 – Kent International Airport:

"Proposals that would support the development, expansion and diversification of Kent International Airport will only be permitted subject to the following requirements [...]

4. Any application for development for the purpose of increasing aircraft movements in the air or on the ground, auxiliary power or engine testing,

must be supported by an assessment of the cumulative noise impact and the effectiveness of mitigation measures to be implemented in order to minimise pollution and disturbance. the acceptability of proposals will be judged in relation to any identified and cumulative noise impact, the effectiveness of mitigation and the social and economic benefits of the proposals;...”

- 6.9.33. The ExA considers that this saved policy of the LP is important and relevant.

Findings

Runway Usage

- 6.9.34. The runway at Manston measures some 2,748m and runs roughly from east to west. The ES [[APP-033](#), section 2.5] outlines various alternatives that were considered for the operating procedures of aircraft using the Proposed Development with a view towards mitigating potential impacts, while ensuring that the safety of aircraft taking off and landing is not compromised. The ES stresses that the final design and approval of Manston Airport’s flight paths and other operating procedures would be authorised by the CAA via a proposal for an ACP (paragraph 2.5.4).
- 6.9.35. The direction of use of a runway is usually selected to most closely align to the prevailing surface wind; aircraft take off and land into the prevailing wind, as landing into a headwind provides a more stable descent, with an aircraft able to approach the runway at a lower ground speed and reducing the length of runway required when landing, while taking off into the wind provides more uplift to the plane’s wings. However, while winds are at low speeds (less than 5 knots) it may be possible to change directions of taking off and landing on the runway as a feasible operational alternative to reduce noise impacts [[APP-033](#) paragraphs 2.5.21 to 25, [REP4-022](#) paragraphs 5.1 to 5.2].
- 6.9.36. The Applicant notes that Ramsgate is located to the east of Manston Airport, with a large area of predominately agricultural land located to the west, so to limit the noise experienced by the residents of Ramsgate it would be ideal to operate with aircraft landing from, and taking off to, the west, although it notes that this must be balanced against any impact on other towns such as Herne Bay [[REP4-022](#), paragraphs 5.3].
- 6.9.37. It notes that utilising one runway for arrivals and the opposite runway for departures can create significant operational challenges, as the airspace utilised for departures and arrivals is the same and therefore only one action can take place at any one time, whereas in conventional operations departures and arrivals can be safely separated. It notes that this will dramatically reduce the flow-rate of an airport and that at Manston this may be exacerbated by taxiway configurations [[REP4-022](#), paragraph 5.3]. However, the Applicant considers that at periods of lower intensity of operation, such measures may be accommodated with little operational impact. This is defined as five movements or less per hour ie at six or above movements the preferential runway strategy would not be feasible [[REP4-022](#), paragraph 5.5].

- 6.9.38. From an assessment of meteorological conditions, considering wind and rainfall data the Applicant considers that it can be reasonably concluded that preferential runway operations may be feasible 67.8% of the time, when the movement rate is five movements or less per hour [[REP4-022](#), paragraph 5.10].
- 6.9.39. Further options for runway usage and approach were considered in the Examination. An IP [Gordon Warren, [REP1-066](#)] considers that the runway threshold could be altered or that the approach slope of aircraft could be altered to raise the height of aircraft when approaching the runway from the east (over Ramsgate). The runway threshold is the beginning of the portion of runway that is usable for landing; by inseting the runway threshold the aircraft touchdown point could be set further along the runway, further from Ramsgate. Steeper approach profiles can be used to mitigate the noise effect of aircraft over noise sensitive areas; aircraft approaching the runway using a steeper slope would be at a higher-level during approach to the runway than under a shallower slope. The IP pointed to the six-degree slope used by planes approaching to land at London City Airport for noise alleviation purposes.
- 6.9.40. ICAO state that:
- "The practice of using a displaced runway threshold as a noise abatement measure shall not be employed unless aircraft noise is significantly reduced by such use and the runway length remaining is safe and sufficient for all operational requirements."* [from ICAO Doc 8168, Part I, Section 7, Chapter 3, Page 4, Subsection 3.6, quoted in [REP4-022](#), paragraph 2.2]
- 6.9.41. Calculations undertaken by the Applicant demonstrate that aircraft likely to operate to and from the airport would, in theory, be able to land with a reduced runway length, but that such calculations are based on aircraft at 80% of their Maximum Landing Weight (MLW), landing on a dry runway. A wet runway would increase the landing distance required which would place restrictions on the aircraft using the runway and large freight aircraft may suffer restrictions on their useful payload in order to stay within the 80% MLW for adverse weather conditions [[REP4-022](#), paragraph 2.3]. Furthermore, the noise benefits from an inset threshold would be modest in their view [[REP4-022](#), paragraph 2.4].
- 6.9.42. The Applicant concludes that anything greater than a 500m inset threshold would have a significant impact on Manston operations, precluding the use of aircraft types that are universally used in the cargo fleet, and that a 500m inset threshold only results in an 86ft difference in aircraft height resulting in less than a 0.5dB reduction in noise at 500ft [[REP4-022](#), paragraph 2.6]. It also notes the results of a Heathrow study which illustrates that the noise benefits of an inset threshold reduce significantly with distance; it implies that at 4000m, the distance between Manston's eastern threshold and the eastern edge of Ramsgate, any noise benefit would be reduced by 75% and at 1400m, the closest point between the western edge of Ramsgate and Manston's easterly threshold, the benefit is likely to have been reduced by 50%. They

conclude [[REP4-022](#), paragraph 2.6] that such an assessment does not meet the ICAO requirement that inset thresholds should only be used for noise abatement if aircraft noise is significantly reduced and that the runway remains safe and sufficient for all operational requirements.

6.9.43. The standard approach angle to land an aircraft is three degrees [[REP4-022](#), paragraph 4.3]. The ICAO states that:

"Glide path angles above 3.5 degrees should be used in approach procedure design only for obstacle clearance purposes and must not be used as a means to introduce noise abatement procedures. Such procedures are non-standard and require a special approval." [ICAO PANS-OPS Doc 8168, quoted in [REP4-022](#), paragraph 4.2]

6.9.44. The Applicant notes that pilots can fly steeper approaches if the aircraft is appropriately certificated, and that it should be possible to accommodate approaches of up to 3.5 degrees without additional training [[REP4-022](#), paragraph 4.5].

6.9.45. However, for approaches steeper than 3.5 degrees, the aircraft operator may incur additional training costs associated with that airport, potentially making an airport less attractive compared with its competitors. It also notes that not all aircraft captains will be capable of, or willing to, fly a steeper approach, and there would therefore be a need to also retain a conventional three degree approach, resulting in some duplication of infrastructure as aerodrome lighting and markings will have to be provided for both approach angles and a risk that pilots may use the incorrect systems for their chosen approach angle [[REP4-022](#), paragraphs 4.4 to 4.5].

6.9.46. It notes that whilst theoretically a steeper approach angle will reduce aircraft noise, there are several operational issues associated with the introduction of steeper approach profiles which influence this [[REP4-022](#), paragraph 6]. Data from a 2012 Frankfurt Airport study suggests that the aircraft may be noisier at the final stages of approach as they were completing the approach at a slower speed and hence noise exposure would be extended. Due to the uncertainty over the noise reduction benefits, operational limitations and the cost of duplicating airport infrastructure, the Applicant considers that this option is not a feasible noise mitigation measure [[REP4-022](#), paragraph 6].

6.9.47. IPs [including [RR-0250](#), [RR-0261](#), [RR-0318](#), [RR-0356](#), [RR-0675](#), [RR-0672](#), [RR-0709](#), [RR-0976](#), [RR-0775](#), [RR-1136](#), [RR-1643](#), [RR-1653](#), [RR-1831](#), [RR-2039](#), [RR-1375](#), [REP2-014](#), [REP2-015](#), [REP3-060](#), [REP5-130](#)] raised concerns over previous 'near misses', safety records of some previous operators to use the airport and general concerns over safety and accidents, including consequences of more extreme weather associated with climate change.

6.9.48. Chapter 18 of the ES [[APP-035](#)] assesses major accidents and disasters and includes consideration of any potential for an aircraft incident while under the control of the Proposed Development's control tower, such as

on approach and landing and the effect of this on populations within the flight path design swathe.

- 6.9.49. The ES [[APP-035](#)] notes that aircraft flights, associated vehicle movements, mobile and fixed equipment and use and storage of chemicals and fuels for operational purposes have the potential for harm to people resulting in injury or loss of life, and that there is the potential for injury and loss of life to airport workers, aircraft users / crew and others in proximity, including in some circumstances members of the public close to the airport or affected by an air incident (paragraph 17.10.12).
- 6.9.50. Such risks would be mitigated by
- "...legislation under the obligations of the Health and Safety at Work Act, regulated under regulations including the Management of Health and Safety at Work Regulations and controlled under the EASA licensing EASA/CAA and associated relevant guidelines."* [[APP-035](#), paragraph 17.10.22]
- 6.9.51. Appendices 17.2 and 17.3 of the ES [[APP-058](#)] contain a full determination of effects, including source, pathways and receptors for major accidents relating to operational airport activities, disasters (natural phenomena) and external sources of man-made major accidents, including extreme weather conditions. This notes that the design basis allows for climate change and extreme weather events and that adverse weather procedures would be in place to restrict airport operations and flights in extreme weather.
- 6.9.52. In essence therefore mitigation would be provided through complying with the aerodrome certificate which would need to be issued by the CAA prior to the proposed development opening. Progress towards this certificate is considered further below.
- 6.9.53. In direct response to concerns over historical incidents when the Airport was previously open the Applicant stated that [[REP6-012](#), response to OP.2.8] it had investigated such incidents at or near the airport, and that it understood that on 15 January 2012 Manston ATC advised that a member of the public had reported roof damage caused by an overflying aircraft approaching Manston Runway 28 to land. The Applicant states that information is sketchy on this very unusual incident, and it is believed by the airport operators at the time that this incident might have been caused by engine slipstream during excessive 'power-up' during the visual approach, being given manually by ATC; not following an Instrument Flight Procedure (IFP).
- 6.9.54. Further, it states that these types of incident, though very rare, are further minimised now (and into the future) by increased use of satellite-based technology, providing safe, accurate, validated (3-dimension points in airspace) navigational information, and expeditious and importantly consistent, repeatable procedures with increased 'in-cockpit' automation. These procedures are regulated by the CAA and reviewed on

a regular basis at all UK airports, following design and safety guidance from the ICAO [[REP6-012](#), response to OP.2.8].

Scale and capacity

Aircraft stands

- 6.9.55. Aircraft park on stands. These can be of varying sizes depending on the size of the aircraft required to park on the stand – with Code 'A' stands being the smallest and Code 'F' the largest. For example, a Code C stand could accommodate a Boeing 737 or an Airbus A-320, and a Code E stand a Boeing 777. The Proposed Development includes 19 Code E cargo stands, 3 Code C stands associated with proposed recycling hangars and 4 Code C stands for passenger aircraft. Some 65,500m² of cargo facilities are also proposed, including HGV parking, storage and car parking and yard areas.
- 6.9.56. The Applicant's Written Summary of Case put Orally Need and Operation Hearing [[REP5-024](#)] states that each based aircraft will have its own dedicated stand and assumes that non-based aircraft will have an average ground time of three hours. There is then a calculation to allow for 'bunching' of aircraft.
- 6.9.57. York Aviation [[REP3-025](#)] considers that based on the forecast aircraft mix not all projected aircraft require Code E stands, with 40% of movements projected to be by smaller Code C aircraft, stating that it is normal practice to accommodate two Code C aircraft side by side in a Code E stand, and that, as Code C aircraft are shorter, the length of a number of stands could be shortened, reducing the amount of apron / hardstanding needed. They are of the view that a maximum of nine stands would be required, with potentially one stand added for resilience purposes, resulting in 10 stands being needed.
- 6.9.58. The Applicant considers that it is likely that each based operator will want exclusive use of a stand to allow specific ground handling equipment to be located there and access for maintenance. Shared usage of stands would be difficult and two Code C aircraft on one Code E stand is unlikely [[REP6-012](#), response to OP.2.3]
- 6.9.59. However, York Aviation is of the view [[REP7-014](#)] that there would be no specialist requirement for dedicated equipment on each stand, as this would not be cost effective. It considers that there is no evidence that Multiple Access Ramp System (MARS) could not be used, where aircraft scheduled and stand allocation planned, and note that this takes place at most airports to ensure that use of valuable apron space is maximised. It notes that multiple centrelines for stand use are in use at EMA and that the design drawings for the Proposed Development show an apron designed to work on a MARS basis [[REP8-030](#)].
- 6.9.60. The Applicant states that some ground handling and maintenance equipment will be mobile but intended to primarily advance and retreat rather than moving from stand to stand. Light maintenance would take place on stands, and they note that exclusive stands are common at

airports such as Glasgow, Prestwick, Stansted, Dublin [[REP7a-002](#), response to OP.3.7]. Other planes could use them but that would be an exception rather than a rule. They note that MARS works at airports with known traffic levels, but that given the early nature of the Proposed Development it is unclear if it would work and could result in stand requirement conflicts. They state that the MARS layout is proposed in the design drawings to afford flexibility but cannot assume any significant benefits from MARS operations [[REP9-006](#), response to OP.4.1].

Cargo terminals

- 6.9.61. The Applicant's Written Summary of Case put Orally Need and Operation Hearing [[REP5-024](#)] provides a justification for cargo terminal size for the Proposed Development. This uses a ratio based on Prestwick initially, and then EMA latterly to derive the size required, resulting in the 65,000m² proposed. York Aviation [[REP3-025](#)] propose an International Air Transport Association (IATA) ratio based on processing capability (automation levels) and consider that the proposed cargo terminals are substantially oversized by an order of three times at least. York Aviation also notes that cargo handling facilities at EMA have recently been expanded and so are unlikely to be at capacity and that the airport operates as a hub for domestic road freight.
- 6.9.62. The Applicant notes that York Aviation consider that EMA handled "over 375,000 tonnes" of air cargo in 2018 whereas the CAA state 334,536 tonnes (excluding mail) and considering York Aviation's figures of the cargo footprint at EMA is some 80,000² this results in a ratio of 4.2 tonnes per m²; the Applicant considers a figure of 96,000m² of cargo warehousing at EMA exists which provides a ratio of 3.59 tonnes per m². The Applicant's forecast for the Proposed Development in Year 20 of operation is 340,000 tonnes with 65,000² of warehousing implying a ratio of 5.2 tonnes per m² (24% higher than EMA), but that less than 50% of freight at the Proposed Development would be from an integrator (a new e-commerce integrator), whereas over 90% of freight at EMA is integrator based. They consider that road-based freight is unlikely to be accommodated in airside warehousing at EMA as this is more expensive [[REP6-012](#) response to OP.2.4, [REP7a-002](#) response to OP.3.8].
- 6.9.63. The Applicant also states that IATA provide guidance with regard to the ratio of annual tonnes per m² of warehouse within which there is a ratio of five (low automation) to 17 (high), further noting that in all 20 years forecast within the Azimuth Report the ratio would be between 5.25 and 10 [[REP9-006](#), response to OP.4.4].

NGA development

- 6.9.64. The NGA contains some proposed 105,000m² of built development, consisting of B1 and B8 use class development. The Applicant's Written Summary of Case put Orally Need and Operation Hearing [[REP5-024](#)] contains details on airport 'associated uses' for the NGA, concluding that it is difficult to find a close equivalent for the Manston / NGA relationship in the UK. A range of uses for this area is suggested including an integrator centre, catering, airside equipment / maintenance, freight

forwarder, aviation academy, a public transport vehicle depot and a travel and information centre, airline offices, two aircraft MRO operator office suites and parts reception and a computer service supplier.

6.9.65. The Applicant notes [REP7a-002, response to OP.3.9] that it has not marketed the site and therefore has no definitive list of end users to assign to different plots or buildings on the area, and have therefore concentrated on 'associated uses' which will need to be accommodated on or adjacent to the operational boundary, based on experience within the team. Uses are "*illustrative rather than definitive but were all functions and activities that need or would benefit from being close to an airport*" [REP9-006, OP4.3]. It notes that airside uses are more expensive so only users who need to be there will be there, suggesting that express integrators may prefer buildings which straddle the fence [REP7a-002, response to OP.3.9].

6.9.66. For e-commerce integrators the Applicant considers that:

"...the critical factor will be whether the airport acts as a fulfilment centre as well as a handling centre, or is just acting as a transshipment point from aircraft to a processing facility".

6.9.67. It envisages that:

"...part of the cargo inbound would already have printed labels and hence already be en-route from the originating business to the final consumer and consequently could be easily transferred to a logistics facility for breaking down of pallets for 'last mile' delivery journeys by van or small truck. This does not need to be undertaken airside, and hence could be centred at a nearby logistics building, such as some of the larger ones on the Northern grass or possibly even larger than those shown. Other new integrator consignments may be to re-stocking product lines in fulfilment centres that systems suggest may run short in the near future; in these cases, it is most likely that handling from plane to truck would take place airside or via a cargo shed on airport."

commenting that it is "*not sure what model will be required*", but that it is critical it able to be flexible to an integrator's requirements, and that the NGA is crucial to maintain that flexibility [REP7a-002, response to OP.3.9].

6.9.68. The Applicant is of the view [REP9-006, response to OP.4.2 and OP.4.3] that the NGA provides a European gateway location with access to Dover, Ramsgate, Channel Tunnel, the airport, London and the M25, and is required for aviation-associated development similar to the scale at Liege and Stansted [REP9-006, response to OP.4.3]. Appendix OP.2.5 to [REP6-014] shows calculations of EMA, Stansted, Liege, and Hamilton airports using a "*desk based and approximate*" approach to demonstrate in its view the scale of associated development at such airports is proportionate to the level of freight activity likely to be attracted to Manston; and that on larger airports it is not unusual for some of these activities to be airside (especially in North America), with Liege providing

a good example in their view of heavy logistics development associated with the airport outside the boundary fence.

- 6.9.69. York Aviation [[REP7-014](#)] considers that a logistics centre for the new integrator would need airside access, as is the case with the DHL facility and the new UPS facility at EMA and so would not be able to locate on the NGA, and that Manston is in the wrong location for a fulfilment or distribution centre, which would need to be located closer to major urban areas and not on the NGA. York Aviation question the accuracy of Appendix OP.2.5 [[REP6-014](#)], considering that the inclusion of most of the areas calculated is not in any way relevant to the principal cargo related development.
- 6.9.70. York Aviation notes [[REP7-014](#)] that the total floor area stated by the Applicant for EMA is 194,615m², but that removing the airside facing cargo sheds, passenger terminal and airside maintenance hangars and buildings, removes approximately 72% from the total area, with the removal then of passenger related hotels and businesses that have no aviation links this leaves an area of around 25,750m², around 13% of the stated total. A further calculation to remove 'unknown' business space results in some 15,500m² which is 8% of the total area quoted or just over 15% of the area proposed for the NGA.
- 6.9.71. York Aviation considers that [[REP7-014](#)] the same approach has been taken in the other comparator examples where airside and airside facing uses have been included in the totals, which they consider do not bear any relevance to the context of a landside business park for B1 / B2 / B8 for the Proposed Development on the NGA.
- 6.9.72. The Applicant [[REP9-006](#), response to OP.4.2] states that York Aviation misunderstand the nature of the proposals for the NGA, when it has repeatedly emphasised that the proposal is for a maximum footprint of up to 105,100m² of mainly B1, B8 style development and to facilitate understanding it has developed an 'illustrative' layout plan and assigned 'potential' uses to the buildings.
- 6.9.73. The Applicant considers that a logistics centre on the NGA need not necessarily be like those operated by DHL and UPS at EMA. It states that the cargo sheds inside the fence are intended to be associated with cargo handling, either to or from the aircraft, or to facilitate breakdown and reconfiguration of loads for landside transport. They are not intended to be for 'storing' cargo awaiting pick-up for an indeterminate amount of time, or necessarily for customs bonding clearance, functions which can take place outside the airport perimeter but should be located as close to the airport as possible as is apparent at many other airports in the UK, EU and US, and it remains of the view that the Proposed Development may operate a 'fulfilment centre' as there are 1.5m people in Kent and 3-4m within 2.5 hours drive.
- 6.9.74. The Applicant also disagrees with York Aviation's examination and figures provided for EMA, considering there to be circa 100,000m² of aviation-related development at EMA, which is comparable to that proposed on

the NGA [[REP9-006](#), response to OP.4.2]. The Azimuth Report [[APP-085](#)] notes that in 2017 EMA handled 21,286 freight aircraft movements and it is stated that in 2018 EMA handled 354,961 tonnes of cargo (freight and mail) [[REP7a-002](#), response to OP.3.8]; for Year 20 of operation the Azimuth Report forecasts 17,171 freight movements and 340,758 total freight tonnage. Both such figures are lower than at EMA. The ExA recognises however that there are differences between the Proposed Development site and EMA in terms of space available around the airport itself.

Aerodrome Certificate

- 6.9.75. As stated above, the CAA is the UK's specialist aviation regulator, and works to ensure that the aviation industry meets the highest safety standards, that consumers have choice, value for money, are protected and treated fairly when they fly, that the environmental impact of aviation on local communities is effectively managed and CO₂ emissions are reduced through the efficient use of airspace, and that the aviation industry manages security risks effectively. Any airport in the UK which is used for commercial passenger flights, public transport flights and / or flying training in aircraft above a specified weight, is required to obtain an Aerodrome Licence from the CAA.
- 6.9.76. The Applicant considers that an Aerodrome Certificate would take around two years to complete after any DCO was made, allowing the CAA some six to 12 months to consider following a 12 to 18 month period for the Applicant to gather and collate necessary evidence to support the application [[REP6-012](#), response to OP.2.1]. It notes that a formal submission would only be made after the acquisition of the land; however, the ExA notes that much of this land was acquired at the end of the Examination stage.
- 6.9.77. Evidence states that the process towards the Aerodrome Certificate commenced on 14 January 2018, with an assessment meeting held on 9 May 2019, and the Applicant has begun the work to gather the extensive information needed for the Aerodrome Certificate. The work is expected to be complete by the end of 2020, following which the certificate would be applied for.

Airspace Change Process

- 6.9.78. The Applicant would be required to propose changes to the design of UK airspace following the CAA ACP. Subject to operational constraints (including safety), the design of airspace, and the ACP, do not specify, or limit future increases in, the volume of air traffic using a piece of airspace at any given point in time.

- 6.9.79. The CAA document CAP 1616 Airspace Design: Guidance on the regulatory process for changing airspace design including community engagement requirements¹²⁶ provides guidance on the process.
- 6.9.80. The ACP typically takes around 108 weeks, or just over two years [REP6-012, response to OP.2.1]. An IP [Samara Jones-Hall, REP3-060] notes that ACP details had not appeared on the CAA website in mid-February 2019 as the necessary permissions had not been received by the Applicant. The Applicant noted at ISH4 [REP5-024] that the ACP would have to commence before the DCO process was complete and that it would have to be run in a parallel and complimentary manner.
- 6.9.81. The Applicant also noted that there is a need to initiate the ACP so that it can be taken into account as part of the UK Future Airspace Strategy Implementation (South) (FASI(S)) programme which is seeking to redesign the airspace requirements of 16 airports in the southeast of England. A draft Statement of Need was submitted to the CAA ahead of a meeting in 18 October 2018 and an Assessment Meeting was expected in late summer 2019. The Applicant believes it would be two years before approval is obtained [REP5-024]. The Assessment Meeting subsequently took place slightly earlier, in May 2019, with the process expected to be complete around 108 weeks from the date of this meeting [REP7a-002, response to OP.3.4].
- 6.9.82. York Aviation was of the opinion that FASI(S) requires that all airports consult simultaneously in 2022, with expected completion around 2024 to 2026, and it considers that this represents a significant impediment that requires to be fully considered [REP5-029].
- 6.9.83. The Applicant considers that FASI(S) would not be an impediment to the Proposed Development, stating that Manston would be a 'non-core' airport and that the CAA accept that airspace changes at such airports may run at a different pace to address a specific local, operational, safety or environmental need [REP6-012, response to OP.2.2]. An update [REP9-006, response to OP.4.5] following FASI(S) meetings states that the CAA airspace modernisation programme will initially act as an enabler for Manston but then the ACP for the Proposed Development would run ahead. The ACP would remain fully engaged with FASI(S) throughout the process.
- 6.9.84. Aside from the Aerodrome Certificate and ACP approval, the Applicant would also need to acquire further safety approvals from the CAA, namely covering air traffic services, air navigation service certification and designation, ATC training approval and radio spectrum and ATS system approvals. This is confirmed in the SoCG between the Applicant and the CAA [REP3-176].

Public Safety Zones

¹²⁶ Available at:

<https://publicapps.caa.co.uk/modalapplication.aspx?appid=11&mode=detail&id=8127>

- 6.9.85. The PSZs circular is detailed above. PSZs for 1 in 10,000 and 1 in 100,000 risk contours are required to be produced by the CAA, instructed by DfT, based upon risk contours modelled looking fifteen years ahead, in order to allow a reasonable period of stability after their introduction, with remodelling at intervals of about seven years, based on forecasts about the numbers and types of aircraft movements fifteen years ahead.
- 6.9.86. Following questions at ISH4 [[EV-013](#), [EV-014 to EV-014c](#)] it was confirmed that GA movements would be counted in the number of flights required before PSZs are designated, and subsequently an indicative drawing of possible PSZs for the Proposed Development was produced as an appendix to the ES [[REP5-024](#)]. The Applicant acknowledged at this time that a PSZ may need to be brought in by Year 15 of operation and confirmed that the produced indicative drawing was based upon other airports PSZs and not based on forecasts, noting that many factors could alter before such PSZs would need to be produced.
- 6.9.87. York Aviation was of the view [[REP5-029](#)] that PSZs would need be required to be put in place by Year 4 of operation, when, based on the forecasts submitted 1,500 ATMs per month would be achieved and the forecast would be for 2,500 ATMs within 15 years. The Applicant [[REP6-012](#), response to OP.2.7] noted that the forecast is for 26,469 ATMs by Year 20 of operation and 5,840 GA movements by Year 20; cumulatively 32,309 movements pa.
- 6.9.88. On this basis the Applicant considered that it was unlikely for PSZs to be required before Year 15 of operation but possible by Year 20, and notes that the decision does not rest with the Applicant. It also considered that regulations could change, Manston Airport actual data would be available and aviation safety in general would have improved and did not consider that:
- "...there is any requirement for PSZs to be based on forecasts 15 years ahead."* [[REP7a-002](#), response to OP.3.10]
- 6.9.89. York Aviation state that:
- "...it is clear that the Applicant is forecasting to exceed 1,500 movements per month (including general aviation movements by the middle of year 4 (the 3rd year of operations). It is also clear that the Applicant is forecasting that it will exceed 2,500 movements per month by year 18."* [[REP7-014](#)]
- 6.9.90. York Aviation also provided an email from the CAA [[REP7-014](#), Appendix OP.2.7] which states that:
- "...as a matter of policy the Department for Transport applies Public Safety Zones at aerodromes that have more than 1,500 movements a month and which are likely in due course to exceed 2,500 movements",*
- and that this is the criteria for assessing the requirement for PSZs for new and enlarged airports.

- 6.9.91. The Applicant maintained its view that PSZs would not need to be produced by Year 4 of operation, noting that the guidance does not state how far ahead the 2,500 ATMs per month expectation should be, and stated that it is unlikely that a PSZ would be needed before Year 15 of operation [[REP7a-002](#), OP3.10, [REP9-006](#) response to OP.4.6] and restating their view that by the time a PSZ is needed regulations may have changed.
- 6.9.92. TDC [[REP7a-045](#)] considered that the designation of a 1 in 100,000 PSZ would have significant implications for planning policy, with potentially two housing sites in the draft local plan affected by the PSZ, as well as the potential to affect a significant number of windfall sites provided for in the plan.
- 6.9.93. The Applicant was of the view [[REP9-006](#), response to OP.4.7] that it was unlikely that the LPA would apply the PSZ circular “*in an extreme way*”, and that there was no reason to excessively limit growth where employment already exists, further noting that the ES contained a robust risk assessment and hence the Proposed Development would lead to very little risk of accidents.

Safeguarding

- 6.9.94. The Applicant confirmed [[REP3-195](#), response to OP.1.9 and OP.1.10] that it would lodge a safeguarding plan with the LPA, and that such a plan would only have an impact on future developments, confirming that the Manston Green housing development to the east of the runway had been taken account of.
- 6.9.95. As part of the examination process, a SoCG has put in place with the offshore Vattenfall Wind Farm to the east of the site [[REP3-177](#)]. A new wind farm is also proposed, the Thanet Extension¹²⁷. The SoCG included under matters fully agreed that “*any new radar that is operational on the proposed Development will take account of the existing wind farms and Thanet Extension*”; that when the Applicant “*is purchasing or designing new radar systems for the purpose of the proposed Development that it will take into account the existing wind farms and Thanet Extension*”; and “*that Vattenfall will not contribute financially towards a radar system*”.
- 6.9.96. The Applicant confirmed that its aviation advisors were currently supporting a number of radar procurement projects that seek to either mitigate or accommodate radar interference by wind turbines that is directly comparable to that seen (or anticipated) at the Proposed Development. Based on this work, it considered that technological solutions are known to be available on the market and that given their current rate of development, it is anticipated that capabilities could be even greater at the point where a procurement is required [[REP6-012](#), OP.2.9].

¹²⁷ An NSIP, at the time of writing at the Decision stage of the PA2008 process (ref. EN010084)

6.9.97. Bird strike is defined as a collision between a bird and an aircraft which is in flight or on a take-off or landing roll. Bird strike is common and can be a significant threat to aircraft safety. Bird strikes may occur during any phase of flight but are most likely during the take-off, initial climb, approach and landing phases due to the numbers of birds in flight at lower levels. The Applicant stated [[REP3-195](#), response to OP.1.16] that bird strike hazard will be managed in accordance with the CAA document CAP 772, and that they had no knowledge of any recent developments which may have affected bird risk in the vicinity of Manston [[REP6-012](#), response to OP.2.11]. It also confirmed that it has endeavoured to protect the obstacle limitation surfaces, monitoring and objecting to planning applications where necessary; actions which led directly to two 1,000ft communications masts being rejected at Richborough.

High Resolution Direction Finder

6.9.98. A HRDF is an antenna and associated equipment which, in conjunction with similar units in other locations, provides a navigational aid to aircraft operating within its range. The HRDF is used to precisely locate transmissions from emergency transponder beacons on aircraft (military and civilian) or any military aircrew that have bailed out of their aircraft. In this role the HRDF mast serves as an integral part of a UK-wide network (the UK Diversion and Distress Facility) which is used to locate aircraft or personnel and direct rescue services. Maintaining the operational effectiveness of this technical installation is therefore critical to maintaining the UK emergency response capabilities for the management of air safety incidents [[REP7a-005](#)].

6.9.99. At Manston Airport this resource consists of an antenna and receiving equipment. There is a safeguarding area around the beacon, which places restrictions on development; no development is permitted within a 120 metre radius, and thereafter, a 1 in 25 slope is safeguarded (ie a 5m building would need to be located at least a further 125m from the HRDF Beacon ie 245m). The MoD own both the safeguarded technical equipment in the form of the HRDF and the land on which it sits [[REP7a-025](#)].

6.9.100. The subject of much discussion during the Examination, the MoD is in principle prepared to consider the re-location of the apparatus but is yet to be completely satisfied that there would be no degradation of the capability of the equipment [[REP2-017](#)]. The Applicant states that it fully recognises the importance of the HRDF and has considered various alternative locations, commissioning a third party, Aquila, to carry out a technical assessment to confirm suitability of alternative sites [[REP3-195](#), response to OP.1.4].

6.9.101. This assessment was completed shortly before the end of the Examination stage. The MoD states that the Aquila report is an initial feasibility study that would, along with a number of other studies, provide an appropriate evidence base to assess the viability of a re-provided HRDF system. It considers that the HRDF could be re-provided assuming that the replacement facility would comply with MoD siting requirements; that the new technical facility would have to be tested to

verify that its performance capabilities are to the standards required by MoD; that the siting of a new technical facility would be compatible with MoD safeguarding requirements and relevant safeguarding zones to protect the operation of the new facility are put in place; and that the freehold of any new site would have to be conveyed to the MoD [[AS-287](#)].

- 6.9.102. It reports that the Aquila report assessed a total of nine alternative locations for siting HRDF equipment and found three potentially viable sites; the proposed ATC tower, an existing microwave tower within the boundary of the Defence Fire Training and Development Centre and a Radar Tower [[AS-287](#)].
- 6.9.103. The MoD consider that the proposed ATC tower has the potential to have a significant detrimental impact on the operation of the existing HRDF facility as it falls within the safeguarded area, and hence is not acceptable as it would not satisfy the requirement of having new equipment in place, operational and tested to acceptance before the existing HRDF could be withdrawn [[AS-287](#)].
- 6.9.104. In terms of the microwave tower the MoD considers that the report does not establish whether the HRDF will compromise the operation of the existing antenna on the tower or with new airport technical assets required to support the airfield operations. The MoD is also of the view that it did not want the use of the fire station being submitted as a potential re-provision site as it has concerns with implementing the HRDF equipment on towers due to the additional requirements to maintain the asset and the potential to compromise its estate [[AS-287](#)].
- 6.9.105. Finally, the MoD is of the view that the radar tower conflicts with the Applicant's proposed use of the site in its current development plans and at present has no infrastructure in place to support the HRDF installation, and that it has not been modelled in the same way as the other two possible options [[AS-287](#)].
- 6.9.106. The MoD also has concerns over the amount of money the Applicant has factored into general costs to meet the re-provision of the HRDF and considers that a potential two-year twin track / evaluation period for the running of the new and existing HRDF may be required, disputing the Applicant's view that a considerably shorter time (potentially days) would suffice. The MoD also notes that it is currently implementing an extensive programme to upgrade air navigation technical installations across its estate both in the UK and at its sites overseas, and any HRDF installation, testing and evaluation will have to feed into the existing programme, potentially for a period of at least three years [[AS-287](#)].
- 6.9.107. To summarise the MoD maintains its objection to the development on the basis that the proposals would have a significant and detrimental impact on the capability of safeguarded technical equipment located within the boundaries of the development, and no acceptable scheme detailing location, specification of equipment or technical mitigation has been

submitted for the provision of what would be a replacement HRDF system [[AS-287](#)].

- 6.9.108. The Applicant accepts that the HRDF must be moved [[REP11-014](#)] but considers that the three proposed sites are all better than the current site and can be used without any difficulty. It also notes that it has found out that the safeguarding direction was not in the possession of the LPA so was ineffective, considering that the project would therefore improve the location of the HRDF and afford it proper protection.
- 6.9.109. The Applicant raises concern about the willingness and appetite of the MoD to reach a mutually acceptable solution, and state that it remains *"genuinely disappointed that, despite the best efforts of many involved, this issue has not been resolved"* but *"feel that there is sufficient evidence both within the MOD submission but particularly within the Aquila Technical Report, to be confident that a technical solution is within reach and, with suitable planning conditions which the Applicant would fully accept, the airport redevelopment project can move forward"* [[REP11-007](#)].

ExA's conclusions

Runway usage

- 6.9.110. On the basis of the technical evidence provided to the Examination, it is reasonable to assume, as the Applicant states [[REP4-022](#)], that the only operational measure to reduce noise impacts of the Proposed Development would be the use of the preferred runway and that this would only be feasible around two thirds of the time, when the movement rate is five movements or less per hour. Once traffic levels were above this level, or wind speed was too high or weather conditions too wet (one third of the time) then aircraft would revert to taking off and landing into the headwind, that is predominantly landing over Ramsgate and taking off towards the west.
- 6.9.111. This aspect of the Proposed Development complies with Policy EC2(4) of the LP, in that the application has assessed the effectiveness of operational measures to mitigate noise impacts of the proposals.
- 6.9.112. The ExA notes the understandable concerns of some IPs concerning the risks of accidents associated with the operations of the Proposed Development. The CAA works to ensure that the aviation industry meets the highest safety standards and would apply this through the Aerodrome Certification process, which is ongoing and audited through operation. The ACP would also take into account matters of safety. The APF notes that air transport is one of the safest forms of travel and states that the UK is a world leader in aviation safety, and that maintaining and improving that record remains of primary importance to the UK.
- 6.9.113. **The ExA concludes and recommends that evidence submitted by the Applicant demonstrates that an inset threshold on the runway**

or the use of steeper glideslopes would not be feasible for the Proposed Development.

Scale and capacity

- 6.9.114. There is a wide disparity between the Applicant's proposed 19 Code E stands and York Aviation's calculation of nine stands with an additional one for resilience, and the difference of nine stands represents a substantial area of land. Based on evidence regarding MARS and operations at EMA it appears unlikely that 19 stands would be needed for the forecast levels of traffic. While appreciating that it may be unclear if MARS would work at the airport without knowing traffic levels and that initially it may prove difficult, once the airport was of a sufficient size traffic levels would become a lot more established and known the airport operators, allowing MARS to be used, providing efficiencies.
- 6.9.115. Therefore, while the ExA does not comment specifically on the *exact* number of stands which may be required to meet the forecasts, from the evidence provided **the ExA concludes that 19 Code E stands would represent a substantial overprovision. This is considered further in Chapter 9, below.**
- 6.9.116. With regards to the size of cargo warehouses, while there are sizable variations between the numbers produced by the Applicant and York Aviation, the ExA notes that there is limited categorical evidence over the size of facilities at EMA provided. There are also difficulties with the comparison due to the different mix of freight types at EMA compared with the Proposed Development and due to considerations of road-based freight.
- 6.9.117. When considering the ratio produced by the Applicant in relation to the IATA guidance **the ExA concludes that the size of the proposed warehousing is justifiable. In coming to this view the ExA note the levels of automation which may be possible but also note that this may not be entirely possible for general freight at an early stage.**

Northern Grass Area

- 6.9.118. The Applicant frequently made the point that the proposed uses provided for the NGA are illustrative but are a best estimate of what kind of uses may be required close to the airport site. In a similar vein therefore, it is difficult for the ExA to come to a comprehensive view on whether the scale and capacity of the proposed uses is realistic. Certainly, some of the uses proposed, such as the public transport vehicle depot, travel and information centre, two MRO operator office suites and parts reception and a computer service supplier appear to be oversized or uses more suited to an airside location or location straddling the two areas such as airside equipment / maintenance or integrator uses.
- 6.9.119. In this respect the ExA note the limited space available around the airport itself in an airside location. However, the reduction of space for

airside cargo stands could assist in this regard, but equally this could restrict future operations somewhat.

- 6.9.120. Overall when considering the proposed uses and noting the illustrative nature of the proposed development for the NGA **the ExA concludes that insufficient justification has been provided for the entirety of the NGA development in terms of required space for scale and capacity and its relationship to the airport. This is considered further in Chapter 9 and Chapter 10, below.**

Aerodrome Certificate

- 6.9.121. Immediately prior to the closure of the Examination the Applicant acquired much of the land required for the Proposed Development. Given this, and the timeline produced in evidence of preparatory work being complete around the end of 2020 and a six to 12 month period then for the CAA to issue a certificate, the ExA considers that it appears likely that, if the Applicant progresses the application, an aerodrome certificate could be in place between the middle to end of 2021. **In coming to this conclusion, the ExA is focussing on the process and not pre-judging any possible outcome of the Aerodrome Certification process.**

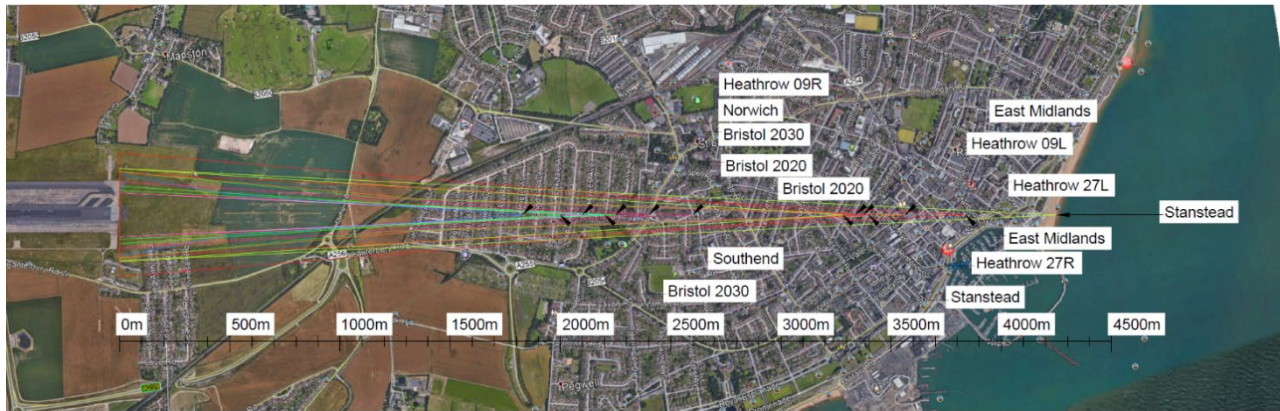
Airspace Change Process

- 6.9.122. Based on the evidence provided **the ExA see no reason to disagree with the evidence of the Applicant that the ACP could be complete by March 2022, and that such a programme would not conflict with the wider FASI(S) proposal for air traffic route structures in the southern part of the UK.** In coming to this conclusion, the ExA is focussing on the process and not pre-judging any possible outcome of the ACP.

Public Safety Zones

- 6.9.123. The letter produced in evidence from the CAA [[REP7-014](#), Appendix OP.2.7] states that as a matter of policy the DfT applies PSZs at aerodromes that have more than 1,500 movements a month and which are likely in due course to exceed 2,500 movements. When this is combined with the information in the circular that PSZs are based upon risk contours modelled looking fifteen years ahead it is fairly clear that based on the forecasts supplied by the Applicant, PSZs would need to be put in place around the 4th or 5th year of operation of the Proposed Development.
- 6.9.124. Whilst noting that the ES addendum considered the worst-case scenario based on other airports (London Stansted), it is reasonably clear to the ExA that the 1 in 100,000 risk contour would cover a sizable area of Ramsgate to the east of the runway, potentially including much of the Nethercourt Estate and further east towards the heart of the town. The Circular notes that there is a general presumption against new or replacement development, or changes of use of existing buildings, within PSZs, and no new or replacement houses, mobile homes, caravan sites

or other residential buildings should be permitted, nor should new or replacement non-residential development be permitted. The Applicant's indicative map for the eastern 1 in 100,000 PSZ contour is shown below [from [REP6-014](#), Appendix OP.2.7].



- 6.9.125. This would have a significant effect on development proposals under the 1 in 100,000 risk contour, having as TDC state, significant implications for planning policy, with potentially two housing sites in the eLP as well as theoretically a significant number of windfall sites provided for in the plan. Any effect on such development would have a knock-on effect on the regeneration and positive socio-economic effects of such proposed housing.
- 6.9.126. In coming to this conclusion, the ExA has had regard to the letter from the SoSHCLG to TDC in January 2019 stating his concerns about the low level of housing supply and delivery in Thanet [[REP2-016](#)].
- 6.9.127. **The ExA conclude that while the PSZ would be produced by the CAA and implemented by TDC, it would occur as a direct result of the Proposed Development, and its negative effects weigh against the Proposed Development. While regulations may alter over time, the circular dates from 2010 and PSZs have been in place for a number of years; therefore in considering this issue the ExA has not based its conclusions on the argument that by the time a PSZ is needed regulations may have changed.**

Safeguarding

- 6.9.128. Based on the evidence provided, including the SoCG with Vattenfall, **the ExA does not conclude that safeguarding would present an impediment to the Proposed Development, and could be dealt with under the relevant CAA and LPA requirements if and when necessary.**

High Resolution Direction Finder

- 6.9.129. The HRDF was the subject of much debate during the Examination and the Applicant and the MoD remained some way apart from agreement at the end of the Examination.

6.9.130. The position remains that the MoD maintains its objection to the Proposed Development, considering that the proposals would have a significant and detrimental impact on the capability of safeguarded technical equipment located within the boundaries of the development, and no acceptable scheme detailing location, specification of equipment or technical mitigation has been submitted for the provision of what would be a replacement HRDF system.

6.9.131. **The ExA conclude that while it is clear that the Applicant has dealt seriously with the issue, at the close of the examination there is no guarantee that the HRDF can be moved, and as such it has to be considered as a significant risk to the proposed development. This is considered further in Chapter 9 and Chapter 10, below.**

Summary

6.9.132. The ExA considers that there remains doubt over the number of stands proposed and the level of development proposed for the NGA, as well as there being no guarantee that the HRDF can be moved. The ExA also concludes that a PSZ would be required for the Proposed Development and that the negative effects of this weigh against the Proposed Development. Other operational matters do not weigh against the Proposed Development.

6.10. SOCIO-ECONOMICS

Issues

6.10.1. The ExA's IAPI prepared in accordance with s88 of the PA2008 and Rule 5 of the EPR was published with the Rule 6 letter [[PD-005](#)]. The ExA had regard to the application documents and the RRs received in formulating this list. The Rule 6 letter made it clear that the list was not a comprehensive or exhaustive one and that regard would be had to all important and relevant matters in reaching a recommendation after the conclusion of the Examination. One of the main topic headings in this letter was that of socio-economics, with sub headings of:

- Effects on the tourism/holiday trade;
- estimates of employment generation;
- scope for local employment;
- cumulative effects regionally in South East of other proposed airports development;
- effect on schools;
- scope for training schemes and education;
- scope for agreements to provide benefits for communities; and
- the possible existence of war graves (the possible existence of war graves is considering in the Archaeology and the historic environment section of this chapter)

6.10.2. An ISH (ISH5) considering socio-economic was held on 5 June 2019 [[EV-020](#), 026, 026a]. The agenda for ISH5 considered a range of issues within the overall umbrella of socio-economics, including employment,

displacement, tourism, and education and training. Such issues drew on various questions contained in ExQ1 [[PD-007](#)] and various questions within ExQ2, ExQ3, and ExQ4 [[PD-010b](#), [PD-014](#), [PD-020](#) respectively] followed on from the similar themes.

6.10.3. Within the overall ISH5 agenda the issues were broken down further, as follows:

- Employment
 - Construction jobs, including programme, timetable and local jobs
 - Exploration of the comparators used in the Azimuth Report for employment forecasts, with reference to EMA, Prestwick, Stansted and Luton airports
 - The significance of the forecast job numbers in relation to wider job numbers in the Thanet area
 - Justification for detailed job forecasts
 - Any effect on automation
 - The calculation of indirect, induced and catalytic job forecasts
- Examination of any potential displacement effects of the Proposed Development in relation to employment elsewhere, either in aviation or other industry
- Tourism
 - Consideration of likely inbound tourism generated by the proposal and catalytic effect on the local economy in Thanet and East Kent
 - Effects of outbound tourism on the local economy
 - Any potential negative effects on the tourist economy of Ramsgate, including upon the Ramsgate HAZ
- Education, training and skills

Issues arising in Local Impact Reports and Written Representations

Thanet District Council Local Impact Report [[REP3-010](#)]

6.10.4. TDC notes that the Proposed Development *"has the potential to deliver significant positive socio-economic benefits to the local authority area"* and notes that it is important that the predicted direct and indirect jobs arising from the Proposed Development are realistic, achievable and robustly assessed, and that there is a need to understand the impact of the job creation both within and outside Thanet local and regional economy, considering that the *"job numbers continue to be generated on the basis of a theoretical academic report, rather than on a studied financial appraisal of the project and expected growth"*. TDC states that *"there remains significant uncertainty about whether the socio-economic benefits from the proposed development, in terms of job creation, attract significant weight in support of the proposal, with these benefits potentially overstated in Section 13 of the ES. It is not considered that sufficient and convincing evidence has been provided to demonstrate the Applicant's claim that the effect on the economy of Thanet would be*

'major beneficial – significant' due to the limitations in the evidence produced."

- 6.10.5. TDC considers that the proposed commercial development on the NGA does not appear to be functionally required for operational purposes of the airport, noting that a substantial portion of NGA development would be considered as development on a greenfield site in the countryside. TDC also state that it has an identified supply of allocated employment land within the district, such as the nearby Manston Business Park, which can accommodate commercial development. The use of the NGA area is considered in more detail in the Operations section of this chapter of the report and in Chapter 9.
- 6.10.6. TDC raises concerns that the job creation purported from the Proposed Development would significantly affect the Objectively Assessed Need for housing within the East Kent region, causing indirect effects, such as additional loss of countryside through increased housing developments and significant new infrastructure demands.
- 6.10.7. TDC states that *"there should be a provision of on-site education/training facility with links to local providers. There is the potential for local employment and training during construction and operational phases which should be secured via appropriate obligations where possible"*.
- 6.10.8. TDC also note that *"there are likely to be impacts on tourism at the operational stage which will affect local amenity, businesses, the destination and the experience of visitors. Given that tourism is a significant aspect to the local economy in Thanet, it is important that tourists are not deterred from visiting the area both during construction and operational stages of the proposed development"*, noting that all indicative flight paths would travel over Ramsgate, and could adversely affect local business, inward investment, the expanding filming industry and a successful tourism sector.
- 6.10.9. TDC also considers that the Proposed Development is likely to lead to additional burdens on local services as it would result in the increase in residence of operational workers in the district, and that these operational workers are likely to have a positive economic impact on the local economy.
- 6.10.10. TDC also state that it is *"unclear what type of jobs will be created as a result of the proposed development"*, noting that the pool of unemployed workforce within the study area may not have the necessary skills for the jobs that will arise as a result of the Proposed Development, and stating that as the aviation industry is somewhat a niche industry it is unlikely that the skills required to perform a number of specialist aviation jobs will exist in the study area.
- 6.10.11. TDC also note that Lydd Airport has planning permission to be expanded to a capacity of 500,000 passengers per annum and that there may be some conflict regarding the socio-economic impacts associated between Manston Airport and the development permitted at Lydd Airport.

Kent County Council Local Impact Report [[REP3-143](#)]

- 6.10.12. The KCC LIR does not refer to socio-economic matters.

Dover District Council Local Impact Report [[REP3-227](#)]

- 6.10.13. DDC notes that the Applicant's ES [[APP-033](#)] identifies that the Proposed Development is forecast to generate 2,655 jobs and 30,000 jobs by Year 2 and Year 20 respectively, and concurs with the Applicant's assessment from a socio-economic perspective, with reference to its overall conclusions.

- 6.10.14. DDC further recognises the potential positive benefits of the Proposed Development for the local economy and the wider East Kent economy. DDC states that along with a range of stakeholders including education providers, it has been actively involved in preparing a draft s106 Agreement regarding education, training, local recruitment and procurement and that DDC intends to become a member of a Local Employment Partnership Board to address socio-economic matters with the presence of an operational Manston Airport.

Canterbury City Council Local Impact Report [[REP3-246](#)]

- 6.10.15. CCC recognises "*that the proposal to re-open the airport would make a positive contribution to the regeneration of the East Kent economy, as well as the UK's aviation economy, anticipating that in Thanet, the airport and surrounding sites will be the main generator of employment.*" It notes that CCC Officers generally concur with the socio-economic assessment submitted with the application and that overall CCC recognise the generally positive economic impacts for its district associated with the Proposed Development and notes that there is some potential for the local economy to benefit and exploit economic opportunities arising out of the Proposed Development.

Written Representations

- 6.10.16. York Aviation was employed by SHP during the Examination, and various reports and evidence of York Aviation concerned matters of socio-economics, submitted at deadlines throughout the Examination [including [REP3-025](#), [REP3-303](#), [REP4-065](#), [REP4-067](#), [REP6-053](#), [REP7-014](#), [REP7a-044](#), [REP8-031](#), [REP8-035](#), [REP9-129](#)].

- 6.10.17. Various IPs, both in favour and against the Proposed Development raised various comments relating to socio-economics [including [REP3-008](#), [REP3-150](#), [REP4-104](#), [REP6-049](#), [REP7-019](#), [REP3-017](#), [REP11-036](#), [REP5-075](#), [REP4-052](#)]. These comments and evidence largely related to issues contained in the above list and did not raise wider matters. Many comments [including [REP6-034](#), [REP6-035](#)] did however refer to the current and changing situation in the Thanet area in terms of socio-economics. Where appropriate these are referred to below.

- 6.10.18. One IP [[REP3-296](#), [REP3-223](#)] provides a statistical analysis of representations, noting that the issue of jobs and employment is the principal concern for supporters of the Proposed Development.

- 6.10.19. This section of the report uses largely the same issues as outlined at ISH5, although some reordering has taken place within the chapter for purposes of clarity, and the baseline for the Thanet area is also included as a separate item bearing in mind the importance assigned to this issue by various IPs. Policy is included as an initial issue.

Relevant policy considerations

ANPS

- 6.10.20. The ANPS notes that in 2014 the UK aviation sector generated around £20 billion of economic output, and directly employed around 230,000 workers, supporting many more jobs indirectly. The UK has the second largest aircraft manufacturing industry in the world after the USA and would benefit economically from growth in employment and exports from future aviation growth. The ANPS also notes that Air Passenger Duty remains an important contributor to Government revenue, raising over £3 billion in 2015/16 (paragraph 2.5).
- 6.10.21. The ANPS confirms that air freight is important to the UK economy, noting that although only a small proportion of UK trade by weight is carried by air, it is particularly important for supporting export-led growth in sectors where goods are of high value or time critical, and stating that over £178 billion of air freight was sent between UK and non-EU countries in 2016, representing over 45% of the UK's extra-EU trade by value. The ANPS notes that this is especially important in the advanced manufacturing sector, where air freight is a key element of the time-critical supply chain and that by 2030, advanced manufacturing industries such as pharmaceuticals or chemicals, whose components and products are predominantly moved by air, are expected to be among the top five UK export markets by their share of value, with UK manufacturing competitiveness and a successful and diverse UK economy will drive the need for quicker air freight in the future (paragraph 2.7).
- 6.10.22. On the subject of tourism, the ANPS states that aviation brings many wider benefits to society and individuals, including travel for leisure and visiting family and friends, driving further economic activity. In 2013, the ANPS notes that the direct gross value added (GVA) of the tourism sector, one of the important beneficiaries of a strong UK aviation sector, was £59 billion, and that 2015 saw the value of inbound tourism by air rise to £19 billion, with the wider UK tourism industry forecast to grow significantly over the coming decades (paragraph 2.8).
- 6.10.23. Finally the ANPS states that the importance of aviation to the UK economy, and in particular the UK's hub status, has only increased following the country's decision to leave the EU, and notes that, as the UK develops its new trading relationships with the rest of the world, it will be essential that increased airport capacity is delivered, in particular to support development of long haul routes to and from the UK, especially to emerging and developing economies (paragraph 2.9).

Aviation Policy Framework

- 6.10.24. The APF states that the Government believes that aviation infrastructure plays an important role in contributing to economic growth through the connectivity it helps deliver (paragraph 1.2), and notes that there is broad agreement that aviation benefits the UK economy, both at a national and a regional level (paragraph 1.3). While views differ on the exact value of this benefit, the economic benefits are significant, particularly those benefits resulting from the connectivity provided by aviation and there are social and cultural benefits from aviation (paragraph 1.3).
- 6.10.25. The APF notes that air transport sector's turnover is around £28 billion, and the sector directly generates around £10 billion of economic output. It provides about 120,000 jobs in the UK and supports many more indirectly as an enabler of activity in many other sectors of the economy (paragraph 1.4). It notes that although air freight carries a small proportion of UK trade by weight, it is particularly important for supporting export-led growth in sectors where the goods are of high value or time critical. Air freight is a key element of the supply chain in the advanced manufacturing sector in which the UK is looking to build competitive strength. The APF states that access to air freight is crucial to keeping UK manufacturing competitive in the global marketplace (paragraph 1.6).
- 6.10.26. The APF states that the UK has the second largest aerospace manufacturing industry in the world and the largest in Europe, and that this is a key part of the advanced manufacturing sector, contributing towards rebalancing the economy to become less dependent on financial services (paragraph 1.9). The APF also notes that business and GA is important to the UK, with its contribution to the economy has been estimated at £1.4 billion per annum (paragraph 1.12).
- 6.10.27. Further, the UK's aviation sector enables productivity and growth through enhanced access to markets and new business opportunities through improved connectivity, lower transport costs and quicker deliveries. For example, through facilitating inward investment and the movement of goods, people and ideas both within the UK and to and from the rest of the world.
- 6.10.28. The APF notes that air travel is essential to the Government Tourism Policy, which aims to attract four million extra visitors to England alone over the next four years. Good connectivity from the UK to emerging economies is likely to increase the scope for growth in inbound tourism from these countries in future, and the APF states that overseas residents made 31 million visits to the UK in 2011, with nearly three-quarters of these visitors arriving by air. Earnings from overseas visits were £18 billion, 84% of which was spent by people who arrived by air (paragraph 1.15). The APF also notes that in addition to its economic contribution, aviation provides wider social benefits (paragraph 1.15).
- 6.10.29. The APF notes that views are divided on the economic impacts of outbound tourism, with some considering that there is a 'tourism deficit', as more UK residents travelled abroad than overseas residents travelled

to the UK, but others noting that outbound tourism supports UK-based jobs in the travel and airline industry and boosts high street consumer demand before trips are made. The Government acknowledges that the 'tourism deficit' question is a complex one but that the evidence available does not show that a decrease in the number of UK residents flying abroad for their holidays would have an overall benefit for the UK economy, with, overall, the Government believing that continuing to make UK tourism more attractive is a better approach both for residents and attracting new visitors (paragraph 1.16).

- 6.10.30. Finally, the APF states that one of the Government's aims in helping the economy to grow is to encourage investment and exports as a route to a more balanced economy. New or more frequent international connections attract business activity, boosting the economy of the region and providing new opportunities and better access to new markets for existing businesses (paragraph 1.20), and the Government recognises the very important role airports across the UK play in providing domestic and international connections and the vital contribution they can make to the growth of regional economies (paragraph 1.21).

Emerging aviation policy

- 6.10.31. Aviation 2050¹²⁸ states that airports are vital for local economies, providing domestic and global connectivity, employment opportunities and a hub for local transport (Chapter 4 summary). It notes that regional airports act as wider magnets attracting non-aviation businesses due to the air connections they provide but also with strong road and rail access links which support the airport, acting as a gateway to international opportunities for the regions of the UK (paragraph 4.1).
- 6.10.32. Paragraph 4.45 of the paper states that air freight is a major part of aviation, connecting UK exporters to new markets across the world, and benefiting consumers who increasingly have access to a range of globally sourced goods which can be delivered within days of ordering. It states that air freight facilitates trade that otherwise may not be viable, for example for goods with a short shelf life, and notes that air freight and the businesses that support it deliver over 46,000 jobs and contributes over £1.4 billion to the UK economy.
- 6.10.33. The paper states that aviation must be ready to address STEM skills shortages (science, technology, engineering and maths); keep pace with technology; address the challenge of an aging work force; realise potential to deliver social mobility; and improve diversity and inclusion in the industry. It also notes that apprenticeships are key to address such issues (paragraph 4.54).

NPPF

- 6.10.34. While not containing any specific policies for NSIPs (paragraph 5), the NPPF notes that the purpose of the planning system (paragraph 8) is to

¹²⁸ Available at: <https://www.gov.uk/government/consultations/aviation-2050-the-future-of-uk-aviation>

contribute to the achievement of sustainable development, which it does by having three overarching purposes of economic, social and environmental objectives and that significant weight should be placed on the need to support economic growth and productivity (paragraph 80).

Thanet Local Plan 2006 'Saved' Policies [[REP3-010](#)]

- 6.10.35. Policy EC7 – Economic Development Infrastructure is noted within the TDC LIR as being relevant to socio-economic impacts:

"To ensure that development opportunities are continued, where infrastructure and utilities have been provided to appropriate sites by the spatial development company, planning permission for new development likely to directly benefit from the provision of infrastructure will be permitted subject to a legal agreement (in accordance with section 106 of the town & country planning act; section 111 of the local government act; or any other appropriate provision) such that an appropriate level of payment is made to cover the cost of the provision of or improvement to service to the site"

- 6.10.36. The ExA is not convinced this LP policy is directly relevant in this case.

Emerging Draft Thanet Local Plan to 2031 Policies (eLP) [[REP3-010](#)]

- 6.10.37. Policy SP02 -Economic Growth:

"A minimum of 5,000 additional jobs is planned for in Thanet to 2031.

The aim is to accommodate inward investment in job creating development, the establishment of new businesses and expansion and diversification of existing firms. Sufficient sites and premises suited to the needs of business are identified and safeguarded for such uses. Manston Business Park is the key location for advanced manufacturing and large-scale job creating development.

Land is identified and allocated to accommodate up to 53.5ha of employment space over the period to 2031. Land and premises considered suitable for continued and future employment use will be identified and protected for such purpose.

Thanet's town centres are priority areas for regeneration and employment generating development, including tourism and cultural diversification, will be encouraged.

The growth of the Port of Ramsgate is supported as a source of employment and as an attractor of inward investment.

New tourism development, which would extend or upgrade the range of tourist facilities particularly those that attract the staying visitor, increase the attraction of tourists to the area and extend the season, will be supported.

Development is supported that enhances the rural economy subject to protecting the character, quality and function of Thanet's rural settlements and natural environments."

- 6.10.38. The ExA is mindful that the eLP is currently being examined and whilst it is at an advanced stage of production, the above policy could be subject to change. Nonetheless, the ExA considers the policy is important and relevant.

Baseline

- 6.10.39. Volume IV of the Azimuth Report [[APP-085](#)] considers the economic and social impact of airport operations. This notes that the county of Kent ranks 100 out of 152 county and unitary authorities in the English Indices of Deprivation (paragraph 2.1.2), but that some areas of the western parts of the county are more affluent than others, including Thanet, with GVA per head in Medway and East Kent below the rates of other more affluent areas of the county (paragraphs 2.1.2 to 2.1.3).
- 6.10.40. The Azimuth Report [[APP-085](#)] outlines the Kent Forum document Vision for Kent 2012-2022 (2012) which outlines three ambitions of growing the economy, tackling disadvantage and putting citizens in control, considering that the construction of the Proposed Development would match such ambitions, particularly in terms of growing the economy. The Vision includes a list of commitments made by the Local Authorities in Kent, including maximising the opportunities of Kent's airports and improving Kent's connectivity (paragraph 2.1.4 to 2.1.5).
- 6.10.41. The Azimuth Report [[APP-085](#)] details a study commissioned by KCC from 2017 which considered the internationalisation of Kent businesses and found that, of those firms which export, 85% to the EU, 43% to the US and 21% to the United Arab Emirates (paragraph 2.1.9). The Applicant considers [[APP-085](#)] that the dominance of the EU for import and export and uncertainty of the post-Brexit regulatory environment are a cause for concern for Kent businesses and notes that the study found that businesses mentioned the need to improve infrastructure, including airports in the county. The report states that resumed and vastly improved operations at Manston Airport can provide the impetus for internationalisation, particularly if an Enterprise Zone is linked to the airport to leverage the benefits of exporting (paragraph 2.1.12).
- 6.10.42. The Azimuth Report [[APP-085](#)] considers East Kent, defining it as consisting of Canterbury, the Isle of Thanet, and the towns of Deal, Dover, Faversham, Herne Bay, Sandwich and Whitstable (paragraph 2.2.2). The Applicant notes that, in May 2018, the unemployment rate for Kent was 2%, below the national rate of 2.2%, but that rates in Dover, Shepway, Swale and Thanet were 3.2%, 2.4%, 2.8% and 4.9% respectively (paragraph 2.2.4). The report contains details of A-level grades, noting that Shepway, Swale and Thanet also considerably below the average in Kent for achieving AAB grades (paragraph 2.2.5). In considering these figures the ExA note that Shepway and Swale do not fall within the Applicant's definition of East Kent.
- 6.10.43. The Azimuth Report [[APP-085](#)] notes that Thanet has good road and rail connections and benefits from a number of blue flag beaches and historic landmarks and had a population of 134,186 in the 2011 Census

[paragraphs 2.2.2 to 4). It notes that in 2015 Thanet was the most deprived local authority in Kent, and the 28th most deprived area in England (paragraph 2.3.5). The Index of Multiple Deprivation shows that since 2010 the area has declined since 2010. This index is based on factors such as income, employment, health and disability, education, skills and training, barriers to housing and services, living environment and crime (paragraph 2.3.6). The report notes that in May 2018 the unemployment rate for 18 to 24-year olds was 7.3%, considerably above the 3% average for Kent as a whole (paragraph 2.3.7).

- 6.10.44. Figure 9 of the Azimuth Report [[APP-085](#)] shows that Thanet has fewer firms employing more than 200 people than Kent and England, although the ExA note that the report shows that the area has more firms employing 50 to 199 and 11 to 49 people than England and Kent. The report also states that productivity in Thanet is around 80% of the Kent average and GVA per capita some 63% of the county average, with wages also lower than the national and county average for both full time and part time employment (paragraph 2.3.9).
- 6.10.45. The Azimuth Report [[APP-085](#)] quotes from the TDC Draft Economic Growth Strategy from 2016, noting that Thanet has significant locational advantages, outstanding cultural assets and a very high quality natural environment, with real potential linked to the port and historic marina at Ramsgate, but that too many jobs are low wage and part time and the number of jobs in the district needs to grow, with a need to diversify the business base so it less reliant on public sector type roles (paragraph 2.3.11). The Applicant also notes [[APP-085](#)] the formation of the Thames Estuary Growth Commission, which aims to boost productivity, attract and retain skilled workers and capitalise on major infrastructure works. The Commission published its final report in June 2018, which, the Applicant notes, included focuses on medical research, productive agricultural landscape and niche tourism (paragraph 2.3.16), which the Applicant considers all rely on transportation of good and visitors by air. The Applicant has submitted a proposal to the Commission for an aviation academy on or near the Proposed Development site (paragraph 2.3.17).
- 6.10.46. The TDC LIR [[REP3-010](#)] refers to Lydd Airport (as above). The Applicant notes the plans to extend the runway at this airport [[APP-085](#)] but notes that this would still result in weight restrictions for aircraft and noting the location of Lydd Airport, which it considers is rural with relatively poor surface transport connectivity. Lydd Airport was not considered in more depth during the Examination stage.

Views of others

- 6.10.47. An IP [Five10Twelve, [REP6-034](#)] considers job density. Jobs density is defined as the number of jobs in an area divided by the resident population aged 16 to 64 in that, for example, a job density of 1.0 would mean that there is one job for every resident aged 16 to 64. The IP notes that Thanet's job density is closing the gap in recent years to other areas of the county, with the figure now some 0.7, up from 0.57 in 2014, and

compared to the South East and national figures of 0.87 and 0.86 respectively.

- 6.10.48. The same IP [Five10Twelve, [REP11-040](#)] submits a graph demonstrating that Thanet's percentage of economically active and unemployed has "*significantly reduced since the closure of the former Airport and is in line with the rest of Great Britain*" considering that in part this is due to the rise in tourism in the area.
- 6.10.49. It is also noted [[REP4-052](#)] that visits to Thanet increased by 8.6% in 2017, with a record 4.2 million visitors. Research by Visit Kent identified that the number of day trips to Thanet had increased by 9.9% in 2017, while the total number of nights stayed in the district increased by 4.9%. The same research stated that the total number of jobs supported by tourism rose by 8.7% to 7,950, with the industry accounting for 19% of total employment across Thanet.

Findings

Employment

- 6.10.50. The Azimuth Report [[APP-085](#)] states that the impact made by an airport is measured by employment, income and contribution to GDP, and outlines four types of economic impact in which an airport can affect such measurements; direct, indirect, induced and catalytic (paragraph 3.1.13).
- 6.10.51. Direct jobs are those associated with the operation and management of activities at an airport, including jobs with an airport operator and those of other airport-related businesses located on or near the airport site. Indirect employment includes employment in the supply chain, such as wholesalers providing food for flight catering. Induced employment covers employment created directly or indirectly as a result of those connected to the airport spending their income in the local or national economy. Finally, catalytic impacts are associated with the aviation sector outside the local economy (paragraph 3.1.13). The Azimuth Report [[APP-085](#)] gives the example of how air transport impacts trade, facilitating the import and export of goods by air and therefore their manufacture and distribution, as well as productivity (paragraph 3.1.13).
- 6.10.52. The report notes that increases in connectivity provided by airports are linked to a positive impact on local, regional and national economies (paragraph 3.2.3) and that improved air freight connectivity leads to a reduction in transportation costs overall (paragraph 3.2.4). The Applicant also notes that the presence of an airport can often encourage large employers to locate nearby (paragraph 3.3.1).

Forecasting airport jobs

- 6.10.53. The Azimuth Report [[APP-085](#)] states that there are no standard formulae for calculating the number of direct, indirect, induced and catalytic jobs created by airport operations, noting that formulae which are used vary. An alternative method of calculating such figures is to use

comparator airports. The report draws on both formulae and comparators as ways of calculating the jobs effect of the Proposed Development (paragraph 4.0.1). The report [APP-085] also combines the two categories of indirect and induced jobs together for the purposes of calculating overall figures, an approach which this report will also follow.

6.10.54. The Azimuth Report [APP-085] notes varying formulae, such as that used by the AC of 950 jobs created per 1mppa or 100,000 tonnes of freight. It cites a York Aviation study carried out in 2004 for European airports which stated that for every 1,000 on-site jobs supported by airports there are around 2,100 indirect / induced jobs supported sub-regionally (paragraph 4.1.1). Intervistas reported in 2015 that for small airports 1,200 jobs would be created per 1,000 traffic units¹²⁹, 950 jobs for medium airports (defined as those handling 1 million to 10 million traffic units, such as the Proposed Development) and 850 jobs at large airports (paragraph 4.1.2), and an Airports Council International European study in 2015 showed 1,200 direct jobs for first 1 million passengers and 0.95 jobs per 1,000 extra passengers thereafter (paragraph 4.1.3). Finally, a Steer Davies Gleeve study from 2015 for the EU found a ratio of 1 job per 1,240 passengers, while noting that job levels may be higher at smaller airports due to economies of scale (paragraph 4.1.5). For catalytic jobs, paragraph 4.1.9 notes that Intervistas calculated 4,650 jobs per 1,000 direct jobs and ICAO reported 4,000 catalytic jobs (per 1,000 direct jobs).

6.10.55. The Azimuth Report [APP-085] variously considers EMA, Prestwick, Luton, and Stansted airports for the purposes of comparator airports. It notes that a review of the 2015 EMA Sustainable Development Report can be used to calculate a ratio of 887 direct jobs to 1mppa or 100,000 tonnes of freight (paragraph 4.2.1). The Applicant notes that Stansted Airport’s recent planning application forecast an increase in employment of 675 jobs per 1mppa, and that indirect jobs are calculated with a multiplier of 1.8, the same as Luton (paragraph 4.2.2).

6.10.56. The Azimuth Report [APP-085] notes that York Aviation reviewed an earlier version of the report and suggested Glasgow Prestwick as a comparator suggesting that Prestwick had 650 direct jobs per 1mppa or 100,000 tonnes of freight, and suggesting a multiplier of 0.4 for indirect / induced jobs and 3.46 and 3.76 for catalytic jobs (paragraph 4.2.3).

6.10.57. The Applicant considers that Prestwick would not be a suitable comparator due to its scale of operations and location. The report compares the 2016 actual figures for Prestwick with the forecast for year 10 at Manston, as follows (from paragraph 4.2.4, Table 3):

	Prestwick	Manston
Freighter ATMs	652	11,600

¹²⁹ One traffic unit equals one passenger or 100kgs of cargo

Freighter tonnage	10,323	212,351
Passenger ATMs	4,631	6,754
Passenger numbers	673,232	975,591

- 6.10.58. The table clearly shows that actual ATMs for Prestwick (in 2016) would be significantly different to that forecast for Manston for Year 10 of operation, leading the Applicant to consider that, given the size of warehousing proposed for Manston compared to Prestwick (27,400m² v 10,700m²) and the location of Manston an hour from London compared to Prestwick on the west coast of Scotland, that Prestwick is not a suitable comparator for the Proposed Development (paragraph 4.2.5).
- 6.10.59. The report [[APP-085](#)] concludes (Section 4.3) that the following figures should be used to calculate jobs caused by airport operations at the Proposed Development:
- 887 direct jobs per 1mppa or 100,000 tonnes of freight (as EMA)
 - A multiplier of 1.8 to the above figures for indirect / induced jobs (as Stansted and Luton)
 - 4,000 jobs per 1,000 direct jobs (so a multiplier of 4) for catalytic jobs
- 6.10.60. A 2% annually increasing productivity allowance has been applied from Year 11 for direct jobs, to allow for improvements that will arise from economies of scale (paragraph 4.3.3). The Azimuth Report [[APP-085](#)] also notes that the forecast for catalytic jobs comes with a number of caveats, namely that the figures are generated from European airports and may or may not be accurate in a UK setting, that the Proposed Development is seen as unique given the planning investment, the socio-economics of the area and considered capacity constraints at other South East airports. In the context of catalytic job forecasting they consider that multipliers used must be greater than the combined direct, indirect and induced impact as this is "*generally known and accepted*" (paragraph 4.3.6) -quoting Intervistas, ICAO and Oxford Economics in support of this view. For this reason the Applicant considers that York Aviation's calculations (of the previous Azimuth Report) are invalid since they show the catalytic impact on jobs as less than the direct job figure alone, considering that this does not take into account the full range of catalytic effects.
- 6.10.61. For ease of reference the forecast job creation [Table 4 of [APP-085](#)] is reproduced below. The Applicant is of the view that the job figures are robust and accurate.

Table 4 Forecast job creation

	Freight tonnage	Passenger numbers	Direct jobs	Indirect/induced jobs	Catalytic jobs	Total job creation
Y1	0	0	116	0	0	116
Y2	96,553	0	856	1,542	0	2,398
Y3	108,553	662,768	1,551	2,791	6,203	10,545
Y4	167,092	679,868	2,085	3,753	8,341	14,179
Y5	173,741	686,672	2,150	3,870	8,601	14,621
Y6	181,436	965,295	2,466	4,438	9,862	16,766
Y7	192,908	975,591	2,576	4,638	10,306	17,520
Y8	200,673	975,591	2,645	4,762	10,581	17,988
Y9	203,245	975,591	2,668	4,803	10,673	18,143
Y10	212,351	975,591	2,749	4,948	10,996	18,693
Y11	222,377	1,011,587	2,812	5,062	11,249	19,124
Y12	234,508	1,049,022	2,890	5,202	11,561	19,653
Y13	244,690	1,087,954	2,947	5,305	11,789	20,042
Y14	256,989	1,128,444	3,018	5,432	12,072	20,522
Y15	270,579	1,170,553	3,094	5,570	12,378	21,042
Y16	283,904	1,214,347	3,164	5,695	12,656	21,515
Y17	296,594	1,259,892	3,224	5,802	12,894	21,920
Y18	312,344	1,307,259	3,301	5,942	13,205	22,448
Y19	324,838	1,356,521	3,349	6,029	13,397	22,775
Y20	340,758	1,407,753	3,417	6,151	13,668	23,235

6.10.62. As quoted above TDC note in their LIR [[REP3-010](#)] that the Proposed Development has the potential to deliver significant positive socio-economic benefits to Thanet, but that it is important that the predicted direct and indirect jobs arising from the Proposed Development are realistic, achievable and robustly assessed. It also considers that there is a need to understand the impact of the job creation within and outside Thanet, which have been generated on the basis of a theoretical academic report, rather than on a studied financial appraisal of the project and expected growth, noting that the implication of the purported job creation from the proposal would significantly affect the need for housing in the East Kent region.

6.10.63. The Ramsgate Society [[REP3-008](#)] considers that historically at the airport employment and economic benefits of the airport have always been very optimistic and have failed to materialise, stating that the airport when previously open peaked at 144 mostly part-time jobs. As an example of this they state that when the airport was under the ownership of Wiggins it was stated that there would be 6,000 jobs at the airport by 2010, which was later altered to 2017, and Infratil predicted 3,500 jobs by 2018 and 7,500 jobs by 2033, later amended to 2,800 jobs by 2018 and 6,000 by 2033.

6.10.64. The MP for Thanet North, Sir Roger Gale [[RR-1709](#)], states that the proposal "offers very considerable potential for the creation of high-quality jobs and apprenticeships in an area of historically high unemployment."

- 6.10.65. Dr Sally Dixon, the author of the Azimuth Report [[APP-085](#)] also made an individual RR to the Examination [[RR-0496](#)], stating that she is *“acutely aware of the impact high unemployment and a lack of skilled jobs have on the aspirations of Thanet’s young people”*.
- 6.10.66. York Aviation [[REP3-025](#)] considers that the study area that is being considered by the Azimuth Report [[APP-085](#)] is unclear and *“repeatedly uses assumptions that would not be appropriate for the assessment they appear to be making at the level of Kent or East Kent”* (Appendix 4, paragraph 3.5.4). It considers that, at points, it appears that the impact of Manston is being considered at a UK level and multipliers are being used that reflect this size of study area, but that at the same time the Azimuth Report talks about impacts in much more localised areas, particularly East Kent, but no change appears to be made to the multipliers to consider these smaller areas. It states that *“multipliers for smaller geographic areas must be smaller than those for larger areas as they will not include as much supply chain or as much expenditure of employees’ salaries”*, and considers that failure to realise this suggests a fundamental lack of understanding of how multipliers work and how they should be applied. It considers that the:
- “...the Azimuth report does not actually include a socioeconomic impact assessment because it does not properly define the geographic area it is assessing.”* (paragraph 3.5.4)
- 6.10.67. York Aviation considers that Prestwick Airport is a better comparator for Manston, with a density of around 650 jobs per mppa or 100,000 tonnes of freight. It is of the view that the use of EMA as an appropriate comparator is inappropriate given the substantial amount of non-aviation related employment based on the Pegasus Business Park at this airport which is included in this employment estimate, meaning that the basis for the calculation used is inflated resulting in a higher employment density. It states that, if this non-aviation related employment were to be removed from the assessment, the employment would actually be similar to that at Prestwick and is a better comparator to Manston [[REP3-025](#), Appendix 4, paragraph 3.5.4].
- 6.10.68. York Aviation also consider that the Applicant is incorrect to assert that York Aviation’s estimate of catalytic impacts in terms of jobs is lower than its estimate of direct airport-related jobs renders it invalid. York Aviation agrees that the catalytic effects of airports are often larger than the direct, indirect and induced effects, but considers that does not make it true in all cases, stating that consideration of individual circumstances is vital. It states that it considered a properly defined area, the County of Kent, and that given Kent’s location, its industrial base, population and the size of freight catchment areas, it is unlikely that a significant number of potential freight users will be located within that area and, hence, the amount of impact captured will be relatively small. It is also of the view that the passenger services envisaged are likely to be focussed on outbound leisure markets and, hence, inbound tourism impacts are likely to be small, concluding that in the Proposed Development’s case

there is no reason to expect significant catalytic effects within a properly defined catchment area [[REP3-025](#), Appendix 4, paragraph 3.5.4].

- 6.10.69. With regard to the calculation of direct job figures, the ExA considers that it is appropriate to use comparator airports as opposed to standard formulae, as the use of a UK freight-based comparator airport is more relevant and useful than using a standard formulae which may be out of date and / or based on European airports or substantial passenger dominated airports.
- 6.10.70. However, in relation to EMA it is clear that a fair proportion of the quoted jobs in 2015 at EMA were on the Pegasus Business Park, involved in companies such as PricewaterhouseCoopers AG (PwC), Western Power and other non-aviation related businesses [[REP4-065](#)].
- 6.10.71. The Applicant notes in its answer to question SE.2.2 [[REP6-012](#)] that 81% of the 6,730 on site employees were engaged in passenger and cargo services, but that in answer to question SE.4.3 [[REP9-010](#)] it is not possible to assign the 'other' 19% of jobs at EMA but that it "*cannot be inferred that they are entirely unrelated to aviation*", also stating that when the figures were produced (2013) that Pegasus Business Park was not fully developed. However, no substantive further evidence on this latter point was forthcoming [[REP9-010](#), response to S.E4.1], and the ExA notes in relation to this issue a Market Overview [[REP4-065](#), Appendix 2] by FHP which states that 137,000ft² of buildings were developed and occupied over the period 1999 to 2002 at the Business Park (paragraph 3.4). This overview also notes further development up to June 2013 comprised of two hotels and two phases of offices (paragraph 4.4).
- 6.10.72. Furthermore, land use plans provided by the Applicant [[REP6-014](#), response to OP.2.5] show the extent of land at EMA occupied by the Business Park, including fairly large buildings occupied by PwC / HSBC, Regus, National Grid, and Western Power Distribution. Given this, the Market Overview referred to above and the lack of evidence that any of the identified buildings on Pegasus Business Park are 'new' (ie were built post-2013), which could be evidenced via planning applications or historical data it seems reasonable to the ExA to consider that 19% of the total jobs at EMA in 2013 were related to non-airport uses. The ExA calculates that removing 19% of the 6,730 stated jobs would result in aviation jobs of some 5,451 for the site, and a ratio of 718 jobs per 1mppa or 100,000 tonnes of freight (using the same calculation as used in paragraph 4.2.1 of [[APP-085](#)] – $5451/(3.09+4.5)$).
- 6.10.73. With regards to the use of Prestwick as a comparator, the Applicant does not consider Prestwick to be relevant due to, in essence, its scale and location [[REP6-012](#), response to SE.2.4]. However, it is not entirely clear why it would not be a relevant comparator when considering that the role of a comparator in this context is for a ratio of jobs per 1mppa or 100,000 tonnes of freight, as opposed to a direct comparison in numbers. The use of a ratio would produce figures depending on the

forecast number of passenger numbers and tonnes of freight and so is scalable.

- 6.10.74. Therefore, in relation to direct jobs, **the ExA concludes and recommends that the numbers forecast by the Applicant are too high, when considering the likely actual number of direct aviation jobs at EMA and Prestwick. Actual direct jobs for the Proposed Development would be likely to be significantly lower than those forecast (to the order of around 20%).**
- 6.10.75. As outlined above, indirect / induced jobs have been calculated by the Applicant using a ratio of 1.8 from the direct jobs total. This figure is based on work carried out by Stansted and Luton airports. However, evidence from York Aviation [[REP8-031](#), Appendix 1] states that this ratio (although they state that it should actually be a ratio of 1.9) was used in the context of these airports for national purposes – that for every direct job the airport supports, another 1.9 are supported elsewhere in the UK economy, and that for Luton the multiplier for the counties surrounding Luton would be 0.7, with 0.4 for Bedfordshire alone. York Aviation is of the view that a similar ratio may be suitable for the Proposed Development – 0.7 for the Kent and the Thames Estuary and 0.4 for Thanet [[REP8-031](#), Appendix 1].
- 6.10.76. When questioned on the issue of the indirect / induced jobs ratio [[REP9-006](#), response to SE.4.4], the Applicant considers that it is important to consider where employees spend their wages, and that this would be close to the airport, thereby achieving induced benefits for Thanet. Research carried out by PwC for the AC is cited which states that for indirect and induced impacts a review of economic impact studies showed a broad range of multipliers to estimate the local indirect and induced impacts, with a multiplier of 1.45 being used for Edinburgh Airport and one of 2.9 at Copenhagen Airport, that the size of the multiplier is partly influenced by how broadly or narrowly the local area is defined, and that the attractiveness of the locality of an airport as a location for firms also affects the level of indirect and, to a lesser extent, the induced business activity.
- 6.10.77. The Applicant also states [[REP9-006](#)] that the PwC review shows that impacts are in the range of 1.45 to 2.9, making *“the use of 1.8 for Manston a conservative estimate of the potential”*, and noting that it is clear that the way in which ‘local’ is defined makes a big difference to the formula. However, they also consider that for a project of national significance, it seems *“logical to consider the totality of benefits to the UK, without nitpicking over the exact definition of ‘local’”*. The Applicant also notes the rich heritage of the county of Kent in aviation [[REP9-006](#), response to SE.4.4].
- 6.10.78. However, the Azimuth Report [[APP-085](#)] assumes that the benefit from the direct jobs that would be provided from the Proposed Development would accrue largely to Thanet and East Kent, that indirect / induced jobs would benefit the ‘wider Thames Estuary’ area and that catalytic job

benefits would benefit the UK, with perhaps a focus on the South East and London.

6.10.79. The use of differing ratios for differing areas would clearly have a bearing on the reported socio-economic effects of the Proposed Development.

6.10.80. **The ExA concludes and recommends that while the end result may be similar to the job forecast figures shown in Figure 4 above, these would be at a national level as opposed to a more local level, and consequently would not benefit Thanet and East Kent or the wider Thames Estuary to the same degree as stated in the Azimuth Report, and may provide more benefit to other areas with significantly different socio-economic baselines to the area surrounding the airport.**

6.10.81. **The ExA note the long history of Kent in aviation [[REP9-006](#), response to SE.4.4] but conclude and recommend that the evidenced figures provided by York Aviation from Luton Airport [[REP8-031](#)], would be more appropriate for calculating the indirect and induced jobs at varying geographical levels for the Proposed Development; that is at a national level of 1.9, for the wider Thames Estuary area at 0.7 and for Thanet and East Kent 0.4.**

6.10.82. As described above, a catalytic multiplier of four has been applied in the Azimuth Report [[APP-085](#)]. This is sourced from ICAO work dating from 2000. York Aviation states that:

"...multipliers are not normally used for estimating the catalytic employment impacts of an airport development project, which are more normally assessed by specifically considering the wider benefits to the economy from connectivity, usually by reference to reliable forecasts of business passenger numbers and freight expected at an individual airport..."

and that the ICAO multiplier is a global one [[REP8-031](#)].

6.10.83. Paragraph 4.3.7 of the Azimuth Report [[APP-085](#)] notes that the forecast for catalytic jobs comes with a number of caveats, namely that the figures are generated from European airports and may or may not be accurate in a UK setting and that the Proposed Development is seen as unique given the planning investment, the socio-economics of the area and considered capacity constraints at other South East airports. The Azimuth Report [[APP-085](#)] also states that:

"...the catalytic impact on jobs is perhaps the most difficult and controversial forecast to produce", that "catalytic impacts are more complex than the other categories of impact because they are so wide ranging", and that "accurately calculating catalytic impacts at airport level is a complex exercise", made more complex by the fact that the Proposed Development is not currently operational and therefore there is a lack of data to capture and from which to extrapolate.

- 6.10.84. **The ExA notes the complexity of calculating catalytic job figures for the Proposed Development, given the caveats within the Azimuth Report [APP-085] and the evidence of York Aviation [REP8-031]. Given this, the ICAO multiplier of four based on a global figure for existing airports is concluded and recommended by the ExA to be a rather blunt tool with which to calculate catalytic effects of the Proposed Development and consequently is prone to provide unreliable results. This limits the weight the ExA can give to the use of such figures.**

Displacement

- 6.10.85. The Applicant is of the view that the proposal would not displace jobs from other areas, as they will be meeting unmet demand rather than displacing existing business [REP3-195, response to SE.1.6]. It considers that any freight business which may relocate to Manston from other airports in the South East as a result of the Proposed Development would not be expected to suffer “*significant job losses from the transfer of freighter business since this would be replaced by passenger services*” [REP6-012, response to SE.2.9].

- 6.10.86. The Applicant’s answer to question SE.4.6 [REP9-006] clarifies this by stating that displacement does not accurately reflect the effect of the proposal, acknowledging that:

“...in the short term, there may be some redistribution of jobs from south east airports that may replace their existing freighter market with more passenger traffic”

and considering that aviation is growing rapidly and therefore any loss of freight related jobs will be replaced by other aviation-related jobs, and that as such the Proposed Development would result in an increase in jobs in the aviation industry rather than displacement.

- 6.10.87. York Aviation [REP6-053] states that there is no evidence for the Applicant’s assertion that jobs lost would be backfilled by other jobs, considering that demand for freight is currently being met by other airports and by trucking, and therefore there would be “*displacement from somewhere and certainly displacement at a national level*”. It notes [REP6-053] that the Northpoint Report [REP4-031] shows clawback of trucked activity of between 125,000 and 600,000 tonnes in Year 20.

- 6.10.88. York Aviation [REP9-129] also state that while it may be reasonable to not consider displacement effects if the impacts had only been assessed and scale to a local study area containing no other airport and few affected businesses, it is not correct given that the impacts have been assessed at least at a national scale.

- 6.10.89. An IP [Georgina Rooke, REP7-019] considers that the introduction of air cargo at the Proposed Development can only have implications for cargo operators in terms of job losses in other parts of the country and questions the net contribution to the UK economy of the Proposed Development.

6.10.90. NNF [[REP6-049](#)] consider that as the Applicant's seeks to attract cargo tonnage that is currently being trucked and business from operators at other UK airports that both such streams of activity and employment exist today. It states that a:

"...win for Manston is a loss for another UK airport or for a haulage company (some of which will be UK based) or for the sea or rail crossing at the Channel (with subsequent employment losses on both sides of the Channel)."

6.10.91. The Applicant states that there is unlikely to be any downturn in UK employment in trucking / logistics, as freight will need to be hauled between the airport and customers / businesses. It considers that, while the volume of cross-Channel traffic would potentially decrease, it is unlikely to result in job losses either in the UK or Europe as there are considerable shortages of licensed, qualified HGV drivers in the UK, noting the high average age and considering *"it is highly unlikely that any qualified and licensed drivers would suffer redundancy due to the re-opening of Manston Airport"*.

6.10.92. The ExA considers that the Applicant's view that the *"loss of freight related jobs will be replaced by other aviation jobs as other airports increase their passenger capabilities"* [[REP9-006](#)] is somewhat speculative. The loss of pure freight jobs at, for instance, Stansted, may in theory lead to more capacity for passenger operations but the nature of the jobs would be different and there was no evidence provided of the relative job density of freight and passenger operations. The loss of freight jobs at Heathrow from general freight migrating to the Proposed Development would be from bellyhold freight which would not be replaced by passenger operations. Furthermore, while noting evidence regarding the average age and shortage of HGV drivers, the movement of freight from cross-Channel trucking to flights would inevitably result in the loss of some jobs which currently carry out such trucking, as well as potentially at the Port of Dover or Channel Tunnel.

6.10.93. **The ExA therefore concludes and recommends that displacement effects of the Proposed Development would inevitably mean the loss of some jobs elsewhere in the UK, both at a regional and national level. These have not been examined in the same way by the Applicant as the benefits from the Proposed Development have been considered (for indirect and induced, and catalytic jobs).**

Number and type of jobs by airport operator

6.10.94. Figure 5 of the Azimuth Report [[APP-085](#)] details the numbers of jobs forecast to be created by the airport operator, with example figures of 116 in Year 1, rising to 761 in Year 10 and 1,024 in Year 20. These jobs would be spread across a range of functions, including passenger and freight services, ATC, rescue and firefighting, airport operations, maintenance and administration.

- 6.10.95. An IP [NNF, [REP6-049](#)] provides evidence that EMA employed 629 staff in 2018, noting that for the same year CAA data records EMA as handling 56,947 ATMs in 2018 of which 22,219 ATMs were cargo flights. They consider that “*crudely, this equates to 90.5 ATMs per employee, as compared to the Azimuth forecast of 25.8 ATMs per person (26,468÷1024)*”.
- 6.10.96. The Applicant justifies the difference in such figures as resulting from the fact that it proposes to provide its own handling services for and freight, and also due to the fact that as EMA is part of MAG, many manager roles for EMA and the wider MAG group will be located at the head office (in Manchester) and would not be counted in EMA statistics [[REP7a-002](#), response to SE.3.4].
- 6.10.97. **The ExA concludes and recommends that the airport operator jobs within the Azimuth Report [[APP-085](#)], based on the range of jobs they would be carrying out (including freight handling) and the example of EMA is justified.**

Mechanisation

- 6.10.98. A RR [[RR-1754](#)] considered that mechanisation of freight would reduce the potential impact of jobs created by the airport. The Applicant states that mechanisation is most prevalent in small package express freight sector where bar codes and tag technology allow automated processes and is becoming more prevalent in bellyhold and major cargo centres that handle such freight [[REP3-195](#), response to SE.1.3]. It notes that pure freighters have the greatest mix of freight including pallet-based and containerised freight so is least mechanised, and that the target for Manston will principally be freighters, although express freight will also be targeted. It also states that niche markets such as animals and oversized freight do not lend themselves easily to automation [[REP3-195](#)]
- 6.10.99. During the Examination it was confirmed that a modern e-commerce business (such as Amazon) is targeted for the integrator role at Manston, as opposed to any existing express freight integrator (such as DHL) [[REP6-012](#), response to SE.2.16]. The Applicant notes that processing facilities or fulfilment centres tend to be highly automated, with automatic sorting based on pre-coded packages, but an alternative approach is for containers/pallets of unsorted packages to be transferred direct from aircraft to truck and to a fulfilment centre for sorting, where the need for highly mechanised handling processes is likely to be less. It states that it is unclear which of these two modes of operation will be the predominant for new integrators [[REP6-012](#)].
- 6.10.100. The Applicant states that the Proposed Development will provide state of the air facilities in terms of digitalisation of the whole consignment chain to ensure tracking, insurance and invoices are handled electronically at each stage of the handling process from collection from the consignee to delivery to the customer, considering that this is likely to be particularly prized by the e-commerce market. An article is quoted in evidence

[[REP6-012](#), response to SE.2.16] which states that robots take tasks, not jobs.

6.10.101. In its written summary of its oral case put at ISH5 [[REP8-013](#)], the Applicant notes the difficulty in predicting the precise effects of automation into the future but considered that this would be an economy wide effect. It also considered that certain jobs are not easily automated, but that any automation will result in greater productivity and drive value, subsequently creating other opportunities.

6.10.102. **The ExA notes the inherent difficulties with predicting the effects of mechanisation for the Proposed Development, given the range and types of freight that are forecast to be dealt with, and therefore concludes and recommends that the Applicant's approach to mechanisation is justified.**

Construction jobs

6.10.103. The Azimuth Report [[APP-085](#)] states that the Applicant proposes to construct eight freight stands and three passenger stands prior to commencement of operations, as well as warehousing and fuel storage. Further construction works are anticipated for years 2 to 4, 4 to 10 and 11 to 17. The Applicant states that such jobs are not permanent and are therefore shown in the forecasts but considered separately [[APP-085](#), Section 5.4].

6.10.104. The Azimuth Report [[APP-085](#)] compared the project to similar size projects (in terms of turnover) and considered that the average number of workers on site at any time would be 210, with a peak of some 630, and a total on-site construction figure of between 600 and 700 jobs.

6.10.105. During the course of the Examination the proposed initial construction phase became squeezed but the Applicant considered that the extent of construction employment was estimated with reference to other developments of a similar scale and capital value, and via consultation with relevant experts, considering that unless the Proposed Development itself changes (ie gets larger or smaller) that there will not be a change in overall demand for construction work [[REP6-012](#), response to SE.2.1]. The Applicant would "*aspire to a target of 30% of construction jobs employed on the Project to be filled using local labour*", although notes that this would depend to the varying availability of local skills. The ExA notes in this respect the 'Local Hiring Policy' to be addressed as part of the overall employment skills plan under R20 of the dDCO, considered further below.

6.10.106. The reduction in time available for constructing the Proposed Development has, to a certain extent, been resolved by the purchase by the Applicant of much of the development site. **The ExA concludes and recommends that the construction jobs detailed within the Proposed Development are justified.**

Other direct jobs

- 6.10.107. The Applicant plans to seek and attract a MRO operator and an aircraft recycling operation to the Proposed Development. The Azimuth Report [[APP-085](#)] states that previous recycling operations on the site employed some 70 to 80 full-time staff, and provides evidence that states that around 14,000 aircraft are due to retire over the next 20 years, considering that around 10 per year could be recycled at Manston [[APP-085](#)].
- 6.10.108. The Applicant considers that the proposed MRO base would employ some 600 people, noting that it would be 25% larger than a similar facility at Prestwick which carries out MRO operations for Ryanair [[REP6-012](#), SE.2.7]. York Aviation provide evidence [[REP8-031](#)] that the Prestwick facility employed 400 jobs in July 2018. However, the Applicant states that this facility was designed to employ 550 people, thereby justifying the 600 job level at a 25% bigger operation [[REP9-006](#), response to SE.4.8]. Evidence was also produced [[REP8-013](#)] of a recycling operation in France which the Applicant would seek to emulate. York Aviation also notes that such jobs would not be addition to the jobs at Prestwick already considered in their overall numbers of jobs per 1mppa or 100,000 tonnes of freight (see above in consideration of direct jobs) [[REP8-031](#)]; that is to say that the Prestwick jobs fall within the overall direct jobs ratio at Prestwick of around 650 jobs per mppa or 100,000 tonnes of freight. The ExA notes this point and consider that 'other direct jobs' at the Proposed Development would fall within the overall direct jobs considered above, and would not likely be in addition to such figures.
- 6.10.109. **The ExA concludes and recommends that job figures for other direct jobs are justified, but note that such jobs would be likely to fall within the overall direct jobs ratio.**

Tourism

- 6.10.110. The Azimuth Report [[APP-085](#)] notes that Thanet has a long-established tourism sector, largely based on the three towns of Margate, Broadstairs, and Ramsgate. The report notes the number of hotels and bed and breakfasts in the local area and various visitor attractions including local beaches, the Ramsgate Royal Harbour, the Turner Gallery (Margate), Dreamland (Margate), the Margate Winter Gardens. It notes however that despite such attractions that the number of day visits to Thanet has fallen below that of other East Kent areas, including Canterbury, Shepway, Dover and Ashford, accounting for 6% of day visits to Kent in 2016, with 351,000 trips by UK based visitors and a further 143,000 by overseas visitors [[APP-085](#)].
- 6.10.111. The report [[APP-085](#)] finds that median earnings in Thanet in 2016 were £24,150, £4,063 less than the UK average, with lowest wages in the accommodation and food services sector. It quotes research from Sheffield Hallam University which found that Thanet lost 1,000 tourism jobs during the six years between 2006 and 2012, the second greatest decline in England and Wales, noting that 3,800 jobs were directly supported by tourism in the area. However, conversely, alternative

figures are quoted which state that there was a 23.3% increase in jobs in the sector between 2013 and 2015 [[APP-085](#)].

- 6.10.112. The Azimuth Report [[APP-085](#)] states that no examples could be found of a UK tourist economy that has been damaged by the introduction of an airport, and that a VisitBritain study from 2008 suggested that the capacity and quality of infrastructure, including airports, have significant impacts on the visitor economy. The report considers Southend, Bournemouth and Southampton as coastal resorts with airports.
- 6.10.113. For Southend the Azimuth Report [[APP-085](#)] notes the value of tourism at Southend to be £143m in 2008, a figure which had more than doubled by 2015 since the expansion of flights at Southend Airport to £307m, and nearly £400m once indirect and induced spending is included. The Azimuth Report [[APP-085](#)] contrast this latter figure with that of Thanet of £300m and consider that Thanet should follow the lead of Southend and leverage the benefits of being located close to an airport.
- 6.10.114. Southampton Airport handles around 2m ppa and its masterplan details the role the airport plays in facilitating the tourism, retail and leisure areas of the local economy. The Azimuth Report quotes the Chief Executive of Portsmouth City Council as saying that Southampton Airport is a major asset to the city and region, playing a key role for business and tourism [[APP-085](#)].
- 6.10.115. The Azimuth Report [[APP-085](#)] notes that Bournemouth Airport handles around 37,000 movements a year and is supported by the local council and local Accommodation and Hotel Association. The Applicant also notes that Bournemouth is the biggest destination for foreign language students outside greater London, a sector which is also important in Thanet.
- 6.10.116. It is reported [[APP-085](#)] that language schools contributed £33.6m to the Thanet economy in 2013, supporting 906 jobs [[APP-085](#)], and also noted that the St. Augustine's Divine Retreat in Ramsgate attracts considerable numbers of staying visitors (around 150 per week) but that the closure of Manston has had an adverse effect on them and they are looking to relocate due to the loss of the airport.
- 6.10.117. In support of this view an IP [John Pritchard, [REP3-150](#)] provides extensive details of the Divine Retreat stating that the retreat is a:
- "...very well-resourced religious order that has exceptionally strong support from the Vatican at the highest levels and which has a business plan that even when they arrived involved transit of 2,000 visitors into and out of Thanet each week within months, and which delivered those numbers on early conferences, but they have struggled due to the closure of the airport and now limp along with just 150 of so visitors per week. They also hoped originally that their number of visitors could grow to about 5,000 per week."*
- 6.10.118. Mr Pritchard also points to the role of Canterbury Cathedral, the local language schools [[REP3-150](#)] and various other special events in the

area which attract tourists, and could grow, in the opinion of Mr Pritchard, if the airport was re-opened [[REP4-104](#)].

- 6.10.119. The Azimuth Report [[APP-085](#)] notes that, while less than 30% of visitors to Thanet were from outside the UK, they accounted for over half of the overnight stays and nearly 56% of value, and that the Proposed Development would support growth in this sector of the economy. In conclusion the Applicant considers that it is hard to substantiate the argument that tourism in Thanet would be negatively affected by the reopening of Manston Airport and that the opposite effect may result. They consider it is vital for Thanet to maintain a balanced economy, leveraging the benefits that can be derived from a successful airport, and noting that diversifying the economy and removing the heavy reliance on low paid low skilled work in tourism would have substantial benefits for local people, ensuring that the economy is vibrant and that all sectors have a sustainable future [[APP-085](#)].
- 6.10.120. As noted above, TDC in its LIR considers [[REP3-010](#)] that there are likely to be impacts on tourism at the operational stage which will affect local amenity, businesses, the destination and the experience of visitors, stating that given that tourism is a significant aspect to the local economy in Thanet, it is important that tourists are not deterred from visiting the area both during construction and the operational stages of the Proposed Development. It states that there are likely to be disruptions to local communities and amenity impacts on tourism during operation of the airport. All indicative flight paths would travel over Ramsgate, and multiple flights during the day could adversely affect local business, inward investment, the expanding film industry and a successful tourism sector.
- 6.10.121. Further on in the Examination, TDC confirmed its view that:
- "...whilst the proposed development may bring further tourists to the area, the amenity impacts from the construction and operation of the proposed development may adversely affect the tourism industry in Ramsgate and the wider Thanet area and weigh against any proposed benefit."* [[REP9-027](#)]
- 6.10.122. Tourism is raised as an issue by various IPs [including [REP5-075](#), [REP11-036](#)]. The Ramsgate Society [[REP3-017](#)] consider that people would not wish to take holidays under the flight path of a cargo airport, considering that many of Ramsgate's beaches, cafes, hotels and visitor attractions would become intolerable and unattractive to visitors, with Ramsgate losing tourist visitors, the money that they spend in the local economy and the jobs that they support, and that this should be set against any employment gains of the proposal. An IP notes [Five10Twelve, [REP4-052](#)] that tourism has grown by 36% since the airport shut, equating this with the closure of airport, and noting the importance of the 7,950 jobs and £319 million that tourism brings to the local economy. They also dispute that employees of the airport would likely lead to increased demand for tourism facilities and associated spending in the locality, as is stated in the ES [[APP-034](#)].

- 6.10.123. An online survey was created and distributed by an IP [Five10Twelve, [REP7-009](#)] with the intention of "*capturing views and concerns from local businesses regarding perceived impacts*" of the Proposed Development. 29 businesses responded, of which 39% stated that they would relocate were the Proposed Develop
- 6.10.124. ment be permitted. Comments in the survey related to the perceived effect of the Proposed Development on tourism in Ramsgate.
- 6.10.125. Issues surrounding the tourism deficit are also raised, with some IPs [[REP3-243](#), [REP3-292](#), [REP3-294](#), [REP3-295](#)] considering that cheap airfares and charter flights may have had adverse effects on UK coastal towns, contributing towards deprivation and neglect, which Thanet now shows positive signs of emerging from.
- 6.10.126. An IP states [Dr John Pritchard, [REP4-104](#)] that it considers the main centre of gravity in Thanet to be Margate and Broadstairs, and that the airport will bring considerable benefits without any detriments to such area, as well as other areas such as Canterbury, Herne Bay, Whitstable, Sandwich and Deal, considering that objectors conflate the Ramsgate tourist economy with that of the whole of Thanet. They also consider that TDC should take into account such benefits to the wider area more than they have done and consider that the business rates that would be accrued from the Proposed Development would assist in providing public services to assist tourism.
- 6.10.127. The ES [[APP-034](#), paragraph 13.8.77] notes that Thanet has approximately 3.1 million visitors annually, of which 75% are day visitors, meaning that the remaining 775,000 individuals are overnight stay visitors, and states [[APP-034](#), paragraph 3.8.78] that anticipated passenger numbers associated with the operation of the Proposed Development are 1,407,753 by Year 20. The ES states that "*By Year 20, this additional influx of people, if assumed to all be overnight stays, results in a net increase of 81.6% compared to current annual tourist visitors to Thanet*", and that "*if 75% of visitors are day visitors, one can assume that the remaining 25% are overnight stays*", and "*if the remaining 25% of visitors in Year 20 (351,938 individuals) are overnight stays, there is potential for a net increase of approximately 45.4%*".
- 6.10.128. York Aviation [[REP4-065](#)] notes that this calculation appears to be based on the assumption that 25% of 1.4 million passengers will stay overnight in the local area. It notes that it is important to note that 1.4 mppa passengers is only 700,000 people making an outward and a return journey, and that based on the route network proposed. York Aviation are of the view that no more than a quarter of those suggested by the Applicant would constitute overnight stays on the most optimistic basis that all of those passengers remained in the local area.
- 6.10.129. The Applicant acknowledges [[REP6-012](#), response to SE.2.12] that not all passengers using the Proposed Development will stay overnight, but that some would, considering that it would "*be fair to assume that both inbound and outbound passengers will derive from a 'local' catchment*

area", considering that Southend Airport is a viable comparator for Manston Airport in terms of the passenger market. It notes that Southend has shown there is sufficient demand to attract a number of hotels to the airport vicinity.

- 6.10.130. In answer to question SE.3.10 [REP7a-002] the Applicant states that from using CAA passenger survey data for Luton Airport a similar passenger profile for the Proposed Development would result in 25% of passenger numbers being inbound tourists and a further 4% being inbound overseas nationals doing business in the UK. At ISH5 the Applicant stated that it considered tourism figures derived, in part, from Gatwick, Stansted or Luton Airports were more appropriate as comparators for local tourism than Cardiff or Doncaster-Sheffield due to the proximity of London.
- 6.10.131. York Aviation [REP8-031] notes that data for airports such as Gatwick, Stansted and Luton is not generally representative at all for the Proposed Development considering the size of such airports and further note that when considering the scope for airports to support tourism within the local economy, it is important to note the role that airports such as Luton play in serving London. It states that:
- "...when you strip out the passengers travelling further afield from these airports, principally to London, and those visiting friends and relatives, for which tourism spending will be significantly lower, the actual proportions of passengers at these airports that are foreign visitors staying locally (including those staying the night before flying) is 1% at Gatwick, 1.5% at Luton and 0.5% at Stansted)."*
- 6.10.132. York Aviation further notes that Southend is being surveyed by the CAA in 2019; the 1st quarter results are shown in its evidence. This details that 0.8% of total passengers were foreign and stayed locally (excluding those who staying with friends and relatives) [REP8-031].
- 6.10.133. In answer to question SE.4.10 [REP9-006], the Applicant acknowledges that the *"majority of passengers, particularly in the short term, are likely to be destined for London or areas outside Thanet, East Kent and even Kent"* but considers that the wide range of local attractions will need to market themselves to capture economic benefits for the area, citing Southend as an example of where this has happened. It also states that Gatwick, Luton and Stansted *"are not known for their visitor attractions"*.
- 6.10.134. The Applicant considers that [REP9-006], if the figures for Southend are correct (which they consider are unqualified by York Aviation), that 0.8% of passengers arriving at Southend Airport are foreign visitors staying locally, noting that Southend Airport handled 1.571 million passengers in the period May 2018 to April 2019 and so 0.8% of this figure would mean that around 12,500 foreign nationals stay 'locally'. It notes that, for Thanet, if 0.8% of one million passengers (Year 10 forecast) stayed overnight, this would still add considerably to the Thanet economy.

- 6.10.135. The Applicant considers [[REP6-012](#), response to SE.2.12] that smaller airports with easy access and short walking distances to and within the terminal tend to attract older or less mobile passenger who travel further and are therefore more likely to stay over before or after leaving or arriving at the airport. The Applicant states [[REP7a-002](#), response to SE.3.7] that studies show that elderly people encounter difficulties during all stages of flight especially with long distance walking, waiting, way finding and boarding to remote aircraft, and that research has found that beyond the age of 60 people begin to lose functions which can make airport terminals more challenging, but that increased disposable income makes for a higher appetite for travel.
- 6.10.136. In answer to question SE.4.11 [[REP9-006](#)] the Applicant acknowledged that passengers are legally entitled to assistance when travelling by air but considered that larger airports still present greater challenges to older passengers. An IP also contributed to this debate, providing evidence of difficulties faced by older passengers in air travel [Lab-Tools Ltd, [REP4-059](#)].
- 6.10.137. Above it is noted the Applicant's view [[APP-085](#)] that no examples could be found of a UK tourist economy that has been damaged by the introduction of an airport, referring to Southend, Bournemouth and Southampton as coastal resorts with airports, and the view of some IPs that the Proposed Development would have an adverse effect on tourism in Ramsgate [including [REP3-017](#)]. The Applicant elaborated on its view in answer to question SE.3.9 [[REP7a-002](#)] where it notes that Southend airport is 1.8miles from the centre of Southend and not dissimilar to Manston.
- 6.10.138. The Applicant also considers [[REP7a-002](#)] that it is reasonable to assume that Bournemouth and Southampton airports have a balance / trade-off between noise effects and economic effects considering that while there may be some adverse effects, parallels are drawn to show that airports can coexist with areas reliant on thriving tourism industries, and the overall effect of increased visitor numbers brought by the Proposed Development is expected to outweigh any negative effects.
- 6.10.139. At ISH5 the example of Newquay (Cornwall) was also raised by the Applicant; question SE.4.13 [[REP9-006](#)] requested further details on this airport. However, in answer to this question the area of Newquay that is overflowed by the airport (Watergate Bay) is not the main town centre area and is primarily a beach.
- 6.10.140. The ExA is persuaded by the view of TDC that while the Proposed Development may bring further tourists to the wider area, the amenity impacts from the construction and operation of the Proposed Development would adversely affect the tourism industry in Ramsgate. This evidence is supported by various IPs represented during the Examination, including local business owners. Examples of other UK coastal airports did not provide examples of airports which with runways which were so closely located and orientated towards a coastal resort such as would be the case with the Proposed Development. Estimates of

overnight stays (initially of nearly 1,000 visitors per night) that would be brought in by the Proposed Development are over-ambitious and were later qualified during the Examination.

- 6.10.141. The ExA is unconvinced that the Proposed Development would attract significant numbers of older passengers, given other airports reasonably nearby and considers that price (of flights and surface access) will still be the key determinant for this sector of the market.
- 6.10.142. **Therefore, the ExA concludes and recommends that the Proposed Development would have an adverse effect on tourism in Ramsgate.**

Education, training and skills

- 6.10.143. The Azimuth Report outlines that one of the key challenges outlined in the Thanet Economic Growth Strategy (TDC, 2016) [[APP-085](#)] is the need to invest in workforce skills. The strategy also identifies that the working age population in Thanet is less well qualified than across Kent and the South East as a whole, noting that 10% of the population (aged 16 to 64) have no qualifications. The strategy outlines a vision to improve workforce skills so that productivity, employment rates and wages grow in line with those of Kent generally.
- 6.10.144. The Applicant notes [[APP-085](#)] the presence of the University of Kent and Canterbury Christ Church University, estimated by CCC to have an economic impact of over £1.1bn per annum, as well as other providers of further and higher education in such as East Kent College and Canterbury College. Canterbury Christ Church University has a campus in Thanet (Broadstairs) but this is closing. The report notes that whilst Thanet students do well at A level, they are less likely than students from Kent to go on to higher education.
- 6.10.145. The Azimuth Report considers that [[APP-085](#)] should Manston Airport reach the levels of traffic forecast that they could raise the aspirations of local people, which is key to addressing low participation levels in higher education, and that a better educated workforce will help to realise the full economic and social potential of East Kent and the wider Thames Estuary area. The Applicant states [[APP-085](#)] that it has been in discussions with East Kent College (incorporating Christchurch College), who would like to see a firm commitment to the development of skills and authentic collaboration with education providers and believe that that there are a range of opportunities for the college's curriculum within the Proposed Development, from hospitality and catering to engineering and construction. Discussions have also taken place with Canterbury Christ Church University [[APP-085](#)], which has received funding for a Kent and Medway Engineering, Design, Growth, and Enterprise (EDGE) Hub, which is expected to train 1,250 graduates with higher level engineering and technology skills.
- 6.10.146. The Applicant also notes [[APP-085](#)] the presence of the two museums at Manston Airport; the RAF Manston History Museum and the Spitfire and Hurricane Memorial Museum. It reports that the latter has been affected

by the closure of the former airport but have been in discussions with a specialist company over restoring a Spitfire to flying conditions, which could provide training and employment opportunities for staff members.

- 6.10.147. The Applicant proposes a Manston Airport training facility on or near the airport [APP-085] to allow the airport to work with higher and further education providers and link to other STEM initiatives. It notes that previous owners of the airport developed and funded a successful BSc Business Studies with Airport Operations degree at Canterbury Christ Church and that this effectively acted as a pilot for a dedicated Manston facility. The ExA notes that such a facility is not provided for within the Proposed Development, so while the proposal is noted this does not add weight to the proposal.
- 6.10.148. TDC notes in its LIR [REP3-010] that there should be a provision of on-site education / training facility with links to local providers, with the potential for local employment and training during construction and operational phases which should be secured via appropriate obligations where possible. It is expected by TDC [REP3-010] that a s106 Agreement would be required in order to secure the benefits relating to training opportunities and local recruitment that has a direct benefit on the employment and the employability of the workforce in Thanet.
- 6.10.149. An employment and skills group with local education providers and authorities was discussed at ISH5 [EV-020] and a s106 UU in favour of TDC, dated 9 July 2019 [AS-584], provides for an education and training contribution of £250,000 and subsequent annual payments of £50,000 for 20 years to be paid towards requirements set out in the Education, Employment and Skills Plan. This requirement, proposed by the ExA, was welcomed by TDC [REP6-058]. This plan would be secured under the rdDCO as R20 and would cover matters such as a local hiring policy, an education and skills policy, a workplace training policy, the provision of a local employment training partnership board and process for reporting and review of the plan. The initial payment would be made prior to the "coming into operation of the project", where operation means commencement of air transport movements at the airport.
- 6.10.150. The ExA does however note that the UU referred to above [AS-584] provides for in the Education, Employment and Skills Plan (Schedule 3) provision a process under which the contents of the plan is continually reviewed against relevant best practice and any consequent changes are submitted for approval by the SoS. Chapter 10 of this report, under the sub-heading 'Responsibility and procedure for discharging Requirements' concludes that TDC should be the discharging body for R20 of the rdDCO, relating to the Education, Employment and Skills Plan.
- 6.10.151. **The ExA concludes and recommends that the Education, Employment and Skills Plan and the provisions therein would provide a significant benefit from the Proposed Development.**
- 6.10.152. Further, **the ExA concludes and recommends that the SoS should consult the Applicant on the UU submitted in favour of TDC [AS-**

[584](#)] with a view to obtaining a new UU correctly identifying TDC in Schedule 3.

ExA's conclusions

Employment

- 6.10.153. The ExA considers based on the evidence provided, that a ratio lower than that used in the Azimuth Report (887 jobs per 1mppa or 100,000 tonnes of freight) should be applied to calculations of direct job figures. Removing the non-aviation jobs from EMA results in a ratio of some 718 jobs per 1mppa or 100,000 tonnes of freight and Prestwick figures from York Aviation uses a ratio of 650 jobs. Given the Proposed Development's aim for MRO and ancillary businesses on the NGA which may not have the same market at Prestwick's location it would seem reasonable to the ExA to adopt the EMA aviation figure. Using such a ratio would result in direct jobs at the airport around 19% lower than forecast in the Azimuth Report.
- 6.10.154. With regards to indirect / induced job figures, the job creation numbers of the proposal as outlined in Table 4 of the Azimuth Report would be more likely to benefit the wider UK, as opposed to the wider Thames Estuary area. Numbers which would benefit this area or more locally (Thanet and East Kent) would be considerably less. It is not 'nitpicking' [[REP9-006](#), response to SE.4.4] to consider where such benefits might accrue if they result in areas away from where the socio-economic assessment seeks to benefit and ascribe such benefits to. With reference to the comments of TDC in their LIR, while it would appear to the ExA that, notwithstanding the ExA's conclusions above concerning direct jobs, the predicted indirect and induced jobs arising from the Proposed Development may be realistic, achievable and robustly assessed, this would be for the national level and not for Thanet, East Kent, or the wider Thames Estuary area.
- 6.10.155. The ExA considers that the catalytic job numbers calculation uses a crude multiplier. An assessment of individual business benefits and their implication for Thanet / East Kent / Kent would be more useful than a multiplier used by ICAO at a global level. The multiplier arrived at has, in the ExA's opinion, too many caveats to be more than broadly useful, and while it may provide some assessment of potential, without further study and consideration it is not possible to ascertain whether such benefits could be realised at the local level.
- 6.10.156. To summarise therefore, the ExA has significant doubts over the calculation of the direct, indirect / induced, and catalytic job numbers contained within the Azimuth Report. Such doubts arise from both the calculation of the individual figures themselves, and the fact that due to doubts over the direct job figures that the subsequent calculation of the indirect / induced and catalytic job figures derive from these initial direct job figures. The direct job levels are likely to be lower than those shown in the Azimuth Report, in turn leading to lower indirect / induced and catalytic jobs. Furthermore, the ratios used for the calculation of indirect

/ induced and catalytic are also in doubt and are poorly defined for the study area.

- 6.10.157. The displacement effects of the Proposed Development would inevitably mean the loss of some jobs elsewhere in the UK, both at a regional and national level. These have not been examined in the same way by the Applicant as the benefits from the Proposed Development have been considered (for indirect and induced, and catalytic jobs). Such an assessment should have been carried out within the socio-economic assessment.
- 6.10.158. The calculation of airport operator jobs within the Azimuth Report, based on the range of jobs they would be carrying out (including freight handling) and the example of EMA, is justified, and the Applicant's approach to mechanisation and calculation of construction jobs is also justified; as are job figures for other direct jobs. It should be noted however that the job figures for the airport operator and other direct jobs are included within the overall conclusions regarding direct jobs above.
- 6.10.159. The Proposed Development would comply with Policy SP02 of the eLP in that the proposal would contribute to additional jobs in Thanet, although as discussed above, the ExA do not consider that the jobs created would be to the same extent as forecast by the Applicant.

Tourism

- 6.10.160. The ExA concludes that while the Proposed Development may bring further tourists to the wider area, the amenity impacts from the construction and operation of the Proposed Development would adversely affect the tourism industry in Ramsgate. Examples of other UK coastal airports did not provide examples of airports with runways which were so closely located and orientated towards a coastal resort such as would be the case with the Proposed Development. Estimates of overnight stays (initially of nearly 1,000 visitors per night) that would be brought in by the Proposed Development are over-ambitious and were later qualified during the Examination.
- 6.10.161. The ExA is unconvinced that the Proposed Development would attract significant numbers of older passengers and considers that the overall tourism benefits of the Proposed Development have been overstated.
- 6.10.162. The argument that the airport may bring tourism benefits to other parts of Thanet and East Kent and that this in some way mitigates any adverse effect on Ramsgate is likely to be of little comfort to the residents and tourist business holders of Ramsgate. However, given the above, overall the Proposed Development would comply with Policy SP02 of the eLP in that the proposal would increase the attraction of tourists to the area.

Education, training and skills

- 6.10.163. The ExA considers that the project has the potential to have a significant positive impact in terms of education, training and skills for Thanet and the wider East Kent area due to the contribution secured by the UU of an

initial £250,000 and further 20 annual payments of £50,000 (a total undertaking of £1.25m) and ensure that the required education, employment and skills plan is properly enacted and implemented. A missed opportunity arises from the fact that the initial payment is not required until prior to air transport movements occurring at the airport, meaning that provisions for local employment and training during construction may be missed.

Summary

- 6.10.164. The ExA considers that the socio-economic benefits of the Proposed Development have been overstated, and that the Proposed Development would have an adverse effect on tourism in Ramsgate. The education, training and skills commitments would benefit Thanet and East Kent. When taken together the ExA considers that the Proposed Development would still generate a socio-economic benefit to Thanet and East Kent, but such benefits are substantially lower than that forecast by the Applicant. Such benefits are also dependent on the need for the Proposed Development; without the need and the forecasts based on this need, socio-economic benefits (aside from the education, training and skills commitments) would reduce further. The socio-economic benefits of the Proposed Development weigh in favour of the scheme.

6.11. TRAFFIC AND TRANSPORT

- 6.11.1. The site, as set out in the Location Plan [[APP-015](#)], is bound to the north by the B2050 Manston Road and B2190 Spitfire Way, to the west by Minster Road and to the south by the A299 and Canterbury Road West. The NGA is bound to the south by the B2050 Manston Road, the east by Manston Court Road and west by Manston Road. The A299 is the main access route to the south of Thanet including access to the M2, Ramsgate, Broadstairs and Westwood.

Issues

- 6.11.2. A range of issues arose during the Examination from the RRs; WRs; LIRs; drafting of and responses to ExQ1, ExQ2, ExQ3, ExQ4, ExQ5; and at ISHs and OFHs. Whilst Highways England and KCC both played an active part in the Examination, the Applicant did not agree a SoCG with either party.

Strategic Road Network

- 6.11.3. In terms of the SRN, the ExA and Highways England¹³⁰ raised several matters:
- The trip generation assumptions associated with the SRN, specifically related to B8 Warehousing Trip Generation of the NGA;

¹³⁰ [[RR-0673](#), [REP3-201](#), [REP6-041](#), [REP7a-031](#) and [REP9-021](#)]

- the need or otherwise for the assessment of the impact of the Proposed Development on the A2 / A258 'Duke of York' roundabout at Dover;
- the impact on the A2 / A256 (Whitfield Roundabout); and
- the impact of the Proposed Development on M2 Junction 7 (Brenley Corner).

6.11.4. CCC in its LIR [[REP3-246](#)] also set out a concern with regard to the impact of the Proposed Development on M2 Junction 7 (Brenley Corner). Further, Jeremy Baker [[REP3-152](#) and [REP8-074](#)] raised particular issues with regard to impacts on the SRN, namely on the M2 and the assumptions made in terms of passenger vehicle trip distribution.

Local Road Network

6.11.5. In relation to the Local Road Network (LRN), the ExA, KCC¹³¹, TDC¹³², CCC [[REP3-246](#)], SHP [[AS-131](#), [REP5-029](#)] and several other IPs have raised numerous issues with regard to the LRN. Given the requirements of s105(2)(a) of the PA2008, it should be noted that the issues summarised below draw on all submitted LIRs, as far as they relate to traffic and transport:

- Whether the original and revised assessment of effects and its conclusions for transport in the ES are robust.
- The robustness of the original TA¹³³ in terms of its spreadsheet-based model and methodology.
- The robustness of the trip generation and distribution assumptions set out in the original TA.
- The adequacy of the sensitivity test undertaken in the original TA, in terms of cumulative projects.
- The robustness of the revised TA¹³⁴.
- The potential for clustering of HGV vehicles around flight times.
- The extent of the study area.
- The need for passenger flight restrictions in the dDCO.
- Whether there is a need to limit the tonnage of freight handled at the airport.
- Whether mitigation schemes are required at junctions 8, 20, 21 (A and B), 25, 26, 27; Spitfire Way / Alland Grange Road; A256 / Ramsgate Road / Copart Access; A256 / Monk's Way; and A256 / Ash Road / A257 as a result of the Proposed Development, all of which are in the wider LRN outside of the Order Limits.
- The appropriateness of the site accesses and mitigation schemes at junctions 1, 2, 4, 6, 7, 10, 12, 13, 15, 16 and 17; all of which (with the exception of Junction 12) are in the wider LRN outside of the Order Limits.

¹³¹ [[REP3-137](#), [REP3-138](#), [REP3-139](#), [REP3-143](#), [REP6-046](#), [REP7a-034](#), [REP8-027](#), [REP9-024](#), [REP11-017](#), [REP11-018](#) and [REP11-019](#)]

¹³² [[REP3-010](#), [REP3-018](#), [REP6-058](#) and [REP9-026](#)]

¹³³ As covered later in this section, the original TA [[APP-060 to APP-073](#)] was submitted alongside the application

¹³⁴ As covered later in this section, the revised TA [[REP5-021](#)] was submitted at D5

- Whether the junction improvement works represent Permitted Development.
- Whether the ES should assess the impacts of off-site junction improvement works.
- The robustness of Stage 1 Road Safety Audits (RSA) for the junction mitigation schemes and new site accesses.
- Whether the mitigation schemes for junctions 1, 10 and 15 should have been subject to a Stage 1 RSA.
- The approach to securing necessary off-site junction mitigation and whether this is Community Infrastructure Levy (CIL) Regulation 122 compliant.
- The appropriateness of making financial contributions to KCC to undertake the junction mitigation schemes.
- Whether a financial contribution towards the emerging Inner Circuit Route Improvement Strategy (ICRIS) (as part of the draft Thanet Transport Strategy) is necessary.
- The level of financial contribution required for each junction mitigation schemes.
- The timing of delivery of each junction mitigation scheme.
- The approach taken to the Manston-Haine link road and whether the Proposed Development would conflict with the draft Thanet Transport Strategy and draft Strategic Routes Policy SP47 of the eLP;
- The locations of emergency accesses.
- The impact of construction traffic and the adequacy of the Preliminary Construction Traffic Management Plan (CTMP).
- The adequacy of the Preliminary Framework Travel Plan (FTP); Car Park Management Strategy; Airport Surface Access Strategy (ASAS); FMS; and REAC; and whether these are suitably secured in the dDCO.

Other related matters

6.11.6. In relation to other related matters, over the course of the Examination the ExA, KCC¹³⁵ and TDC¹³⁶ (including within their LIRs) raised the following issues:

- Whether the Proposed Development provides suitable off-site infrastructure, including bus services, to promote sustainable modes of transport for future users of the airport and its staff;
- matters associated with the proposed Thanet Parkway Rail Station; and
- the impact on PRoW.

Policy

ANPS

6.11.7. The ANPS provides the primary basis for decision making on development consent for a Northwest Runway at Heathrow Airport and is an important consideration with regard to other applications for runways

¹³⁵ [[REP3-137](#), [REP3-138](#), [REP3-139](#), [REP3-143](#), [REP6-046](#), [REP7a-034](#), [REP8-027](#), [REP9-024](#), [REP11-017](#), [REP11-018](#) and [REP11-019](#)]

¹³⁶ [[REP3-010](#), [REP3-018](#), [REP6-058](#) and [REP9-026](#)]

and airport infrastructure in London and the South East (ANPS, paragraph 1.12). Surface access matters associated with airport expansion are assessed in general at paragraphs 5.5 to 5.20. Decision making considerations are set out in paragraphs 5.21 to 5.22.

NPSNN

6.11.8. This sets out the need for and the Government's policies to deliver, development of NSIPs on the national road and rail networks in England. It provides planning guidance for promoters of NSIPs on the road and rail networks, and the basis for the examination by the ExA and decisions by the Secretary of State.

6.11.9. The ExA considers it to be of limited relevance to the Proposed Development and it did not form any notable part of discussions during the Examination. However, as the Proposed Development has the potential to impact on the SRN, the NPSNN has been considered.

NPPF and PPG

6.11.10. The NPPF identifies at paragraph 108 that when considering development proposals:

"...it should be ensured that a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree".

6.11.11. The NPPF goes on to set out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (NPPF, paragraph 109).

6.11.12. Paragraph 110 requires that new developments should:

- Give priority first to pedestrian and cycle movements;
- encourage public transport;
- address the needs of people with disabilities and reduced mobility;
- create places that are safe, secure and attractive;
- allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.11.13. Paragraph 111 states:

"All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed".

- 6.11.14. The ExA considers that the NPPF is important and relevant.
- 6.11.15. Guidance of Travel Plans, TAs and Transport Statements is provided in paragraphs 001 to 015. In particular, the overarching principles are set out at paragraphs 001 to 008. Guidance when a Travel Plan is required, its scope, information and monitoring is provided at paragraphs 009 to 012. In a similar manner guidance on when a TA or Transport Statement is required, its scope and information is set out in paragraphs 013 to 015.
- 6.11.16. The PPG at paragraph 005 (Reference ID: 42-005-20140306) states:
"The Transport Assessment or Transport Statement may propose mitigation measures where these are necessary to avoid unacceptable or "severe" impacts. Travel Plans can play an effective role in taking forward those mitigation measures which relate to on - going occupation and operation of the development".

- 6.11.17. The ExA considers that the PPG is important and relevant.

Thanet Local Plan 2006 'Saved' Policies [[REP3-010](#) and [REP3-143](#)]

- 6.11.18. Policy EC2 - Kent International Airport:
"Proposals that would support the development, expansion and diversification of Kent International Airport will only be permitted subject to the following requirements: [...]
7) any new development which would generate significant surface traffic must meet requirements for surface travel demand in compliance with Policy EC3".

- 6.11.19. Policy TR3 - Provision of Transport Infrastructure:
"The District and County Councils will ensure, by means of a transport infrastructure that is necessary and relevant to the development to be permitted. Proposals for transport infrastructure will be assessed in terms of their impact on capacity and safety of the transport network together with their social and economic impacts".

- 6.11.20. Policy TR12 – Cycling:
"In order to promote increased use of cycling:
a) the council will seek the provision at the earliest opportunity, of a network of cycle routes. planning permission will not be granted for any development, which would prejudice the implementation of proposed cycle routes;
b) the council will seek the incorporation of facilities for cyclists into the design of new and improved roads, junction improvements and traffic management proposals;

c) substantial development generating travel demand will be required to provide convenient and secure cycle-parking and changing facilities. Proposals to provide such facilities as part of development proposals in town centres and at transport interchanges, schools and places of employment will be permitted; and

d) in new residential development facilities for the secure parking and storage of cycles should be provided or, in exceptional circumstances where not provided, the design should facilitate the provision in future”.

6.11.21. Policy TR15 - Green Travel Plans:

“Development proposals likely to generate significant travel demand and/or traffic movement will be required to demonstrate, through green travel plans, specific measures to encourage and facilitate use of walking, cycling and public transport in preference to private car travel. The council will seek to approve measures, which will assist implementation of green travel plans and school travel plans”.

6.11.22. Policy TR16 - Car Parking Provision:

“a) proposals for development will be required to make satisfactory provision for the parking of vehicles (including, where appropriate, service vehicles). Proposals seeking car parking provision above the standards set out in Appendix G will not be permitted. In conservation areas where provision of parking in line with this policy would be detrimental to the character of the conservation area or have an adverse effect on the setting of a listed building or ancient monument then exceptions may be made”.

6.11.23. The ExA considers that the saved policies of the LP are important and relevant.

Emerging Draft Thanet Local Plan to 2031 Policies (eLP) [[REP3-010](#) and [REP3-143](#)]

6.11.24. Policy SP41 - Safe and Sustainable Travel:

“The Council will work with developers, transport service providers, and the local community to manage travel demand, by promoting and facilitating walking, cycling and use of public transport as safe and convenient means of transport. Development applications will be expected to take account of the need to promote safe and sustainable travel. New developments must provide safe and attractive cycling and walking opportunities to reduce the need to travel by car”.

6.11.25. Policy SP42 - Accessible locations:

“Development generating a significant number of trips will be expected to be located where a range of services are or will be conveniently accessible on foot, by cycle or public transport. The Council will seek to approve proposals to cluster or co-locate services at centres accessible to local communities by public transport and on foot”.

6.11.26. Policy SP43 - Transport Infrastructure:

"Development proposals will be assessed in terms of the type and level of travel demand likely to be generated. Development will be permitted only at such time as proper provision is made to ensure delivery of relevant transport infrastructure. Where appropriate, development will be expected to contribute to the provision, extension or improvement, of walking and cycling routes and facilities and to highway improvements.

Subject to individual assessments, schemes maybe required to provide or contribute to:

- *Capacity improvements/connections to the cycle network*
- *Provision of pedestrian links with public transport routes/interchanges*
- *Improvements to passenger waiting facilities*
- *Facilities for display of approach time information at bus stops along identified quality bus corridors*
- *Improvement and expansion of public transport services*
- *Improvements to the road network in line with schemes identified through the Transport Strategy".*

6.11.27. Policy SP47 - Strategic Routes:

"The following areas, as shown on the Policies Map, are safeguarded for the provision of key road schemes and junction improvements, to support the implementation of the Thanet Transport Strategy, including land at:

- *B2050 Manston Road, Birchington*
- *Shottendane Road-Manston Road housing site*
- *Nash Road-Manston Road housing site*
- *Manston Court Road/Star Lane (from Haine Road, Westwood to B2050 Manston Road)*
- *B2050 Manston Road (from Manston Court Road to Spitfire Junction)*
- *B2190 Spitfire Way (from Spitfire Junction to Columbus Avenue junction)*
- *From Columbus Way to Manston Road, Birchington".*

6.11.28. The ExA is mindful that the eLP is currently being examined and whilst it is at an advanced stage of production, the above policies could be subject to change. Nonetheless, the ExA considers the policies important and relevant.

Local Transport Plan 4 (LTP4): Delivering Growth without Gridlock 2016-2031

6.11.29. LTP4 was prepared by KCC and runs from 2016 to 2031. LTP4 includes details on how KCC will meet its ambition for Kent, which is:

"To deliver safe and effective transport, ensuring that all Kent's communities and businesses benefit, the environment is enhanced and economic growth is supported".

- 6.11.30. This ambition will be realised through five targeted, overarching policies which will aim to deliver specific outcomes for the county:

“Outcomes 1: Economic growth and minimised congestion

Policy: Deliver resilient transport infrastructure and schemes that reduce congestion and improve journey time reliability to enable economic growth and appropriate development, meeting demand from a growing population.

Outcome 2: Affordable and accessible door - to - door journeys

Policy: Promote affordable, accessible and connected transport to enable access for all to jobs, education, health and other services.

Outcome 3: Safer travel

Policy: Provide a safer road, footway and cycleway network to reduce the likelihood of casualties, and encourage other transport providers to improve safety on their networks.

Outcome 4: Enhanced environment

Policy: Deliver schemes to reduce the environmental footprint of transport, and enhance the historic and natural environment.

Outcome 5: Better health and wellbeing

Policy: Provide and promote active travel choices for all members of the community to encourage good health and well being and implement measures to improve air quality”.

- 6.11.31. Within LTP4, KCC outlines Strategic, Countywide and Local strategies for achieving the above outcomes, whilst continuing to promote and deliver ‘Growth without Gridlock’.

- 6.11.32. The ExA considers that LTP4 is important and relevant.

Thanet District Transport Strategy 2015-2031 (Draft Version 2)

- 6.11.33. The Thanet District Transport Strategy 2015-2031 (TTS) provides a framework to guide the development of transport-based improvements and interventions within the Thanet district for the period up to 2031. It identifies priority schemes and projects that are deliverable, but whose implementation will be dependent on the rate of development coming forward, viability and the availability of resources.

- 6.11.34. Section 9.3 includes the ICRIS, which encompasses a number of key highway interventions, which will be delivered in conjunction with the relevant strategic allocations in the eLP. This includes a Manston-Haine link road that runs through the NGA of the airport. This also forms part of the improvements works referred to in Policy SP47 of the eLP.

- 6.11.35. The TTS is in draft form and underpins the eLP that is still being examined. On this basis and although the ExA considers it to be important and relevant, the ExA considers it to carry moderate weight.

Findings

Assessment methodology, study area and necessary restrictions

- 6.11.36. The Applicant submitted, in support of the Proposed Development and as part of the ES, a TA [[APP-060 to APP-073](#)] (the original TA) to inform ES Chapter 14 Traffic and Transport. The Applicant submitted a revised TA [[REP5-021](#)] (the revised TA) at D5, which is based on the TSTM developed by KCC, and an updated ES Chapter 14: Traffic and Transport [[REP5-022](#)] reporting on the findings of the revised TA. During the Examination the Applicant undertook and submitted further technical notes in response to concerns raised. These included:
- Technical Note: Revised TA - Additional Junction Assessment [[REP7a-003](#), Appendix TR.3.16], provided at D7;
 - Technical Note: Airport Passenger Traffic Generation [[REP8-017](#), Appendix ISH7 - 30], provided at D8;
 - Technical Note: Manston Airport DCO Wider Study Area – Proportional Impact Assessment [[REP8-017](#), Appendix ISH7 - 32], provided at D8;
 - Technical Note: The Transport Assessment Update [[REP8-017](#), Appendix ISH7 – 43], provided at D8; and
 - Technical Note: A256 - Junctions Assessments [[REP10-003](#), Appendix TR.4.1], provided at D10.
- 6.11.37. Each of these and their relevance is discussed later in this section. It should be noted that the ExA considers all of these documents to be important and relevant to the Examination and inform the EIA. They do not supersede one another and therefore need to be considered as complementary. As a result, the ExA considers that the additional studies should therefore be considered as comprising part of the ES, to ensure that a worst case has been assessed.
- 6.11.38. In support of Chapter 14 of the ES [[APP-034](#)], the Applicant provided the original TA. This was based on a spreadsheet traffic model of the local highway network, based on traffic count surveys of key junctions and links.
- 6.11.39. KCC has, however, developed its own SATURN strategic highway model (TSTM), which has been used to test the impacts of the eLP growth to 2031 and the programme of mitigation outlined within the draft TTS. KCC were of the view that it was important that the TA was undertaken consistently with the eLP evidence base. However, this was not available for third party use at the time the application was submitted and only became available in November 2018 [[REP4-028](#)]. KCC raised in its LIR [[REP3-143](#)] that, in their view, the Applicant should undertake a new TA using the TSTM to ensure robust modelling. Subsequently, the Applicant agreed to undertake a revised TA (the revised TA) [[REP5-021](#)] that utilised the TSTM and also provided an updated Chapter 14 to the ES [[REP5-022](#)].

- 6.11.40. Paragraph 5.10 of the ANPS states that the Applicant should assess the implications of airport expansion on surface access network capacity using the WebTAG methodology. The ExA explored this matter with the Applicant through TR.1.17 [[PD-011](#)]. The Applicant responded [[REP3-195](#)] by stating that:

"WebTAG is a methodology that provides guidance on the role of transport modelling and appraisal, and how the transport appraisal process supports the development of investment decisions to support a business case. Manston Airport is a privately funded development project and as such this guidance is only partially relevant to the appraisal of the proposed scheme. The elements of the appraisal guidance relating to business cases for publicly funded schemes are not appropriate in this case.

Notwithstanding this, the approach adopted within the Transport Assessment (TA) [[APP-060 to APP-061](#)] submitted as part of the DCO application followed the principles of modelling and forecasting, as set out in TAG Unit M1.1. The updated Transport Assessment expected to be submitted by Deadline 4 also follows these principles".

- 6.11.41. The ExA is content that the principles of modelling and forecasting set out in the Webtag methodology has been incorporated into the original TA and the revised TA as far as possible.
- 6.11.42. The original TA concluded that there was a need to mitigate the impacts of the Proposed Development and provide improvement schemes at junctions 1, 2, 4, 6, 7, 10, 12, 13, 15, 16, 17, 20, 21, 26, 27 and Spitfire Way / Alland Grange Lane (for highway safety reasons) [[APP-060 to APP-073](#)]. With the exception of Junction 12 these are all within the wider LRN and are not within the Order Limits. Whereas the revised TA concluded that there was a need for improvement schemes at Junctions 2, 4, 6, 7, 12, 15, 16, Spitfire Way / Alland Grange Road (for highway safety reasons) and Manston Road / Manston Court Road (Junction 13) for highway safety reasons [[REP5-021](#)]. The reduction in the requirement for junction improvement schemes in the revised TA is a result of it taking into account wider improvement works planned by KCC through the draft TTS, including a Manston-Haine link road (the link road) and those that would come forward as part of other Permitted Development schemes. The link road if implemented would notably change the traffic flows around the site.
- 6.11.43. It is clear to the ExA that the initial intention of the revised TA was to replace the original TA. However, the revised TA is based on a scenario where an alternative link road to that identified in the draft TTS is implemented. The ExA through TR.2.1 [[PD-011](#)] asked the Applicant whether the reliance on the implementation of the alternative link road would need to be secured as part of the Proposed Development and if so, whether this would be a material change to the application being examined. In response, the Applicant [[REP6-012](#)] set out that the link road does not form part of the Proposed Development and it will be KCC who will be responsible for its implementation. The Applicant has

accepted (response to TR.3.1 [[REP7a-002](#)]) that there can be no guarantee that the link road will be delivered and has committed [AS-583] to providing mitigation for all junctions where mitigation is considered necessary through the original TA or the revised TA, as a worst-case scenario.

- 6.11.44. KCC has raised particular concerns [[REP3-143](#)] with regard to any reliance on the original TA, as it has been undertaken on a spreadsheet-based approach. The ExA accept the Applicant's view (response to TR.3.1 [[REP7a-002](#)]) that such an approach is commonly used within TAs.
- 6.11.45. Further, the original TA does take into account other developments and does result in the identification of a greater number of junction mitigation schemes being required than the revised TA. TDC and KCC did set out some concerns in response to TR.1.13 [[REP3-018](#) and [REP3-139](#)] that the cumulative projects set out in Section 10.1 of the original TA has some omissions and incorrect assumptions. However, the ExA is mindful that the revised TA is modelled on the TSTM, which includes accurate assumptions about such projects.
- 6.11.46. The original TA does not take into account the benefits of the wider planned improvement works and therefore results in different traffic flows, as evidenced in KCC's LIR [[REP3-143](#), paragraph 4.1.18 and table on pages 14 to 20]. However, there can be no guarantee that these planned improvement works will be delivered, despite the best intentions of KCC and TDC.
- 6.11.47. Given the above, **the ExA conclude and recommend that the Applicant's approach to providing mitigation for junctions that were identified in either the original TA and revised TA, as a worst-case, to be a reasonable one, given the level of uncertainty around the delivery of other wider highway improvements.**
- 6.11.48. Turning to the assumptions used in the original TA and revised TA for likely trip generation and its distribution from the Proposed Development, KCC raised particular concerns [[REP3-143](#)] with regard to the timing of passenger arrivals before flights and the shared taxi element of the passenger mode share used in the original TA. These assumptions were corrected in the revised TA and in response to the ExA's questions at ISH7 [[EV-028](#)], the Applicant provided a TA Update [[REP8-017](#), Appendix ISH7 – 43] that applied the altered assumptions on passenger arrival times and the removal of the shared taxi component of the passenger mode share to the original TA. This resulted in an increase of 87 vehicle movements in the PM Peak from that modelled in the original TA. There was no material change in vehicle movements in the AM Peak. Junction assessments were re-run for the PM Peak on this basis in the updated TA [[REP8-017](#), Appendix ISH7 – 43].
- 6.11.49. Further to the above, the Applicant also prepared a Technical Note: Airport Passenger Traffic Generation [[REP8-017](#), Appendix ISH7 – 30]. This was in response to the ExA's questions at ISH7 [[EV-028](#)] on

passenger traffic generation. This identified that two errors had been made in the original TA and the revised TA: (i) double counting of in and out trips for taxis and car drop off for passenger flight departures and arrival flights; and (ii) vehicle trips out of the airport following a passenger arrival flight were allocated in the same time period as the flight arrival rather than one hour after the aircraft's arrival. Having considered this matter carefully, the ExA accepted this was the case. This results in 141 fewer passenger trips in the AM Peak and 11 additional passenger vehicle trips in the PM Peak.

6.11.50. The updated TA [[REP8-017](#), Appendix ISH7 – 43] was prepared before the above errors were identified in Technical Note: Airport Passenger Traffic Generation [[REP8-017](#), Appendix ISH7 – 30].

6.11.51. **The ExA accepts the Applicant's view that an additional 11 passenger vehicle trips in the PM Peak is unlikely to materially alter the findings of the assessment undertaken.**

6.11.52. Turning to other modelling assumptions, the original TA and revised TA both assume that HGV vehicle trips from the freight / cargo facility will be evenly spread over a 24-hour period. Following the Applicant's commitment [[REP4-023](#)] for there to be no scheduled night flights between 23:00 and 06:00, the ExA questioned the Applicant on this matter during the examination [[PD-011](#), [PD-014](#), [PD-020](#)]. Concern has been raised [[REP5-029](#)] that there could be HGV clustering around flight arrivals and departures to ensure timely delivery of goods, which could adversely affect the am and PM Peaks.

6.11.53. The Applicant responded to TR.4.7 [[REP9-006](#)] setting out that it envisaged 'new e-commerce' integrators being located at Manston and that these do not need access to night flights. Further, the Applicant is of the view that: Traditional integrators, e-commerce or any other freight operators would all seek to avoid peak hours where traffic conditions will result in slower delivery times; any clustering of HGVs at the airport would represent an inefficiency in the system; and operators are likely to focus on early morning and evening flight arrivals so as to avoid peak hour traffic.

The Applicant's response to TR.2.14 [[REP6-013](#)] also states:

"In transport terms, the movement and timing of HGV's has been shown to have little impact on the transport network" and "It is not necessarily the case that trips would be clustered around arrival and departure times of aircraft. HGV movements will have to allow for handling time for both inbound and outbound cargo. Whilst some products may enter and leave the site relatively quickly, others may be subject to a longer period of processing and/or storage. This will be equally true for the new e-commerce integrators".

6.11.54. The ExA acknowledge the views of SHP, however, having considered the response from the Applicant, agree that an even spread over a 24-hour period is a reasonable estimate. The ExA is also mindful that as part of a revised FTP [[REP8-017](#)], the Applicant has provided a Preliminary Freight

Management Strategy (PFMS) that would limit the level of HGVs exiting the cargo facility in the am and PM Peaks. The robustness of the revised FTP [REP8-017] and appended FMS will be considered later in this section.

- 6.11.55. The study area of the original TA was agreed between the Applicant and KCC. However, the TSTM that was used in the revised TA does not cover the entire study area that formed the basis of the original TA. KCC in its response to TR.2.11 raised a concern [REP6-046] that the full extent of the potential impact of the Proposed Development had not been captured in the revised TA and set out that junctions 1, 9, 25 and 28 were notable omissions. KCC also noted that the detail of the flow distribution was not appended to the revised TA and requested that the data was extrapolated into a network flow diagram in order to provide more visual clarity over the level of additional impact on the surrounding highway network.
- 6.11.56. To overcome these concerns, the Applicant provided a Technical Note: Revised TA - Additional Junction Assessment [REP7a-003, Appendix TR.3.16]. This considered potential impacts on junctions 1, 25 and 28. The ExA is content with the methodology used in the Technical Note and no issues were raised by KCC in this regard. KCC however, is of the view that a junction mitigation scheme is required at Junction 25. This will be considered later in this section.
- 6.11.57. KCC's response to TR.3.15 [REP7a-034] identified that the provision of the flow distribution / network diagram [REP6-014, Appendix TR.2.11] highlighted further areas of interest which should be studied. These were the A256 (177 and 155 two-way traffic movements in the am and PM Peaks respectively) and the A299 Thanet Way at St Nicholas-at Wade (111 and 84 two-way traffic movements in the am and PM Peaks respectively). At ISH7 [EV-028] the Applicant agreed to provide a Technical Note: Manston Airport DCO Wider Study Area – Proportional Impact Assessment [REP8-017, Appendix ISH7 - 32] to assess the potential impact of the proposed development on along the A256 and the A299. In the absence of the TSTM covering this area, the note utilises a spread-sheet based modelling approach, which the ExA considers to be acceptable. The note considers the impact of the proposed development on seven junctions on the A256, using a comparison of traffic flows before and after the development as a percentage increase. This concludes that none of the junctions would experience an increase in traffic flows above 5% and therefore no further assessment is required as any impact would not be severe.
- 6.11.58. KCC in their response to TR.4.1 [REP9-024] raised concern with regard to the use of a 5% threshold. Whilst noting that such a threshold is commonly used, KCC noted that:

"...it is nonetheless important to consider the specific operation of the road network in question and the nature of impact from the development, which has not been done in this case. This is particularly important when the network is already subject to existing traffic delay.

On parts of the local road network where junction/link capacity has already been exceeded, a relatively minor increase in traffic movement can result in disproportionate worsening of existing delay”.

- 6.11.59. KCC also set out in the same response that its primary area of interest was the A257 / A256 roundabout junction and noted that the Applicant has not provided sufficient information for it to reach an informed decision regarding traffic impact at this junction and consequently determine if further mitigation is required.
- 6.11.60. In response to TR.4.1, the Applicant set out [[REP9-006](#)] that:
“The Applicant has carried out further sensitivity tests on the first three roundabouts this demonstrates that our development traffic does not have a severe impact on the road network. These tests will be included in a technical note and submitted at Deadline 10”.
- 6.11.61. This was subsequently provided at D10 [[REP10-003](#)]. This assessed three junctions: A256/Ramsgate Road / Copart Access; A256 / Monks Way; and the one of concern to KCC, the A256 / Ash Road / A257. Matters associated with these roundabouts are considered later in this section.
- 6.11.62. **The ExA has not received evidence that leads it to disagree with the findings of the Technical Note: Manston Airport DCO Wider Study Area – Proportional Impact Assessment [[REP8-017](#), Appendix ISH7 - 32] with regard to the other four junctions¹³⁷ on the A256 or the A299.**
- 6.11.63. KCC’s LIR [[REP3-143](#)] raised several concerns with regard to the trip generation and distribution assumptions in the original TA. However, after further information from the Applicant, KCC set out that it was satisfied with these assumptions in response to TR.2.19 and TR.2.21 [[REP6-046](#)].
- 6.11.64. **The ExA did not receive any other substantive evidence in respect of these matters and agrees with this conclusion.**
- 6.11.65. The ExA is mindful that predicting traffic flows over 20 years into the future is not an exact science.
- 6.11.66. When the original TA and revised TA are considered with the additional work undertaken by the Applicant during the examination, as referred to above, **the ExA is content that overall, the assessment of impact has been robust.**
- 6.11.67. However, the need for and appropriateness of proposed junction mitigation schemes and the mechanism of securing them, will be discussed later in this section.

¹³⁷ A256/Deal Road, A256/New Roundabout, A256/A2 (North and South) and Whitfield Roundabout

- 6.11.68. Chapter 14 of the ES [[APP-034](#)] and revised Chapter 14 [[REP5-022](#)] both consider impacts on a range of 'highway links'. The assessment of effects draws on Guidelines for the Environmental Assessment of Road Traffic (GEART) and considers a number of issues: Severance; driver delay; pedestrian delay; pedestrian amenity; fear and intimidation; and accident and safety. The sensitivity of the receptor is considered against the magnitude of effect to reach a view of the significance of effects.
- 6.11.69. **The ExA considers the methodology adopted in both the original Chapter 14 [[APP-034](#)] and revised Chapter 14 [[REP5-022](#)] to be robust.**

Passenger flight restrictions

- 6.11.70. The Applicant has made a number of assumptions in terms of traffic generation from the Proposed Development [[APP-060 to APP-073](#), [REP5-021](#), [REP8-017](#) Appendix ISH7 – 30 and [REP8-017](#) Appendix ISH7 – 43]. This includes the timing of both passenger departure and arrival flights. The Applicant had forecast that there would be no passenger departure flights between 09:00 and 12.:00, which the ExA considers would be the time period where such flights would generate traffic movements that would affect the AM Peak period. However, the Applicant's dDCO [[APP-006](#)] did not contain any restrictions on passenger flight departures or arrivals. Without such a restriction in the dDCO, passenger flight departures or arrivals could take place within this time period. Such a scenario has not been modelled by the Applicant in the ES and additional traffic movements during this time period could severely impact upon the AM Peak period.
- 6.11.71. The ExA included in its second dDCO [[PD-018](#)] R19(c), which restricted any passenger departure flights between 09:00 and 13:00 and no passenger arrival flights between 07:00 and 08:00. This coincided with the Applicant noticing an error in the modelling underpinning the original TA and revised TA [[REP8-017](#), Appendix ISH7-30]. This related to double counting of in and out trips for taxis and car drop off for passenger departure and arrival flights, and departure trips out of the airport following a passenger arrival flight being allocated in the same time period as the flight arrival rather than one hour after its arrival. The ExA accept that this was the case. The implications of this were that there would be a reduction in AM Peak hour traffic generation of 141 vehicles. Following discussions at ISH7 [[EV-028](#)], the Applicant put forward [[REP8-017](#)] a revised draft R19(c) that includes a restriction on passenger flights departing between 09:00 and 11:30, with one passenger departure permitted from 11:30 and one from 11:45.
- 6.11.72. **Based on the evidence provided by the Applicant in response to TR.4.4 [[REP9-006](#)], the ExA is satisfied that this would ensure that traffic movements associated with passenger departure flights would not exceed those assessed in the ES in the AM Peak.**
- 6.11.73. The ExA considered it was, however, also necessary to place a restriction on passenger arrivals to only one arrival between 07:00 and 08:00. In

response to TR.5.1 [[REP11-002](#)], the Applicant accepted that this was necessary.

6.11.74. The ExA, through TR.4.6 [[PD-020](#)], advised the Applicant that it was considering the need for an additional Requirement in the dDCO to ensure that there would be no additional impacts from those that had been assessed in the ES in terms of the PM Peak. This would restrict one passenger flight arrival between the hours of 16:00 and 17:00; two passenger flight departures between the hours of 18:00 and 19:00; one passenger flight departure between the hours of 19:00 and 20:00; and no passenger departure flights between the hours of 20:00 and 21:00.

6.11.75. The Applicant, in response [[REP9-006](#)], stated:

“Likely significant effects during the PM peak have been assessed and appropriate mitigation adopted on the basis of that assessment. The residual effects of the development are shown to be acceptable on the highway network. In those circumstances it would be disproportionate and unnecessary to impose additional controls. It is not necessary for the examiner to introduce such a restriction which would serve only to limit the commercial flexibility of the airport, thereby putting at risk the benefits derived from maximising job creation opportunities at the airport”.

6.11.76. The ExA is particularly mindful that the above flight restrictions between 16:00 and 21:00 reflect those that were assumed and assessed in the ES (Appendix E of the original TA and / or Appendix C of the revised TA). If no restriction was in place to secure these assumptions and additional passenger flights took place, likely significant affects could not be ruled out, as they have simply not been assessed by the Applicant. The ExA is of the view that if the Applicant was seeking commercial flexibility, then this should have been assessed in the ES and that only that which has been assessed can be considered as part of the dDCO. On this basis, and following consultation during the Examination, the ExA has recommended that R21 be included in its rdDCO.

6.11.77. KCC in its response to TR.5.1 [[REP11-017](#)] raised a concern that the type of carrier (and subsequently the size of plane) that operates from the airport and the potential number of passengers that it can generate can also affect vehicle traffic movements. KCC is of the view that a restriction should be placed on passenger numbers per flight, as modelled in the ES. The Applicant anticipates that the carriers will be KLM, Blue Air and Ryanair [[APP-061](#), paragraph 6.4.12]. The original TA and revised TA are based on the same assumptions in this regard and most passenger flights are estimated to have a passenger capacity of 170 people. This is reflective of the capacity of a Boeing 737 which is commonly used by budget airlines for short haul flights.

6.11.78. The ExA is of the view that the Applicant’s assumptions are reasonable, and it is highly unlikely that long haul passenger flights with larger aircraft will operate at Manston; particularly given the proximity of Heathrow, Gatwick and Stansted, along with the suggested overall

passenger ATM cap recommended by the ExA and contained in the rdDCO at Appendix D to this report. **The ExA considers that a further restriction in this regard is not therefore necessary.**

HGV Restrictions

- 6.11.79. At ISH7 [[EV-028](#)] discussion took place with regard to whether it is necessary to put in place restrictions on HGV vehicle movements to and from the Proposed Development to ensure that there would not be any unacceptable impacts on the local highway network. The Applicant agreed to produce a PFMS and this was provided at Appendix B of the revised FTP [[REP8-007](#)]. This includes a restriction of 10 two-way movements from the cargo facility during the peak am and pm periods, as modelled in the ES.
- 6.11.80. **The ExA considers this to be reasonable and the agreement of a final Freight Management Strategy is secured by R7(2)(b) of the rdDCO.**
- 6.11.81. The PFMS includes a framework of freight management measures and routes, which are appropriate in the view of the ExA. KCC is also content that the PFMS offers a sufficient basis to agree the final FMS [[REP9-024](#), response to TR.4.53].
- 6.11.82. The UU [[AS-583](#)] includes a financial contribution of £7,650 for signage for HGV vehicles. This is based on 17 signs at a cost of £450 each, as set out in the Applicant's answer to TR.5.13 [[REP11-002](#)]. KCC confirmed that £250 per sign would likely cover the costs of the required signage for HGVs (response to TR.5.9 [[REP11-017](#)]). However, it is clear from the Applicant's answer to TR.5.13 that it has given the matter thorough consideration in terms of the number of signs and their cost.
- 6.11.83. **The ExA is consequently content that this figure in the UU [[AS-583](#)] is appropriate and meets the tests of CIL Regulation 122.**
- 6.11.84. It was agreed between the Applicant and KCC at ISH7 [[EV-028](#)] that it would not be appropriate to restrict HGV numbers arriving at the cargo facility, as this could result in HGV parking in inappropriate locations having been turned away from the site, creating highway safety issues. For these reasons, the ExA agrees.
- 6.11.85. KCC is of the view [[REP3-143](#)] that there should be an overall tonnage cap for freight handled at the cargo facility based on the assumptions in the ES (340,758 tonnes of freight per annum at Year 20). The ExA is mindful that an overall cap of freight ATMs is being proposed and that this in itself would restrict the amount of freight that will be managed at the cargo facility. The ExA considers that the assumptions used by the Applicant in terms of the generation of freight HGV movements to be robust. KCC are also satisfied with these assumptions [[REP6-046](#), response to TR.2.19]. Further, as discussed above, the ExA is satisfied with splitting the HGV movements equally over a 24-hour period.

- 6.11.86. **Given all of this, the ExA is content that the overall freight ATM cap will in itself ensure that freight HGV traffic movements associated with the cargo facility are not above those assessed in the ES. Further, as set out above, the PFMS proposes a cap on HGV movements exiting the site during the peak am and pm periods. Consequently, the ExA does not consider an overall tonnage cap to be necessary.**
- 6.11.87. KCC is also of the view that HGV movement restrictions should be applied to those generated from the NGA.
- 6.11.88. **The ExA is content that the assumptions used by the Applicant to forecast HGV movements and their timings associated with the NGA are robust** and KCC has not raised any concerns in this regard.
- 6.11.89. Given that the NGA would be used by many different companies and there is unlikely to be a gatehouse, as there is in the case of the cargo facility where HGV movements can be easily recorded, the ExA has concerns that it would be particularly difficult to enforce any imposed restriction. As set out above, highway safety could also be compromised by HGVs parking in inappropriate locations having been turned away from the site.
- 6.11.90. **For these reasons, the ExA is of the view that it would not be appropriate to impose any HGV movement restrictions on the NGA.**

Strategic Road Network

- 6.11.91. During the Examination, the ExA directed several written questions to Highways England in relation to the potential impacts on the SRN. In response to TR.3.35 [[REP7a-031](#)] Highways England took the view that the trip rates proposed by the Applicant for B8 commercial warehousing, associated with the NGA, were not representative, as the Applicant's assessment utilised trip rates derived from only two example sites taken from the TRICS database. However, Highways England's response to TR.3.36 [[REP7a-031](#)] and their oral evidence at ISH7 [[EV-028](#)] set out that it had undertaken its own assessment on the likely impacts of the Proposed Development on the SRN. This confirmed that, taking into account Highways England's own alterations to the trip rates Proposed and its own planned improvement works to the SRN, the proposed Development would not have a material adverse impact on the SRN, including the A2 / A258 'Duke of York' roundabout, the A2 / A256 Whitfield Roundabout and M2 Junction 7 (Brenley Corner). Highways England confirmed this.
- 6.11.92. As a consequence, Highways England stated in its response to TR.3.36 [[REP7a-031](#)] that it withdrew its objection to the Proposed Development.
- 6.11.93. An IP, Jeremy Baker [[REP3-152](#) and [REP8-074](#)] is of the view that traffic generated to and from Swale will route via the M2 Junction 5 and the A249, rather than leave the M2 at Junction 6 and use the A251 as suggested by the Applicant. The Applicant in response to TR.2.51 [[REP6-](#)

[012](#)] set out that even if the routing was altered as suggested, the quantum of traffic would be so small as to not make any material difference to the assessment. In response to TR.3.38 [[REP7a-031](#)], Highways England agreed with this view and set out that there is a major improvement (Road Investment Strategy (RIS)) scheme planned at M2 Junction 5 starting in early spring 2020, which will cater for any re-routing should that occur.

- 6.11.94. The same IP [[REP3-152](#) and [REP8-074](#)] raised several other concerns with regard to the assumptions used in the original TA and the revised TA for passenger trip distribution and their origin.
- 6.11.95. Table 8.2 of the original TA and the revised TA both set out the anticipated passenger trips distribution. This suggests that the proposed passenger flights are likely to serve local people rather than London and its immediate surrounding area. The ExA considers this to be a reasonable assumption, as people living in and around London are most likely to use Heathrow, Gatwick, London City, Luton and Stansted airports, as they are in closer proximity and offer a greater level of passenger flights than is proposed in this case.
- 6.11.96. Turning to a concern of the IP relating to the omission of Medway [[REP3-152](#) and [REP8-074](#)], the Applicant's response to TR.2.51 [[REP6-012](#)] sets out that there was an omission and that it should have been included in the distribution to West Kent. A revised distribution, based on population and journey distance and time, is calculated in the Applicant's response to TR.2.51 [[REP6-012](#)], which includes Medway in the West Kent area (as defined in paragraph 6.5.12 of the original TA). Highways England considered in their response to TR.3.37 [[REP7a-031](#)] that an estimated distribution of 3.58% to Medway is robust. There is no reason for the ExA to take a different view.
- 6.11.97. The IP [[REP8-074](#)] considers that trips to Mid Kent have been omitted. However, Table 8.2 of the original TA and revised TA include trips to Shepway, Ashford, and Swale, which are defined as being in the Mid Kent area in paragraph 6.5.12 of the original TA.
- 6.11.98. The ExA considers that the assumptions made in Table 8.3 and Table 8.4 of the original TA and revised TA are appropriate, namely that the majority of HGV trips will gravitate towards London. Whilst Table 8.3 and Table 8.4 do not model any trips to warehousing / depot facilities in the Swale and Aylesford areas, the ExA considers that any trips to these areas are very unlikely to be of significance and would not significantly alter the assessments undertaken by the Applicant.
- 6.11.99. Tables 8.3 and Table 8.4 assume that all West and South London HGV traffic will use the M2 to its end, then the A2 and the A282 to reach the M25 towards Surrey. The Applicant has clarified in response to TR.2.52 [[REP6-012](#)] that the inclusion of the A282 as part of the routing was a typographical error. The tables should read A299 – M2 – A2 – M25 (N)/(S).

- 6.11.100. **The ExA is satisfied that the Proposed Development will not have an adverse impact on the SRN and no mitigation is required in this regard. The ExA also therefore consider that the concerns raised in CCC's LIR [REP3-246] have been addressed. In addition, the ExA considers the Proposed Development complies with the NPSNN.**

Local Road Network

Junction improvement schemes

- 6.11.101. The location of each junction is shown in Figure 5.1 of the original TA and Figure 3.1 of the revised TA. The modelling undertaken in the original TA and the revised TA conclude that no mitigation is required at junctions 3, 5, 9, 11, 23, 24, 28 and 29. The ExA accept these findings and this has not been contested by KCC. However, there is disagreement between the Applicant and KCC whether mitigation schemes are required at junctions 8, 20, 21 (A and B), 25, 26, 27; Spitfire Way / Alland Grange Road; A256 / Ramsgate Road/ Copart Access; A256 / Monk's Way; and A256 / Ash Road/A257, as a result of the Proposed Development. This, along with the appropriateness of each proposed junction improvement scheme will be considered below.

Junction 1: A256 / Sandwich Road

- 6.11.102. The original TA identifies that a mitigation scheme is required to address the impact of the Proposed Development at the A256 / Sandwich Road junction. This involves the minor widening of some arms. KCC in its LIR [[REP3-143](#)] states:

"It is not considered that the proposed scheme of mitigation for the A256 / Sandwich Road roundabout will deliver practical benefits to the capacity of the junction. There is a known tendency for the ARCADY and PICADY modelling software to exaggerate the impact of minor amendments to kerb radii, flare lengths etc, which do not in reality provide meaningful capacity gains".

- 6.11.103. In response to TR.4.22 [[REP9-006](#)], the Applicant stated:

"The scheme identified delivers a nil detriment improvement, which is an appropriate approach and is not intended to solve an existing issue. Arcady software is an industry standard tool which estimates capacity based on the relationship between the variables that influence capacity, namely junction geometries and traffic flows. It is appropriate and acceptable to propose that amendments to the junction geometry variables will produce improvements to capacities in order to define the theoretical capacity of the junction. This is an industry standard approach to identifying mitigation. Should KCC Highways wish to progress an alternative improvement, the contributions provided by the Applicant could be used as part funding for these aspirations".

- 6.11.104. **On this basis, the ExA see no reason to disagree with the Applicant, particularly as KCC has not provided any specific**

evidence relating to this junction improvement scheme to substantiate its concern.

- 6.11.105. The summary of Applicant's case put orally the traffic and transport ISH at Appendix ISH7 - 43 [[REP8-017](#)] paragraph 3.2.9 states in relation to Junction 1 that:

"...this junction improvement scheme has not been subject to a Stage 1 Road Safety Audit (RSA) as the change is minor".

- 6.11.106. KCC, when responding to TR.4.22 [[REP9-024](#)] set out that:

"It has been the consistent view of KCC that independent Stage 1 Road Safety Audits should be provided by the Applicant for all physical changes to the road network, as even relatively minor interventions such as amendments to lining and signing can have adverse highway safety implications. The Applicant's view that the change is minor is not accepted by KCC".

- 6.11.107. Having regard to Figure 7.1 of the original TA, the ExA is of the view that the proposed works are very minor and the improvement works would not result in any highway safety issues, that could not be overcome at the detailed design phase.

- 6.11.108. **As a result, the ExA is satisfied that the mitigation scheme proposed for Junction 1 is appropriate and there would be no residual adverse effects at this junction.**

Junction 2: A299 / A256 / Cottington Link Road

- 6.11.109. The original TA and the revised TA identify that a junction improvement scheme is needed at this roundabout. KCC in its LIR [[REP3-143](#)] set out that:

"Should the proposed scheme of mitigation for the A299 / A256 roundabout be taken forward, it will require refinement as the lane markings on the A256 northbound approach to the junction are potentially confusing and do not cater for right turning movements. The ARCADY assessment should be updated accordingly. Additionally, swept path analysis should be undertaken to demonstrate that the three proposed circulatory lanes would operate safely".

- 6.11.110. The Applicant provided the following response to KCC's LIR [[REP4-028](#)]:

"DMRB Volume 6 Section 2 Part 3 TD 16/07 states '8.28 The use of right pointing arrows on lane dedication signs or as markings on the road is not permitted on roundabout approaches (except at mini roundabouts). This is to avoid confusing drivers, particularly those from overseas, over which way to proceed around the roundabout. Where a right hand lane is dedicated to a specific destination, it should be associated with an ahead arrow on the approach. A right pointing arrow may be used on the circulatory carriageway'. For this reason, no right turn arrow has been

located on approach. That aside, lane marking will be refined through the detailed design process and as such are subject to change”.

- 6.11.111. KCC in response to this and the ExA’s question in terms of whether a nil detriment mitigation scheme was appropriate given that some arms of the junction would still operate above capacity [[REP6-046](#), response to TR.2.37] stated:

“The residual impact of the proposed development on this junction is considered acceptable in the context of the ‘severity’ test in Paragraph 109 of the National Planning Policy Framework, subject to the further comments below. Whilst the applicant’s response to KCC’s LIR is accepted in respect to lane markings, it is noted that the applicant proposes a right pointing arrow on the eastbound approach to the proposed cargo facility access roundabout, which should be removed on this basis. KCC’s previous request for swept path analysis to demonstrate that the three proposed circulatory lanes would operate safely has yet to be addressed, and the applicant has not completed a Stage 1 Road Safety Audit of the mitigation scheme”.

- 6.11.112. The appendices that supported the Applicant’s response to ExQ2 [[REP6-028](#)] at Appendix TR.2.57 included a Stage 1 RSA and a Designer’s Response for the proposed junction improvement. In response to TR.3.24 [[REP7a-034](#)], KCC identified that it was not satisfied with the Designer’s Response, in that the requested swept path analysis for HGVs has not been provided to address the Auditor’s request.

- 6.11.113. Subsequently, the Applicant’s response to TR.3.24 [[REP7a-002](#)] stated:

“The junction improvement scheme that was presented in the original TA [APP-060] and the TA Addendum [REP05-021] has undergone a Stage 1 RSA. A review of the junction scheme has been undertaken on the basis of the Stage 1 RSA recommendations and a revised scheme produced which comprises signalisation and widening of the A256 Richborough Way arm to 3 lanes which has been included in the Designers Response. A revised Stage 1 RSA has been undertaken based on the Designers Responses. There are no auditor’s observations meaning that the problems identified in each of the RSAs have been signed off. These documents are included as Appendix TR3.24 [[REP7a-003](#)]”.

- 6.11.114. KCC in its response to D8 [[REP8-027](#)] set out that it is their understanding that, instigated by the RSA, a change to the mitigation scheme has been made which includes the signalisation of the roundabout. The response goes on to set out that:

“In the absence of the revised junction model, KCC cannot assess the impact and operation of the proposed mitigation scheme.

In the absence of junction model, there are prima facie concerns over the potential effectiveness of the proposed signalisation of this junction; primarily due to the limited stacking space that is available within the circulatory lanes. The most obvious conclusion is that this may lead to an increase in vehicle conflict through inappropriate lane changing and

potential blocking back of junctions to the detriment of the free flow of traffic and Highway Safety on the A299”.

- 6.11.115. The summary of Applicant's case put orally at the traffic and transport ISH at Appendix ISH7 - 43 [[REP8-017](#)] paragraph 4.4 states:

“The Applicant acknowledged that the Designer’s Responses to the Road Safety Audits (RSAs) had resulted in changes to the mitigation schemes for Junctions 2, 4 and 6. As such, the Applicant has submitted a Technical Note as Appendix ISH7-44, which provides the junction capacity models for those schemes.” [[REP8-024](#)].

- 6.11.116. KCC in response to TR.4.23 [[REP9-024](#)] set out:

“The proposed layout shows very little internal vehicle storage capacity, with only storage for approximately four vehicles at all three internal stop lines. This is not acceptable, and it is considered that the junction will exit block on all arms. This is likely to lead to queues blocking the circulatory and an increased risk of crashes caused by weaving, shunts and side swipes, particularly considering the vehicle speeds on this route. This is a fundamental flaw with the proposal but has not been identified as part of the RSA1, which raises serious concerns about the validity of the audit undertaken on behalf of the Applicant”.

- 6.11.117. However, the Applicant when responding to TR.4.23 [[REP9-006](#)] stated:

“The Applicant has provided the junctions models to KCC. Regarding the available storage on the gyratory and the potential issues that can arise if the queueing exceeds the available storage, the modelling work ensured that all evidenced queueing on the gyratory was lower than the storage available, so that the junction outputs are both representative and reflective of live operation with no blocking back / associated matters occurring. It is considered that the approach taken in the junction modelling resolves the concerns raised and as such the matters raised are not evident in the assessment work provided. The revised RSA identified no further observations indicating that there was acceptance of the safety aspects of the scheme”.

- 6.11.118. The ExA acknowledges the concerns of KCC with regard to the internal vehicle storage capacity. However, KCC has not provided any substantive evidence to question the Applicant’s junction model or the Applicant’s assertion that the modelling ensures all evidenced queueing on the gyratory was lower than the storage available, so that the junction outputs are both representative and reflective of live operation with no blocking back / associated matters occurring.

- 6.11.119. **Based on the evidence before the ExA, there is no substantive reason to come to a different view to that of the Applicant. On this basis, it is reasonable for the revised Stage 1 RSA to not raise such matters.**

- 6.11.120. The ExA in TR.4.23 noted that the mitigation scheme for Junction 2 is based on the modelling in the revised TA. As a result, the ExA asked

whether the junction mitigation scheme suitably mitigates the impacts of the development based on the modelling in the original TA and / or TA Update - Appendix ISH7 – 43 [[REP8-017](#)]; especially as the original TA (at Table 7.8) identifies a greater level of impact on this junction, particularly in the AM Peak than Table 6.3 of the revised TA. The Applicant responded [[REP9-006](#)]:

"Yes. The results shown in Table 3.5 of Appendix ISH7 – 43 [REP8-017] show an improvement on the 2039 baseline scenario in the AM and PM peaks as presented in Table 7.7 of the original TA [REP-060 to REP-072]. The junction modelling is based on the revised TA traffic generation and the original TA 2039 baseline flows".

6.11.121. The ExA see no reason to disagree.

6.11.122. **Given all of the above, the ExA is satisfied that the proposed mitigation scheme for Junction 2 is appropriate and that it would ensure 'nil detriment'. There would therefore be no residual adverse effects at this junction.**

Junction 4: A299 / B2190 and Junction 6: A299 / Seamark Rd / A253 / Willetts Hill

6.11.123. The general background and timeline of events for junctions 4 and 6 are very similar to those of Junction 2. The original TA and the revised TA identify that junction improvement schemes are needed at both roundabouts. KCC in its LIR [[REP3-143](#)] raised concerns with regard to both junctions.

6.11.124. Following on from the recommendations of the Stage 1 RSA for both junctions, the Applicant advised in its response to TR.3.25 and TR.3.26 that:

"A review of the junction scheme has been undertaken on the basis of the Stage 1 RSA recommendations and a revised scheme produced which comprises signalisation of the junction. A revised Stage 1 RSA has been undertaken based on the Designers Responses. There are no auditor's observations meaning that the problems identified in each of the RSAs have been signed off."

6.11.125. These were included at Appendix TR3.25 and Appendix TR3.26 [[REP7a-003](#)].

6.11.126. KCC in its response to D8 [[REP8-027](#)] set out that:

"...in the absence of the revised junction model, KCC cannot assess the impact and operation of the proposed mitigation scheme.

In the absence of junction model, there are prima facie concerns over the potential effectiveness of the proposed signalisation of these junctions; primarily due to the limited stacking space that is available within the circulatory lanes. The most obvious conclusion is that this may lead to an increase in vehicle conflict through inappropriate lane changing and

potential blocking back of junctions to the detriment of the free flow of traffic and Highway Safety on the A299."

- 6.11.127. The summary of Applicant's case put orally at the traffic and transport hearing at Appendix ISH7 - 43 [[REP8-017](#)] paragraph 4.4 states:

"The Applicant acknowledged that the Designer's Responses to the Road Safety Audits (RSAs) had resulted in changes to the mitigation schemes for Junctions 2, 4 and 6. As such, the Applicant has submitted a Technical Note as Appendix ISH7-44, which provides the junction capacity models for those schemes." [[REP8-024](#)]

Junction 4

- 6.11.128. KCC in its response to TR.4.24 [[REP9-024](#)] stated:

"The leaving pedestrian intergreens for phases I and J are set too low, as the crossings will be nearsided puffin type. The intergreens should account for the maximum extendable clearance period. The proposed layout again shows very little internal storage capacity, with space for approximately four vehicles at the internal stoplines. This is not acceptable as the junction will exit block on all arms. This is likely to lead to queues blocking the circulatory and an increased risk of crashes caused by weaving, shunts and side swipes, particularly considering the vehicle speeds on the approach to this junction. This is a fundamental flaw with the proposal but has not been identified as part of the RSA1, which raises serious concerns about the validity of the audit. KCC continues to object to this element of the scheme".

- 6.11.129. In terms of KCC concerns with regard to intergreens, the ExA considers that such matters could be overcome at the detailed design phase. In a similar manner to Junction 2, the Applicant's response to TR4.24 [[REP9-006](#)] stated:

"The Applicant has provided the junctions models to KCC. Regarding the available storage on the gyratory and the potential issues that can arise if the queueing exceeds the available storage, the modelling work ensured that all evidenced queueing on the gyratory was lower than the storage available, so that the junction outputs are both representative and reflective of live operation with no blocking back / associated matters occurring. It is considered that the approach taken in the junction modelling resolves the concerns raised and as such the matters raised are not evident in the assessment work provided. The revised RSA identified no further observations indicating that there was acceptance of the safety aspects of the scheme".

- 6.11.130. **For the same reasons set out above in relation to Junction 2, the ExA accept this view.**

- 6.11.131. KCC in its response to D8 [[REP8-027](#)] also raised concern:

"KCC as Highway Authority is surprised that the safety audit has not set out any observations in relation to the revised scheme produced by the

applicant. The design appears to make no reference to the existing egress point from the adjacent Smuggler Leap development, which was highlighted in the RSA1 for the outgoing 3 lane scheme proposal. At this point in the Examination, KCC considers that similar issues would arise in respect of the proposed signal scheme”.

- 6.11.132. The Applicant’s response to TR.4.24 [[REP9-006](#)] addressed this matter and sets out:

“Whilst the Smuggler Leap access was not explicitly identified in the independent RSA stage 1 report, it is noted that the same entry treatment works proposed previously to address KCC’s concerns could be utilised to improve this limited use access. In addition, due to the proposed signalisation, this junction would benefit from clear breaks in traffic (intergreen effect)) every cycle which will in turn provide gaps for traffic to exit the Smuggler Leap junction”.

- 6.11.133. **The ExA accepts this response and consider that such matters could be suitably addressed at the detailed design phase.**

- 6.11.134. The ExA in TR.4.24 noted that the mitigation scheme for Junction 4 is based on the modelling in the revised TA. The ExA therefore asked whether the junction mitigation scheme suitably mitigates the impacts of the development based on the modelling in the original TA and / or TA Update - Appendix ISH7 – 43 [[REP8-017](#)]; especially as the original TA (at Table 7.8) identifies a greater level of impact on this junction, particularly in the AM Peak than Table 6.3 of the revised TA.

- 6.11.135. The Applicant responded [[REP9-006](#)]:

“Yes. The results shown in Table 3.8 of Appendix ISH7 – 43 [[REP8-017](#)] show an improvement on the 2039 baseline scenario in the AM and PM peaks as presented in Table 7.14 of the original TA [[REP-060](#) to [REP-072](#)]. The junction modelling is based on the revised TA traffic generation and the original TA 2039 baseline flows”.

- 6.11.136. The ExA see no reason to disagree.

- 6.11.137. **The ExA conclude that the proposed mitigation scheme for Junction 4, which would ensure ‘nil detriment’, is appropriate. There would therefore be no residual adverse effects at this junction.**

Junction 6

- 6.11.138. KCC in its response to TR.4.25 [[REP9-024](#)] sets out that:

“The overall results summary provided shows that the junction is operating over capacity with no practical reserve capacity (-2%). As with the other proposed signalised roundabouts mitigation schemes, the proposed layout only shows storage for approximately four vehicles at the internal stoplines. This is not acceptable as the junction will exit block on all arms. This is likely to lead to queues blocking the circulatory and

an increased risk of crashes caused by weaving, shunts and side swipes, particularly considering the vehicle speeds on this route. This is a fundamental flaw with the proposal but has not been identified as part of the RSA1, which raises serious concerns about the validity of the audit."

6.11.139. In the same manner to Junction 2, the Applicant's response to TR.4.25 [[REP9-006](#)] stated:

"Regarding the available storage on the gyratory and the potential issues that can arise if the queueing exceeds the available storage, the modelling work ensured that all evidenced queueing on the gyratory was lower than the storage available, so that the junction outputs are both representative and reflective of live operation with no blocking back / associated matters occurring. It is considered that the approach taken in the junction modelling resolves the concerns raised and as such the matters raised are not evident in the assessment work provided. The revised RSA identified no further observations indicating that there was acceptance of the safety aspects of the scheme. The revised RSA identified no further observations indicating that there was acceptance of the safety aspects of the scheme."

6.11.140. **As for Junction 2 and 4, the ExA accept this view.**

6.11.141. In terms of the KCC's concerns with regard to operating over capacity, it is evident from the original TA [[APP-061](#), Table 7.21], the revised TA [[REP3-025](#), Table 6.11] and Table 3.10 of Appendix ISH7 – 43 [[REP8-017](#)] that the junction will be operating near or over capacity on several arms in the 2039 baseline. The results shown in Table 3.11 of Appendix ISH7 – 43 [[REP8-017](#)] show an improvement on the 2039 baseline scenario in the AM and PM Peaks.

6.11.142. The Applicant's response to TR.4.25 (v) notes that the mitigation scheme will fully mitigate the impacts of the Proposed Development and provide betterment at the junction.

6.11.143. There is no reason for the ExA to consider that more than a 'nil detriment' mitigation scheme is required and KCC has not stated that additional mitigation beyond the impacts of the Proposed Development is necessary at this junction.

6.11.144. The ExA in TR.4.25 noted that the mitigation scheme for Junction 6 is based on the modelling in the revised TA. The ExA therefore asked whether the junction mitigation scheme suitably mitigates the impacts of the development based on the modelling in the original TA and / or TA Update - Appendix ISH7 – 43 [[REP8-017](#)]; especially as the original TA (at Table 7.22) and Table 3.10 of the TA Update - Appendix ISH7 – 43 [[REP8-017](#)] identify a greater level of impact on some arms of this junction than Table 6.11 of the revised TA. The Applicant responded [[REP9-006](#)]:

"Yes. The results shown in Table 3.8 of Appendix ISH7 – 43 [[REP8-017](#)] show an improvement on the 2039 baseline scenario in the AM and PM peaks as presented in Table 7.21 of the original TA [[REP-060](#) to [REP-](#)

072]. The junction modelling is based on the revised TA traffic generation and the original TA 2039 baseline flows."

6.11.145. The ExA accept this finding.

6.11.146. **Consequently, the ExA considers that the proposed mitigation scheme for Junction 6 would ensure 'nil detriment' and is appropriate. There would therefore be no residual adverse effects at this junction.**

Junction 7: A299 / A28

6.11.147. The original TA and the revised TA identify that a junction improvement scheme is needed. KCC in its LIR [[REP3-143](#)] noted that based on the modelling in the original TA, the proposed scheme of mitigation for the A299 / A28 roundabout does not adequately address the impact of the Proposed Development, with significant residual queue length increases remaining on the A28 (East) arm in the AM Peak and the A299 (West) arm in the PM Peak. The Applicant responded [[REP4-028](#)] by stating:

"The performance of this junction needs to be considered holistically. Total queues at the junction are reduced by 62 PCUs in the AM and 147 PCUs in the PM peak hour period. This level of improvement surpasses the required nil detriment level of improvement."

6.11.148. The revised TA modelled lower average queues for most arms in the 2039 baseline at the junction than in the original TA. It can be seen from Table 7.4 of the revised TA that the mitigation scheme would provide for an overall betterment at the junction.

6.11.149. As set out above, the summary of the Applicant's case put orally at the traffic and transport ISH at Appendix ISH7 - 43 [[REP8-017](#)] provides an update to the original TA to take into account changes made to the trip generation assumptions that were applied in the revised TA. Table 3.13 of this, shows that based on the updated assumptions, the junction improvement proposal would reduce queues on the A299 (West) arm than those modelled for the 2039 baseline in the PM Peak. The ExA see no reason to disagree. However, Appendix ISH7 - 43 [[REP8-017](#)] does not consider the AM Peak as overall traffic flows were not materially affected by the change in trip generation assumptions. Based on the evidence before the ExA it must be assumed that the mitigation scheme proposed at this junction would result in an increase in queues on the A28 (East) arm in the AM Peak of 25 vehicles, based on the original TA and in the absence of the implementation of the link road.

6.11.150. The ExA accept the Applicant's view that the performance of junctions can be considered holistically. It is evident from the original TA, revised TA and Appendix ISH7 - 43 [[REP8-017](#)] that the mitigation scheme would provide for a significant reduction in average queues on several arms of the junction from that modelled in the 2039 baseline. Consequently, the proposed junction improvement would deliver more than a nil detriment scheme and would result in an overall betterment. On this basis, the ExA

considers the proposed junction mitigation scheme to be acceptable in this regard.

- 6.11.151. KCC in response to TR.3.27 [[REP7a-034](#)] raised a concern that there could be an increased likelihood of side swipe collisions. This is on the basis that:

"The proposal for vehicles travelling between the A299 (west) approach and the A299 (south-east) exit to use either lane on the roundabout circulatory has the potential to cause collisions with vehicles making opposing manoeuvres (e.g. from the A299 (south-east) approach to the A28 (north-east) exit), whose drivers may not appreciate that they intend to continue past their exit."

- 6.11.152. The Applicant responded to TR.4.26 [[REP9-006](#)] by setting out:

"Such an arrangement is not uncommon at a roundabout and KCC's concerns regarding the lane markings has not been identified in the RSA. The A299S exit arm has two lanes which can accommodate traffic routeing from both lanes of the A299W. Clear lane designations accompanied by advance advisory signage will mitigate any impacts. The Applicant does not accept that any increase in collisions is likely."

- 6.11.153. The ExA accept that the A299S exit arm has two lanes which can accommodate traffic routeing from both lanes of the A299W and that clear lane designations accompanied by advance advisory signage, as proposed would be appropriate to avoid such concerns. The ExA is also content that the recommendations in the Stage 1 RSA [[REP7a-003](#), Appendix TR.3.27] could be appropriately incorporated into the proposed mitigation scheme at the detailed design phase.

- 6.11.154. **Having regard to all of the above findings, the ExA considers that the proposed mitigation scheme for Junction 7 is appropriate and there would be no residual adverse effects at this junction.**

Junction 8 (a and b): A28 / Park Lane / Station Road

- 6.11.155. Based on the findings of the original TA, the revised TA and Appendix ISH7 - 43 [[REP8-017](#)], the Applicant considers that a junction improvement scheme is not required at this junction.

- 6.11.156. KCC in response to TR.1.26 [[REP3-139](#)] set out that it disagreed with this view. The same response also stated:

- 6.11.157. *"The conventional modelling methods that have been used within the TA are unreliable, due to the unique geometrical arrangement of this junction. The junction is not a 'left in/left out' arrangement as suggested (no turning movements are currently prohibited) and Park Lane is subject to a single way working system close to its junction with A28, which further reduces capacity beyond that suggested within the model. It is considered that any modelling outputs should be treated with caution, as it is unlikely that a conventional junction model will be able to accurately replicate the interaction between the single way working section,*

signalised pedestrian crossing on A28 close to the junction and any queueing back from the Mini Roundabout and right turn movements at A28 to park Lane which leads to blocking back of traffic on both the A28 Northbound (referred to as Junction 8a) and Park Lane. On site observations suggest that the baseline model significantly underestimates the existing traffic queueing that occurs within this locality, particularly on the northbound approach to the Park Lane junction. As such, this casts doubt over the validity of future model forecasts."

6.11.158. The Applicant replied to this in their comments on ExQ1 [REP4-029] by setting out that the description of the Park Lane / A28 as left in / left out is an error and the all movements have been modelled based on the recorded traffic flows. Further, the response outlines that the traffic survey counts included queue surveys, and these were used to validate the existing junction models and the junction models were reviewed by KCC and no issues were identified, as confirmed during a meeting on 11 October 2018. The ExA accept the Applicant's response to KCC's concerns.

6.11.159. KCC in its LIR [REP3-143] noted that:

"An inconsistent approach is taken to the justification of capacity mitigation requirements. For example, mitigation is proposed to the Shottendane Road / Manston Road / Margate Hill junction (Junction 10), yet the impact of the proposed development is seen to be of a similar order of magnitude at the A28 / Park Lane / Station Road junctions (Junction 8), where mitigation is claimed to be unnecessary. This is not accepted".

6.11.160. The Applicant responded through TR.4.27 [REP9-006] by stating:

"As shown in Table 3.14 [REP8-017, Appendix ISH7 - 43], the addition of the proposed development traffic results in a marginal increase in RFC of 0.2 and an increase in queuing of 7 vehicles. This is not a severe impact. The network has been considered as a whole, and in doing so, the level of impact at each junction has also been considered. Given the significant queue reductions elsewhere it could have been asserted that neither of these junctions require mitigation. A compromise of providing mitigation at Junction 10 was considered to be a reasonable approach. To put the two junctions into context Junction 8 only adds 68 vehicles in the AM and 48 during the PM peak hour, whilst Junction 10 adds 80 vehicles during the AM and 75 during the PM peak hour. The larger impact at Junction 10 was considered to be the defining factor in selecting this junction for a mitigation over and above Junction 8."

6.11.161. Appendix ISH7 - 43 [REP8-017] sets out at Tables 3.14 (Junction 8a) and 3.15 (Junction 8b) that in the PM Peak there would be a maximum increase in average queue length of seven vehicles. The ExA see no reason to dispute this. As set out above, the AM Peak period was not considered in Appendix ISH7 - 43 [REP8-017] as there was no material change in traffic flows. The original TA identified at Table 7.30, a

maximum average queue increase of six vehicles for Junction 8a and at Table 7.33 a maximum average queue increase of two vehicles for Junction 8b.

6.11.162. In comparison, Appendix ISH7 - 43 [[REP8-017](#)] at Table 3.17 shows that in the PM Peak there would be a maximum increase in average queues of six vehicles at Junction 10. However, the original TA identifies in the AM Peak there would be an increase in average queue lengths of 11 vehicles on the Shottendane Road to Manston Road (East) and 13 vehicles Shottendane Road to Margate Hill and Manston Road (West) arm (Table 7.39). On this basis, there is clearly a lesser impact on Junction 8 (a and b) from the Proposed Development than for Junction 10.

6.11.163. The ExA therefore accepts the Applicant's view that the impact on Junction 8 (a and b) would not be severe. Further, the ExA is of the view that the impact would be very minor and not materially alter the operation of the junction. **The ExA concludes that mitigation is not required at this junction.**

Junction 10: Shottendane Road / Manston Road / Margate Hill

6.11.164. KCC confirmed in its response to TR.4.28 [[REP9-024](#)] that it is content with this mitigation scheme in principle, although set out a Stage 1 RSA should be undertaken for all physical changes to the road network, as even relatively minor interventions such as amendments to lining and signing can have adverse highway safety implications. The TA Update [[REP8-017](#), Appendix ISH7 - 43] at paragraph 3.2.40 sets out that the mitigation scheme has not been subject to a Stage 1 RSA as the change is minor.

6.11.165. As illustrated in Figure 7.6 of the original TA, the mitigation scheme involves minor widening on the northern arm and a readjustment of the white lining to maximise the capacity. In addition, the southern arm is proposed to be widened to smooth the entry approach and maximise the effective capacity.

6.11.166. The ExA is content that the proposed works are minor and the improvement works would not result in any highway safety issues that could not be overcome at the detailed design phase.

6.11.167. **Consequently, the ExA is satisfied that the mitigation scheme proposed for Junction 10 is appropriate and there would therefore be no residual adverse effects at this junction.**

Junction 13: Manston Court Road / B2050

6.11.168. The original TA [[APP-061](#)] at paragraph 7.16.4 identifies that as a result of the Proposed Development, the junction is shown to operate with significantly increased queues and delays on Manston Court Road and in order to address the impact at this junction a mitigation scheme is required.

- 6.11.169. Further, Section 7.31 of the original TA identifies that improvements are also needed to the junction due to highway safety issues. Paragraph 4.7.19 of the original TA states:
- "Visibility from Manston Court Rd when trying to turn on Manston Rd is less adequate, particularly from the right where it is obstructed by fencing around 20m from the junction. Increased visibility from this location therefore could reduce the risk of collisions."*
- 6.11.170. Paragraph 7.31.2 of the original TA notes that the proposed mitigation scheme at Figure 7.8 would overcome these concerns.
- 6.11.171. The revised TA sets out at paragraph 6.3.44 that as a result of the Manston-Haine link road that is taken into account in the modelling, overall junction performance remains unchanged and there is no need for a mitigation scheme.
- 6.11.172. KCC in its LIR [[REP3-143](#)] states:
- "The proposed scheme of mitigation for the B2050 / Manston Court Road junction is considered inadequate. It is the opinion of the Highway Authority that Manston Court Road would act as a key route to the site from much of Thanet; however it is currently not of an appropriate standard to fulfil this function, due to its traffic calmed nature and constrained geometry."*
- 6.11.173. The Applicant replied to the concerns of KCC in their comments on the submitted LIRs [[REP4-028](#)] by setting out that the junction has been capacity tested in the original TA and shown to provide sufficient capacity to accommodate the future traffic demands with minimal queues or delays and the mitigation scheme identified therefore addresses the impact of the development flows at the junction. Further, the Applicant noted that the traffic distribution clearly shows that Manston Court Road is not a key route and that traffic will be distributed around the road network. The Applicant also added in response to TR.4.30 [[REP9-006](#)] that:
- "The Applicant disagrees with KCC. The scheme is adequate to mitigate the impact of the Proposed Development traffic and the junction will operate with queuing slightly above the current situation. There is no additional attraction to the use of the junction."*
- 6.11.174. The TA Update - Appendix ISH7 – 43 [[REP8-017](#)] at paragraph 3.2.51 sets out that the mitigation scheme has now been subject to a Stage 1 RSA. This is provided at summary of the Applicant's case put orally at the traffic and transport ISH at Appendix ISH7 – 44 [[REP8-017](#)]. This also includes the Designer's Response and confirmation that, following this, there are no outstanding issues.
- 6.11.175. KCC in its response to TR.4.30 [[REP9-024](#)] set out that this did not overcome their concern and noted that the proposed mitigation scheme requires third party land which may not be made available to the

Applicant. This was confirmed by the Applicant in reply [[REP9-006](#)] to the same question and stated:

"The junction improvement scheme includes a small section of land outside of the highway boundary and the DCO boundary however this will benefit from permitted development rights and will therefore be deliverable under the GPDO powers."

- 6.11.176. The ExA raised the matter of Permitted Development rights at ISH7 [[EV-028](#)]. The summary of Applicant's case put orally at the traffic and transport ISH at Appendix ISH7 – 32 [[REP8-017](#)] paragraph 4.1 states:

"The Applicant explained that highway improvements that are part of the mitigation package could be associated development, however, this does not mean that they have to be 'associated development' secured via the DCO. The only appropriate circumstances warranting their inclusion in the DCO might be if they did not otherwise have consent. Since such improvements are within or adjacent to the highway boundary, they benefit from permitted development rights and hence have planning permission. As noted in the Applicant's answer to Tr.3.8, under Class A of Part 9 of the Town and Country Planning (General Permitted Development) Order, the highway authority can undertake the works under permitted development rights. The proposed highway improvements do not fall within any of the thresholds for 'EIA development' within Schedule 1 or Schedule 2 to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and article 3(10) of the Town and Country Planning (General Permitted Development) Order 2015 does not apply to remove permitted development rights."

- 6.11.177. On the same issue, Action 40 [[EV-030](#)] arising from ISH7 requested that KCC provide a legal opinion on whether Permitted Development rights apply to all or some of the proposed junction improvements, if such development is associated with EIA development. KCC's response to D8 [[REP8-027](#)] stated:

"Section 55 of the Town & Country Planning Act 1990 (TCPA) states that the starting point for considering this issue is whether the works are development within the meaning of the TCPA, that require planning permission. Section 55(2)(b) provides that the following does not involve the development of land requiring planning permission: -

'the carrying out on land within the boundaries of a road by a highway authority of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment' Where the works proposed are required for the maintenance or improvement to the road and do not have significant adverse effects on the environment, they do not require planning permission and as such are considered to fall under permitted development rights'.

*Where the applicant's proposals will require acquisition of land or acquiring rights over third party land e.g. to improve visibility sightlines (for example Alland Grange Lane / Spitfire Way & **Manston Court Road / Manston Road**), it is the opinion of KCC that these would not fall within the exceptions to section 55(2)(b) and Part 9, Class A of the GPDO and must be included in the draft DCO. The purpose of the DCO process is to avoid piecemeal decision making and ensure streamlined decision making to enable the development granted consent to proceed (the ExA's emphasis).*

If the DCO does not grant the required planning permission for the Highways works, it would need to be obtained subsequent to the grant of the DCO. In circumstances, where the proposed development relies on such mitigation to make it acceptable in planning terms, it would be inappropriate to grant the DCO, if there is uncertainty about whether planning permission to deliver the highways improvements could in fact be separately secured."

6.11.178. In response to TR.4.41 [[REP9-024](#)] KCC stated:

"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:-

- *Junction Improvements at Alland Grange Lane/Spitfire Way*
- ***Proposed signal-controlled junction improvements at Manston Road/ Manston Court Road.*** (the ExA's emphasis)

6.11.179. This issue was further explored through TR.5.6. The Applicant's reply [[REP11-002](#)] noted that:

"Permitted development rights under Class A of Part 9 apply to land comprising of the highway and land outside but adjoining the boundary of the highway, provided the works are carried out by the highway authority. All of the junction improvement works are proposed on land comprising or adjacent to the highway. The GPDO therefore authorises a Highway Authority to carry out the works which will be funded through contributions from the Applicant, as secured in the Section 106 agreement, irrespective of who owns the land. The Applicant therefore disagrees with the statement from Kent County Council in response to TR.4.41."

6.11.180. KCC response to the same question [[REP11-017](#)] provided further clarification on their view that Permitted Development rights do not apply at Junction 13 and stated:

"The works proposed at the named junctions are not within the boundaries of the highway. Whilst KCC accepts that works on adjoining land that are incidental to maintaining and improving the highway are

*permitted, the works themselves cannot form part of the highway. Therefore, permitted development on adjoining land cannot involve development for the primary provision of the highway. For example, where adjoining land is required to broaden the highway itself this does not fall within permitted development. This is the case for both the proposed highway safety improvements at the Alland Grange Lane/Spitfire Way junction and **the proposed signalisation improvements at Manston Road/ Manston Court Road junction**, as they require third party land in order to be implemented as shown within the submitted scheme drawings". (the ExA's emphasis)*

- 6.11.181. The ExA considers that this does raise notable questions whether the proposed works at Junction 13 do benefit from Permitted Development rights. Notwithstanding this, the ExA is particularly mindful that there is no evidence that the owner of the third party land required to implement the mitigation works would be willing to make their land available and allow regular maintenance of the visibility splay.
- 6.11.182. Given the scheme would not be secured in the dDCO, this raises significant doubt as to whether the necessary junction improvement works would be deliverable, whether they benefit from Permitted Development rights or not.
- 6.11.183. It is evident from the original TA (Table 7.50) and the TA Update at Table 3.22 of Appendix ISH7 - 43 [[REP8-017](#)] that unmitigated, the impact on Junction 13 would be substantial in the am and PM Peaks and the ExA considers that this would result in a severe impact on the local highway network. The ExA accept that the mitigation scheme is not required based on the modelling in the revised TA that includes the implementation of the Manston-Haine link road. Whilst there are highway safety concerns at this junction the revised TA shows that the Proposed Development would have a negligible impact on this junction and given it is an existing issue, the ExA accept that no mitigation is required in this scenario.
- 6.11.184. However, as set out elsewhere, the implementation of the link road would not be secured in the dDCO and in its absence, the impacts identified in the original TA could feasibly be realised.
- 6.11.185. **Given this and that there are already highway safety concerns at this Junction 13 (Section 4.7 of the original TA), the ExA considers that a major adverse significant effect (having regard to the significance evaluation methodology in Chapter 14 of the ES), particularly in terms of accidents and road safety and a severe impact in terms of the NPPF on Junction 13 cannot be ruled out and this weighs against the Proposed Development.**

Junction 15: Manston Road / Hartsdown Road / Tivoli Road / College Road / Nash Road

6.11.186. The original TA, revised TA and TA Update at Appendix ISH7 - 43 [[REP8-017](#)] all identify that, as a result of the impact of the Proposed Development, a junction improvement scheme is needed.

6.11.187. The original TA proposes a mitigation scheme, and at paragraph 7.17.5 sets out that the junction would benefit from a new signal head and stage sequence, as well as new white lining, to maximise the capacity at the junction. The scheme drawing is provided at Figure 7.9 [[APP-061](#)].

6.11.188. Based on the proposed mitigation scheme in the original TA, KCC in its LIR [[REP3-143](#)] commented that:

"Further information is required detailing how the apparently modest scheme of mitigation for the Manston Road / Hartsdown Road / Tivoli Road / College Road / Nash Road junction (comprising a new signal head and stage sequence and new white lining) will take the junction from significantly over-capacity operation to generally within capacity outside of the PM peak hour, as this is not considered plausible on the basis of the details provided."

6.11.189. The Applicant commented on the submitted LIRs [[REP4-028](#)] by setting out:

"The current staging sees both the east and west arms run together with nonhooking right turns and then the northern and southern arm separately. The proposed addition of the extra signal head and central reserve amendments permits running the northern and southern arms together thus maximising the capacity of the junction relative to the original configuration."

6.11.190. The revised TA identified the requirement for a revised mitigation scheme and at paragraph 7.2.16 sets out that:

"This junction is proposed to be amended as part of the KCC Local plan to include for Nash Road being stopped up. As part of the mitigation proposals this scheme has been developed further and now benefits from a new signal head and rationalised stage sequence along with the removal of a central island to provide additional width to the offside lane (2.25m to 3.25m) on the southern approach to the junction (Manston Road)."

6.11.191. This is set out at Figure 7.6 [[REP5-021](#)].

6.11.192. Through ExQ2, the views of KCC were sought on the appropriateness of the proposed mitigation scheme in the revised TA. Its response to TR.2.42 [[REP6-046](#)] sets out that:

"The applicant's proposed scheme of mitigation results in significantly increased queue lengths on the College Road approach to the junction relative to the baseline (with Local Plan) scenario. This would cause interaction with the Ramsgate Road / College Road / A254 / Beatrice Road junction to the north, which is unacceptable to KCC."

It is also relevant to note that this mitigation solution could not be implemented until other development sites were delivered as it relies on other road link infrastructure being in place to enable the Nash Road arm of this junction to be closed as traffic will need to reroute between Nash Road and Manston Road."

- 6.11.193. The Applicant responded to these concerns through TR.3.29 [[REP7a-002](#)] by setting out that 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. The Applicant also stated that:

"It is noted that in the 2039 baseline PM peak, the queue on College Road is 66 vehicles which is greater than the 62 vehicles in the mitigation scheme scenario. It is further highlighted that the results of the mitigation scheme presented in the revised TA [REP05-021] show a significant improvement to the junction performance as a whole with major reductions in queues on all arms in both peaks except for College Road in the AM peak when compared to the 2039 baseline scenario. For example, the queue on the Hartsdown Road arm in the 2039 baseline AM peak at 216 PCU would equate to 1.3km, stretching back nearly to the A28/Canterbury Road; the mitigation scheme reduces this to 930m

The mitigation proposed by the Applicant in the original TA [APP-060] excluded the Nash Road closure and demonstrates that a scheme of mitigation can be delivered with or without other road link infrastructure proposed by KCC. The improvement scheme comprised an additional signal head and adjustments to the signal timings to allow greater throughput on the College Road and Hartsdown Road arms which successfully mitigated the impact of the development traffic. Queues at the junction are considerably lower based on its existing configuration compared to the KCC/developer proposed scheme which includes the closure of Nash Road."

- 6.11.194. As part of TR.4.31 the ExA requested that the Applicant provided evidence to support its assumption that the issue of queue lengths on College Road can be addressed by minor modifications to the signal timings. This was provided in Appendix TR.4.31 of the Applicant's appendices to ExQ4 [[REP9-010](#)]. KCC considered these through TR.5.4 [[REP11-017](#)] and stated:

"It is noted from the LinSig modelling presented in the Technical Note (Appendix TR.4.31) that the proposed modifications to the signal timings would further decrease the Practical Reserve Capacity (PRC) of the junction in the 2039 AM peak hour. This is not acceptable to KCC, in view of the fact that the junction is already forecast to operate severely over capacity in the 2039 Base scenario."

- 6.11.195. Whilst the concerns of KCC are noted, Table 2.1 of Appendix TR.4.31 [[REP9-010](#)] shows that the reduction in Practical Reserve Capacity (PRC) in the AM Peak is minor (approximately 2%) and there is a significant improvement in the PRC in the PM Peak (over 50%). The ExA considers

that the proposed mitigation scheme, would therefore provide overall benefits.

- 6.11.196. The Applicant's response to ExQ2 was supported by appendices [[REP6-014](#)], which at Appendix TR.2.57 (page 2,018) included a Stage 1 RSA for the proposed mitigation scheme in the revised TA. KCC set out in reply to TR.3.29 [[REP8-027](#)]:

"KCC is not satisfied with the Designer's Response, in that the requested swept path analysis for HGVs has not been provided to address the Auditor's request. The above issue is not considered capable of being addressed at the detailed design stage, as it may require a significant revision of the mitigation scheme, potentially requiring land outside of the highway boundary."

- 6.11.197. A revised Stage 1 RSA was provided by the Applicant at Appendix TR.3.29 [[REP7a-003](#)] which included the provision of swept path analysis and the audit concluded that there were no outstanding matters that could not be overcome at the detailed design phase. KCC accepted this in their response to TR.4.31 [[REP9-024](#)]. The ExA see no reason to disagree.

- 6.11.198. **Based on the above, the ExA is content that the proposed mitigation scheme based on the revised TA is appropriate.**

- 6.11.199. Notwithstanding this, through TR.4.31 [[PD-020](#)], the ExA explored the issue that the mitigation scheme proposed in the revised TA relied upon other development sites being delivered, as it relies on other infrastructure being in place to enable the Nash Road arm of this junction to be closed to traffic. The Applicant replied [[REP9-006](#)] by setting out that the mitigation scheme presented in the original TA does not include KCC's proposals and therefore is viable in the event that the other developments are not implemented, and the ICRIS is not delivered.

- 6.11.200. Further, the Applicant stated in the same response [[REP9-006](#)] that it is proposing the scheme set out in the original TA and that contributions to fund improvements to the junctions identified in the original TA are secured in the draft Section 106 agreement. The Applicant went on to set out that in the event that KCC's road improvement aspirations are delivered, improvements would be required to fewer junctions but the sums to improve the junctions identified in the original TA will still be provided by Applicant, with flexibility for KCC in its deployment of those funds.

- 6.11.201. The TA Update - Appendix ISH7 – 43 [[REP8-017](#)] at paragraph 3.2.56 sets out that:

"the mitigation proposal is a new signal head and stage sequence, as well as new white lining, to maximise the capacity at this junction. The scheme drawing is unchanged from that presented in the DCO (original) TA provided as Figure 7.9 and has not been subject to a Stage 1 RSA as the change is minor."

6.11.202. KCC in reply to TR.4.31 [REP9-024] set out that Stage 1 RSAs should be provided for all physical changes to the road network, as even relatively minor interventions such as amendments to lining and signing can have adverse highway safety implications. The response of KCC to TR.5.4 [REP11-017] also noted that the Applicant had not addressed its concern with regard to its concerns set out in its LIR, as set out above. However, as noted above, the Applicant responded to these concerns through its comment on the submitted LIRs [REP4-028]. This explained that:

“The current staging sees both the east and west arms run together with nonhooking right turns and then the northern and southern arm separately. The proposed addition of the extra signal head and central reserve amendments permits running the northern and southern arms together thus maximising the capacity of the junction relative to the original configuration.”

6.11.203. The ExA see no reason to disagree.

6.11.204. Turning to whether a Stage 1 RSA should have been undertaken for the junction improvement proposed in the original TA and TA Update [REP8-017, Appendix ISH7 - 43], the ExA is content that the works are minor in nature and there are unlikely to be any road safety issues that could not be overcome at the detailed design phase.

6.11.205. The ExA accepts that the proposed mitigation would deliver notable improvements to average queues on all arms of the junction, as set out in Table 7.55 of the original TA and Table 3.25 of TA Update [REP8-017, Appendix ISH7 - 43].

6.11.206. **Consequently, the ExA is satisfied that the proposed mitigation in the original TA is appropriate and there would be no residual adverse effects at this junction.**

6.11.207. The Applicant has only made provision in the signed and dated UU [AS-583] for the improvement scheme as detailed in the original TA. Notwithstanding whether the financial contribution itself is sufficient, the ExA accept the Applicant’s view set out above that due to the wording of the UU, KCC could use the financial contribution to put towards the overall improvement of the junction associated with the ICRIS and implement the mitigation scheme proposed in the revised TA if it wished, that the ExA has also found to be appropriate.

6.11.208. **The ExA considers this to be a reasonable position to take given the complexities associated with this junction.**

Junction 16: Ramsgate Road / College Road / A254 / Beatrice Road

6.11.209. The original TA, the revised TA and the TA Update [REP8-017, Appendix ISH7 - 43] all consider that a mitigation scheme is necessary to address the impacts of the Proposed Development. The proposed mitigation improvement is the same in both the original and revised TAs. This would include new stop lines, signal heads and pedestrian crossings.

6.11.210. KCC in its LIR [[REP3-143](#)] set out that:

"The proposed scheme of mitigation for the Ramsgate Road / College Road / A254 / Beatrice Road junction would appear to result in a highly unconventional junction layout which is unlikely to be acceptable to the Local Highway Authority, not least due to the lack of intervisibility between the stop lines. Again, an independent Stage 1 Road Safety Audit will need to be submitted as part of any further justification for this scheme in order for an informed position to be identified."

6.11.211. KCC reiterated this concern in response to TR.2.43 [[REP6-046](#)].

6.11.212. The ExA through TR.2.43 asked the Applicant if a 'nil detriment mitigation scheme' was appropriate given that the junction would, on some arms, still operate over capacity following the implementation of the mitigation scheme, as shown in Table 7.59 of the original TA and Table 7.8 of the revised TA. The Applicant replied [[REP6-012](#)] by stating:

"The junction has queuing issues in the 2039 Baseline as a result of the Local Plan growth and general traffic growth. Whilst this hasn't been identified as requiring improvement in the draft Thanet Transport Strategy, this is a capacity problem due to overall growth and should be dealt with through identification of an improvement scheme by KCC. The mitigation scheme results in improvements to the 2039 Baseline scenario and therefore exceeds nil detriment."

6.11.213. The Applicant's responses to ExQ2 were supported by appendices [[REP6-014](#)]. Appendix TR.2.57 included a Stage 1 RSA for the junction and a Designer's Response.

6.11.214. The ExA in TR.3.30 asked the Applicant to comment on KCC's concerns with regard to the 'unconventional nature' of the proposed junction improvement scheme. The Applicant replied [[REP7a-002](#)] by stating:

"The proposed arrangement which is included in both the original TA [APP-060] and the TA Addendum [REP05-021] has been subjected to an independent Road Safety Audit (Stage 1) and inter-visibility was not raised as a material issue at this junction. The existing signalled scheme is subject to limited inter-visibility due to the built-up nature of the junction and as such is also considered to be evidenced as a departure from standard. This is not uncommon for signalled schemes located in built up urban environments. Based on discussions between the Applicant and KCC, it is understood that KCC acknowledges that there are constraints to further improvement at this junction and has suggested that there could be acceptance of the level of impact at the junction."

6.11.215. The ExA in TR.3.30 also asked whether KCC was content with the findings of the Stage 1 RSA and Designer's Response [[REP6-014](#)]. KCC confirmed [[REP7a-034](#)] that it was not content with its findings as they did not identify the unconventional nature of the proposed junction layout and the lack of intervisibility between stop lines as potential hazards. Further, KCC also set out that the above issues are not

considered capable of being addressed at the detailed design stage, as they may require a significant revision of the mitigation scheme, potentially requiring land outside of the highway boundary.

6.11.216. These matters were explored by the ExA further in TR.4.32. The Applicant in its reply [[REP9-006](#)] set out that it does not agree with KCC's response and the RSA Auditor considered the scheme acceptable which is why such matters were not identified. The Applicant also provided at Appendix TR.4.32 a letter from the Stage 1 RSA Auditors that acknowledges the Designer's Response and sets out that all issues have been addressed.

6.11.217. KCC replied to TR.4.32 [[REP9-024](#)] by setting out that:

- KCC does not agree with the Applicant's response.
- Whilst KCC appreciates that the scope for direct mitigation at the junction is limited due to geometrical constraints in this location, the proposed mitigation has the following flaws:
 - In practice the proposed layout will just add to existing queues at the signals and provide potential for vehicles being held at pedestrian crossings to block the junction.
 - Crossing facilities are moved further away from desire lines increasing the risk that pedestrians will not use crossing facilities.
 - Intervisibility has been reduced or eliminated altogether on what is already a constrained junction. It is felt that this will lead to an increased risk of road traffic collisions.
- An initial review of the road network in the locality suggests that it may have been possible to investigate a potential traffic management scheme of works in the locality that seeks to optimise vehicle routing around roads such as Tivoli Road (by re-introducing two-way traffic flow), which in turn could assist in managing traffic impact at Ramsgate Road / College Road / A254 / Beatrice Road. However, this has not been investigated or considered by the Applicant.

6.11.218. The ExA acknowledges the concerns of KCC with regard to the unconventional nature of the junction. However, this is largely as a result of the existing nature of the junction and its geometrical constraints. The ExA accept that the existing junction and its signalised scheme has itself limited intervisibility and that this is not uncommon for built up areas. Given this, the ExA deem that the fact that suitable intervisibility cannot be achieved as part of the mitigation scheme should not therefore militate against the Proposed Development. The ExA is also mindful that the junction would operate in a low-speed environment.

6.11.219. KCC has asserted that in practice the proposed layout will add to existing queues at the signals and provide potential for vehicles being held at pedestrian crossings to block the junction. However, this has not been supported by any substantive evidence to demonstrate that the modelling undertaken by the Applicant is not robust. On this basis, the ExA see no reason to consider that the junction would not operate as modelled in the original TA and revised TA.

- 6.11.220. In terms of crossing facilities, whilst these are acknowledged to be set further back from pedestrian desire lines, the ExA is content that they are not at such a distance that their use would be discouraged by pedestrians.
- 6.11.221. **Given all of the above, particularly the existing constrained nature of the junction, the ExA is satisfied that the proposed mitigation scheme is acceptable in these circumstances and would mitigate the impacts of the Proposed Development at this junction.**
- 6.11.222. KCC's suggestion of a potential traffic management scheme of works in the locality that seeks to optimise vehicle routing is noted. However, this was raised at a very late stage in the Examination and there would be no guarantee that this would be feasible. In any event, the ExA has found that the proposed mitigation scheme is acceptable without a need to consider this further.

Junction 17: Ramsgate Road / Poorhole Lane / Margate Road / Star Lane

- 6.11.223. KCC's LIR [[REP3-143](#)] states that:

"It is not considered that the proposed scheme of mitigation for the Ramsgate Road / Poorhole Lane / Margate Road / Star Lane roundabout will deliver practical benefits to the capacity of the junction. There is a known tendency for the ARCADY and PICADY modelling software to exaggerate the impact of minor amendments to kerb radii, flare lengths etc, which do not in reality provide meaningful capacity gains."

- 6.11.224. The Applicant replied through its response to TR.4.33 [[REP9-006](#)] by setting out that ARCADY software estimates capacity based on the relationship between the variables that influence capacity and that it is appropriate and acceptable to propose that amendments to the junction geometry variables will produce improvements to capacities in order to define the theoretical capacity of the junction. The ExA see no reason to disagree with the Applicant, particularly as KCC has not provided any evidence for this specific junction to substantiate its concern.
- 6.11.225. KCC in their response to TR.4.33 [[REP9-024](#)] notes that a Stage 1 RSA should be undertaken for all physical changes to the road network, as even relatively minor interventions such as amendments to lining and signing can have adverse highway safety implications.
- 6.11.226. The TA Update [[REP8-017](#), Appendix ISH7 – 43] at paragraph 3.2.65 sets out that:

"The proposed mitigation scheme at Junction 17 is limited in terms of options which can be delivered within the existing highways constraints. The proposed scheme is to provide minor widening and updated white lining to maximise the available capacity. The Scheme design is unchanged from the DCO TA (original TA) which was Figure 7.11 and has not been subject to a Stage 1 RSA as the changes are minor."

- 6.11.227. **The ExA is satisfied that the proposed works are minor and the improvement works would not result in any highway safety issues that could not be overcome at the detailed design phase. Consequently, the ExA is satisfied that the mitigation scheme proposed for Junction 17 is appropriate and there would therefore be no residual adverse effects at this junction.**

Junction 20 (a & b): A256 / Manston Road and Junction 21 (a and b): Canterbury Road / Haine Road and A299 / A256 / Sandwich Road / Canterbury Road East

- 6.11.228. The original TA at Tables 7.69, 7.72, 7.77 and to a lesser extent 7.81 show that as a result of the Proposed Development there would be significant increases in queues at these junctions. The original TA proposes a mitigation scheme for Junctions 20 (a and b) at Figure 7.12 [APP-061, pages 143 and 144]. The SoS should note that the figure is incorrectly labelled as Figure 7.11 - Junction 17. This involved signalling the junctions. A junction mitigation scheme is also proposed at Figure 7.13 for Junction 21a for localised widening to increase the flare length and entry widths. In terms of Junction 21b, the original TA at paragraph 7.23.5 set out that in order to mitigate the impact of the Proposed Development at this junction, no physical changes are proposed and the signal staging would be altered to maximise capacity at the junction.
- 6.11.229. KCC in its LIR [REP3-143] at page 22 of the transport report raised concerns with regard to the mitigation proposed at both of these junctions.
- 6.11.230. The revised TA was modelled on a different basis to the original TA, as it took into account the junction improvements as part of the Manston Green development, located directly to the east of the site. As part of this, Junction 20 would be replaced through the realignment of the Manston Road to join the A256 / Haine Road roundabout to the south, and that Haine Road would likely be downgraded. For Junction 21a and Junction 21b, the revised TA at paragraph 6.3.59 states:

"Based on comments made by KCC, junctions 21A and 21B have been combined into a linked LinSig junction to reflect the interaction between the two junctions. In addition, the form of junction has been updated to reflect the draft Transport Strategy scheme which revises the northern junction to a roundabout with the addition of an extra arm to the north."

- 6.11.231. The revised TA found that no mitigation works were required at Junction 20 (paragraph 6.3.58) and that only the altering of the junction staging is necessary, such that each signalled node is controlled independently to increase the junction's capacity. As a result, no physical mitigation works were considered necessary in the revised TA for these junctions.
- 6.11.232. The TA Update - Appendix ISH7 – 43 [REP8-017] notes that, for Junction 20, in the original TA:

"...the proposed committed scheme for the Manston Green Development was not taken into account. However, this has formed the basis for this

assessment. This scheme results in the junction being converted from a two-element junction (a roundabout and priority junction) to one single large roundabout with a dedicated left turn slip lane from Manston Road West to the A256 North."

6.11.233. Further, in relation to junctions 21a and 21b, it states in the original TA:

"...the proposed committed scheme for the Manston Green Development was not taken into account. However, this has formed the basis for this assessment. The scheme proposals are for the route though the Manston Green development to be the primary route north on the A256 corridor to Junction 20 and downgrading of the old Haine Road"

6.11.234. Appendix ISH7 – 43 [[REP8-017](#)] also finds that no mitigation works are necessary at these junctions. KCC has not contested these findings.

6.11.235. The ExA raised concern through TR.4.20, TR.4.34 and TR.4.35 [[PD-020](#)] that the findings of the revised TA and Appendix ISH7 – 43 [[REP8-017](#)] are based on the assumption that the Manston Green development and the associated junction improvements will be implemented.

6.11.236. The Applicant set out in response to TR.4.20 [[REP9-006](#)] that:

"The Manston Green development was granted outline planning permission in 2016 and has a signed Section 106 agreement. It is standard practice to assume that a permitted development is committed and should be included within a TA. It is further noted that a detailed application has recently been submitted for an initial phase of the development, and the infrastructure required to deliver the Manston Green development has been granted £2.5 million from the South East Local Enterprise Partnership (SELEP) area from the Government's Housing Infrastructure Fund (HIF). It is therefore reasonable to conclude that the Manston Green development will come forward..."

6.11.237. KCC in response to TR.4.34 [[REP9-024](#)] has taken the view that:

"...there is no certainty that the development would be delivered, however there is an acceptance that the site benefits from an extant planning consent" and "It is not felt that the impact of the development would be suitably mitigated if the Manston Green development does not come forward. It is important to highlight that KCC object to the proposed mitigation scheme as presented in the original TA for the reasons set out within the KCC Local Impact Report."

6.11.238. The ExA shares the concerns of KCC in relation to the appropriateness of the mitigation schemes identified in the original TA for these junctions and also note that they have not been subject to a Stage 1 RSA to demonstrate that significant improvement works would in themselves not result in highway safety concerns. In any event, the Applicant has not made provision in the UU [[AS-583](#)] for such works.

6.11.239. The ExA is of the view that whilst there is a reasonable likelihood that the Manston Green development will be implemented, based on the

Applicant's response to TR.4.20 [[REP9-006](#)] above and Cogent's (site promoters) involvement in the Examination, it cannot be guaranteed. Further, it is evident from the Examination that there are clearly outstanding issues around noise mitigation that need to be addressed by the site promoter of the Manston Green development.

6.11.240. It is the view of the ExA that the original TA (tables 7.69, 7.72, 7.77 and to a lesser extent 7.81) illustrates that there would be a severe impact at these junctions if the Manston Green development was not delivered. Given that the implementation of the Manston Green development cannot be guaranteed as part of the Proposed Development there is a risk that this could occur.

6.11.241. **The ExA is therefore unable to conclude that there will not be an adverse effect (having regard to the significance evaluation methodology in Chapter 14 of the ES) or a severe impact, in terms of the NPPF, from the Proposed Development on these junctions. This weighs against the Proposed Development.**

Junction 25

6.11.242. The original TA at paragraph 7.26.4 sets out that:

"With the addition of the development traffic queues are only recorded as increasing on the B2050 Manston Road West approach and then only during the PM peak hour periods. Given the level of queue increase and it is not considered that the impact at this junction can be considered to be significant and as such no physical mitigation is proposed."

6.11.243. The revised TA did not include a junction assessment, as the TSTM did not include the junction. However, KCC in response to TR.2.11 [[REP6-046](#)] stated:

"Whilst it is recognised that most of the local road network which is covered by the KCC TSTM will assist in the assessment of potential traffic routing, appraisal of impact should not necessarily be solely constrained by the model coverage area. At this stage junctions 1, 9, 25 & 28 are notable omissions. If these junctions (or all of the associated turning movements) are not included within the KCC TSTM, it does not automatically render impact assessment as being unnecessary. The applicant should outline a strategy for dealing with this issue for further consideration through the examination process."

6.11.244. The Applicant's response to TR.2.11 [[REP6-012](#)] set out that, at the request of KCC, it was undertaking a capacity assessment of junctions 1, 25 and 28 and that the assessments would use a combination of TSTM traffic data and the original TA traffic flows. This technical note was provided at Appendix TR.3.16 of [[REP7a-003](#)]. At paragraph 1.5.10 this concluded that:

"In the 2039 + Development scenario there is a slight increase in queuing on the B2050 Manston Road West arm, and the RFC is just

above 0.85, however, the junction continues to operate satisfactorily with minimal queueing."

- 6.11.245. Further to this, the TA Update [[REP8-017](#), Appendix ISH7 – 43], which considered the revised trip generation assumptions against the original TA, at paragraph 3.2.76 stated:

"With the addition of the development traffic scenario traffic the operation of the junction continues to be at an over just over capacity situation as in the base 2039 scenario. However, in both peaks the increase in queue and delay is minimal and as such it is considered that no mitigation proposals are required."

- 6.11.246. KCC when responding to TR.4.36 [[REP9-024](#)] noted that the TA Update [[REP8-017](#), Table 3.34 of Appendix ISH7 – 43] identified that the Proposed Development would take the junction over theoretical capacity in the 2039 pm peak hour, with increased queue lengths on the B2050 Manston Road West and Tesco Access arms. The response also noted that the Applicant has proposed mitigation schemes for junctions where similar impacts are forecast and it is considered that mitigation is required in this case.

- 6.11.247. Also, in response to TR.4.36 [[REP9-006](#)], and responding to the ExA question as to whether the impact was similar to other junctions (Junction 10 for example) where mitigation was proposed, the Applicant stated:

"The development traffic flows at Junction 25 are less than at Junction 10 (39 in the AM peak and 36 in the PM), and the overall junction performance is better than that of Junction 10 in the 2039 baseline and with development scenarios and the level of impact in terms of increased queuing and changes to RFC was not considered to be significant to warrant an improvement scheme."

- 6.11.248. The ExA accept this view. It is considered that any impact on Junction 25 would be only minor and not severe. **The ExA concludes that mitigation is not required at this junction.**

Junction 26: Newington Road / Manston Road and Junction 27: Newington Road / High Street

- 6.11.249. The original TA identified that an improvement scheme was required at both of these junctions due to increased traffic flows associated with the Proposed Development. KCC in its LIR [[REP3-143](#)] set out that:

"It is evident that there would be interaction between the B2014 Newington Road / Manston Road junction and the adjacent A255 / B2014 Newington Road roundabout in the PM peak following the implementation of the proposed scheme of mitigation, with enhanced queue lengths on the B2014 (south) arm arising from the proposed development. This is not acceptable to the Local Highway Authority and must be addressed, with the two junctions assessed within a network model."

6.11.250. The Applicant responded [[REP4-028](#)] by stating:

"The improvement proposed shows a relative improvement based on capacity enhancements and as such it can be concluded that the additional capacity will provide benefit to the proposed junction."

6.11.251. The revised TA, which incorporates the ICRIS improvements, concluded that no mitigation was required at these junctions. This was largely due to traffic flows being diverted to other routes, as a result of the ICRIS improvement works, including the Manston-Haine link road. KCC in its response to TR.2.33 and TR.2.34 [[REP6-046](#)] accepted that no mitigation was required at these junctions, based on the modelling in the revised TA. The ExA also accept this conclusion.

6.11.252. However, in the absence of the implementation of the Manston-Haine link road, which is not secured as part of the Proposed Development, the Applicant is relying on the modelling in the original TA. At ISH7 [[EV-028](#)] the Applicant agreed under Action 44 [[EV-030](#)] to provide Stage 1 RSAs for all junctions requiring mitigation in the original TA, but not within the revised TA, which included junctions 26 and 27. Appendix 2 of the Applicant's summary of oral evidence at ISH7 [[REP8-017](#)] at paragraph 11.1.3 stated:

"A Designer's Response and revised Stage 1 RSA has not been completed for the other two junctions as the auditor's problems and recommendations could not be resolved. Further consideration has been given to the constraints to improvement at the junction and the volume of development traffic at both the junctions, which is 38 vehicles in the AM peak and 36 vehicles in the PM peak hour. It has been concluded that there is limited opportunity to improve the junction and the scale of development traffic does not result in a severe impact. These schemes are therefore no longer being taken forward."

6.11.253. For Junction 26, Appendix ISH7 – 43 [[REP8-017](#)] at Table 3.35 shows that as a result of the Proposed Development there would be an increase in queue length on the Manston Road arm of 30 vehicles in the PM Peak. In addition, Table 3.36 shows that for Junction 27 there would be an increase in average queue lengths of 23 vehicles on the Newington Road North arm of the junction.

6.11.254. KCC replied to TR.4.37 and TR.4.38 [[REP9-024](#)] on this matter by stating:

"The level of impact is considered to be significant as this part of the network is already subject to a large degree of peak hour traffic delay/congestion."

6.11.255. KCC also went on to say that:

"Theoretically, it could be possible to implement further improvements at Newington Road/St Lawrence High Street if third party land/property was available (i.e. the demolition of the public house located at this junction), however a number of non-highway based planning constraints/

considerations could rule this type of solution out (setting of the Listed church, potential loss of community based amenities). This would need to be clarified with the TDC in its capacity as the Local Planning Authority, and these proposals do not form part of the current DCO mitigation proposals."

- 6.11.256. KCC did, however, acknowledge in the same response that the scope for direct physical mitigation at the junction is limited due to geometrical constraints in this location and that:

"...it is highly likely that there would need to be a level of acceptance that traffic congestion will potentially get more acute, which conversely could naturally lead to local traffic seeking alternative routes away from this part of the local road network or adjusting journey timing."

- 6.11.257. The Applicant responded to TR.4.37 and TR.4.38 [[REP9-006](#)] by noting that the future baseline models results show that queuing at both junctions will be an issue in the future baseline and KCC has identified an improvement scheme in the draft TTS. The Applicant also went on to say that for each junction, the increase in queueing and impact on ratio of flow to capacity (RFC) as a result of the Proposed Development is not considered to be severe as the additional traffic at the junctions are low, less than 2% of the overall traffic.

- 6.11.258. The ExA accepts that there is very little scope at these junctions to deliver mitigation schemes. Further, given that the Proposed Development traffic flows are less than 2% of the overall traffic at these junctions, which could be considered to be within normal variations in traffic flows experienced at the junctions, the impact, whilst not significant in terms of the ES or severe in terms of the NPPF, it still weights negatively against the Proposed Development.

- 6.11.259. **The ExA concludes that, in the absence of the delivery of the ICRIS, including the Manston-Haine link road, there is a risk that there would be a minor impact on the local highway network at junctions 26 and 27 that would not be mitigated and this weighs against the Proposed Development.**

Highway Safety – Spitfire Way / Alland Grange

- 6.11.260. The original TA, at paragraph 7.31.1, sets out that as a result of the accident record assessment (Section 4.7), three junctions were noted as having highways safety considerations that needed to be addressed in the form of a mitigation scheme. This included junctions 12 and 13 and also the Spitfire Way / Alland Grange Lane junction. For the latter, paragraph 7.31.4 states that:

"The issue at this junction was noted to be a lack of visibility from the Allend Grange Road minor arm and as such an improvement scheme, as set out in Figure 7.16 is proposed to provide for a clearer visibility splay from the junctions. This scheme is in conjunction with the proposals to widen Spitfire Way to a 7.3 carriageway and provide further signage warning users of Spitfire Way of the presence of this minor arm."

6.11.261. The revised TA proposed some minor amendments to the mitigation scheme set out in the original TA.

6.11.262. However, in response to TR.3.6, the Applicant [[REP7a-002](#)] sets out that the improvement scheme proposed at the Spitfire Way / Alland Grange junction lies outside of the highway boundary. The response goes on to say that:

"...the junction is not significantly effected [sic] by development traffic but has been identified to have substandard visibility splays in its current configuration. It is not for the Applicant to resolve pre-existing problems on the highway network."

6.11.263. Further, the response notes that:

"The Applicant's Project will increase traffic levels in the vicinity of those junctions and as such improvement works have been identified and the Applicant will fund those works with appropriately timed contributions as described in the draft Section 106 Agreement (at Appendix Tr.3.1 - part b)."

6.11.264. The Applicant also comments that KCC as Highway Authority has chosen not to carry out works to address the existing problems and suggests that this may be because it hopes to deliver the ICRIS improvements which will help alleviate the existing problem at the junction.

6.11.265. However, the accompanying draft Section 106 Agreement to the Applicant response to ExQ3 [[REP7a-003](#), Appendix TR.3.1 Part B] did not include a financial contribution for the proposed mitigation scheme at the Spitfire Way / Alland Grange junction. In addition, in the Applicant's summary of oral evidence at ISH7 [[REP8-017](#)] at paragraph 4.14, it is noted that the required works at this junction are 'adjacent' to the highway and so benefit from Permitted Development rights.

6.11.266. The ExA explored these issues through TR.4.40. The Applicant responded [[REP9-006](#)] by stating:

"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."

6.11.267. KCC replied to this through TR.5.5 [[REP11-017](#)] by stating:

"KCC does not agree with this statement. The Applicant clearly identified a requirement for a highway safety mitigation scheme, in view of the traffic impact created by the development (i.e. increased traffic flow on Spitfire Way) and not to directly address perceived existing safety issues. Therefore, the requirement for mitigation at this junction is instigated by the Proposed Development and thus should be secured through the DCO/S106 agreement."

KCC (as the Local Highway Authority) would have no jurisdiction over the areas of third-party land required to achieve the vehicle sightlines (unless the land was secured as part of the DCO or through direct negotiation with the landowner). There would be nothing preventing the landowner from planting a boundary treatment in the future, as such junction visibility is not secured in perpetuity and KCC do not accept responsibility for delivering this necessary mitigation scheme."

- 6.11.268. The ExA considers that whether or not the mitigation works could be undertaken via Permitted Development rights is not determinative in this instance as the Applicant has not provided a financial contribution to undertake such works and is therefore not seeking to provide mitigation.
- 6.11.269. The ExA accept that there is an existing issue. However, the ExA considers that the highway safety issues at the junction will be exacerbated by an increase in traffic flow, even if minor, as a result of the Proposed Development. Without the provision of mitigation, it must be concluded that there is a worsening of highway safety at this junction through its increased usage.
- 6.11.270. **Given that it is accepted that the junction is unlikely to experience a high level of traffic, the ExA considers that this would not result in a significant (in terms of the ES) or severe impact in relation to the NPPF. But nonetheless, the worsening of highway safety at this junction weighs against the scheme.**

A256 - Discovery Roundabout Junctions

- 6.11.271. KCC's response to TR.3.15 [[REP7a-034](#)] set out that the provision of the network diagram [[REP6-014](#), Appendix TR.2.11] had highlighted further areas of interest which should be examined by the Applicant. This included traffic flows entering / leaving the current network study area on the A256 (177 and 155 two-way traffic movements in the AM and PM Peaks respectively). The same response from KCC suggested that the study areas should be expanded to better understand potential impact on these links and appropriate mitigation proposals progressed if adverse impacts are identified.
- 6.11.272. After further discussion at ISH7 [[EV-028](#)], the Applicant agreed to undertake a proportional impact assessment on the wider study area, including the A256. This is presented in the summary of the Applicant's case put orally at the traffic and transport ISH at Appendix ISH7 – 32 [[REP8-017](#)].
- 6.11.273. At paragraph 2.2.5 of the study [[REP8-017](#), Appendix ISH7 – 32] it is set out that, for the A256:

"The findings show that the development traffic results in proportional increases of less than 5% at each of the junctions in the AM and PM peaks, and is therefore it is appropriate to discount these junctions as requiring further assessment."

6.11.274. KCC raised concerns through TR.4.1 [[REP9-024](#)] about this study, particularly with regard to the A257 / A256 roundabout junction. KCC were of the view that the Applicant had not provided sufficient information for KCC to reach an informed decision regarding traffic impact at this junction and consequently determine if further mitigation is required.

6.11.275. However, in response to TR.4.1, the Applicant set out [[REP9-006](#)] that:

"The Applicant has carried out further sensitivity tests on the first three roundabouts this demonstrates that our development traffic does not have a severe impact on the road network. These tests will be included in a technical note and submitted at Deadline 10."

6.11.276. This was subsequently provided at D10 [[REP10-003](#)]. This assessed three junctions based on junction models and baseline traffic data available in the Discovery Park TA (Planning ref: 14/00058): A256 / Ramsgate Road / Copart Access; A256 / Monks Way; and A256 / Ash Road / A257. The study [[REP10-003](#)] found that:

- A256 / Ramsgate Road / Copart Access Junction - In the AM Peak there is an increase in queuing of three 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. In the PM Peak there is an increase in queuing of 28 on the Ramsgate Road arm and one 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.
- A256 / Monk's Way - In the AM Peak there is an increase in queuing of one vehicle on the A256 North arm and nine 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 one 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.
- A256 / Ash Road / A257 - 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). The impact of Discovery Park development resulted in similar levels of increase, more on some arms, which was accepted by KCC as not requiring mitigation. Further, at paragraph 2.4.3, it is noted that KCC has acknowledged during discussion that the junction has capacity issues and that the Highway Authority needs to identify an improvement scheme for to address this, with the expectation that developers would contribute to this.

6.11.277. The study [[REP10-003](#)] concluded by stating at paragraph 3.1.1:

"The results of the modelling exercise show that the development traffic through the junctions has less of an impact than the 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."

6.11.278. The appropriateness of the methodology used and the findings of the study [REP10-003] were examined by the ExA through TR.5.15. In summary, the Applicant's response [REP11-002] was as follows:

- Methodology:
 - Whilst now superseded guidance suggested counts surveyed within the last three years should be used, it is standard practice to use data that is older, subject to discussion and agreement with the Local Highway Authority. The Applicant engaged with KCC to agree an appropriate assessment approach for these junctions and it was agreed with KCC that using the traffic data and junction models provided in the Discovery Park TA was appropriate.
 - It is also noted that reference has been made to traffic count information for the A256 available on the DfT traffic count site¹³⁸. Survey site 46856 is between the A256 / Ash Road roundabout and the A256 / Deal Road junction. A manual count was conducted in September 2018. The raw traffic count data available from the DfT count site shows a two-way total of 1803 vehicles in the AM Peak of 8:00 to 9:00 and 1844 vehicles in the PM peak hour of 5:00 to 6:00. The 2018 baseline traffic flows data for the A256 included in the Discovery Park TA is an average of 2,430 two-way traffic in the AM Peak hour and 2,134 two-way traffic in the PM Peak hour. The assessment has therefore been robust and overestimates the quantum of traffic along the A256 by 627 vehicles in the AM Peak and 290 vehicles in the PM Peak.
- Impacts:
 - The Applicant does not accept that the impact on the A256 / Ash Road / A257 is severe, as the similar / higher levels of queuing was identified in the Discovery Park TA which was not identified as 'severe' by KCC.
 - KCC has acknowledged that there are issues at the junction that will be exacerbated in the future and has identified that they need to address this by identifying a scheme at the junction which will accommodate the future growth anticipated through the Thanet and Dover Local Plans.
 - The junction is in the district of Dover. DDC is in the early stages of the process of producing a new Local Plan which will cover the period from 2018 to 2038. KCC will be producing a transport strategy as part of the evidence base which will include consideration for the A256 and the Ash Road roundabout and will include improvement measures required to accommodate future growth.
- Mitigation:
 - The Applicant will not be providing any mitigation.

¹³⁸ Available at: <https://roadtraffic.dft.gov.uk/#15/51.2682/1.3222/basemap-countpoints>

6.11.279. KCC's response to TR.5.15 [[REP11-017](#)] is summarised below:

- Methodology:
 - It is not usual transport planning practice to use data older than three years for the basis of detailed modelling proposals, however it is accepted that it can sometimes be necessary to utilise historic data where there is an absence of more recent data sources.
 - This should however be used with caution, particularly if there has been a substantial amount of new development or traffic growth within a given locality since the original data was collected, as this could mean that the data is no longer representative of baseline traffic conditions.
 - In the case of the A256 corridor, this is located directly next to Discovery Park, which is a key employment destination within the Dover District.
 - Annual Traffic forecast data published by the DfT suggests that the Annual Average Daily Flow on the A256 Corridor has increased by 6302 vehicles between 2014 and 2018, which represents a significant increase in traffic of approximately 33% (over the four years following the production of the Discovery Park TA) and suggests significant growth in excess of national trends.
 - In view of this available data, it would be prudent to undertake additional traffic surveys to sense check the Discovery Park TA forecasts and if necessary, inform revised junction modelling should significant disparity be identified.
- Impacts on A256 / Ramsgate Road / Copart Access Junction and A256 / Monk's Way:
 - A256 / Ramsgate Road / Copart Access Junction - KCC would not concede that the impacts are "*not severe*". However, anecdotally KCC is unaware of significant delay at the junction (at this time), and as such this would generally support the conclusions in this location.
 - A256 / Monk's Way - If considered in isolation KCC would agree, however, in this case, it is important to highlight that peak hour queuing at the A257 / A256 Ash Road Roundabout leads to exit and entry blocking back within this junction. Therefore, the outputs presented within this note are likely to be more severe in real terms. This adds additional weight to the requirement for appropriate mitigation at A257 / A256 Roundabout.
- Impact on A256 / Ash Road / A257:
 - KCC would reiterate answers that it made within TR.4.1. This junction is already subject to severe peak hour queuing and delay, which can be confirmed by examination of publicly accessible typical traffic conditions (Google Maps). It is possible that this is a result of the aforementioned disproportionate increases in traffic flow within this part of the road network within the last four years. As such the conclusions arrived at within the Discovery Park TA, do not represent an up to date forecast with which to draw fully informed conclusions in relation to the application.

- KCC accepts that it is likely that some form of longer-term mitigation scheme will be required at this junction in the future, however, to date no such scheme has currently been developed / identified in any detail. It is possible that a review of the Dover Local Plan could identify a need for longer term mitigation on this corridor, however at this juncture there is no longer-term scheme or development strategy with which to inform a s106 tariff-based mitigation approach.
- Given the late stage of the Examination process, it is unlikely that this issue can be resolved within the remaining timeframes. If this issue had been addressed by the Applicant sooner, it may have been possible for it to develop a mitigation scheme which seeks to address the impact from the Proposed Development (in agreement with KCC). This could have then been used as a basis for a financial contribution to KCC towards longer term strategic improvements at this junction in the future.
- In addition, a mitigation scheme at A256 / A257 roundabout was requested by KCC as part of this application. KCC suggests that it is inappropriate to directly compare highway impacts that were assessed / accepted as part of the Discovery Park planning application, as this was considered within the extant traffic impact framework of the existing Local Development Order (LDO) (which is the planning mechanism for implementing the Enterprise Zone at Discovery Park). Previous uses of the Discovery Park site (as Pfizer's Research and Development facility) and previously extant potential for associated traffic impact, were also a material planning consideration at the time that the LDO was granted.

6.11.280. Dealing firstly with the use of the junction models and baseline traffic data available in the Discovery Park TA, the ExA is concerned that these are not representative of the current traffic environment on the A256. The Applicant has set out that at a survey point between the A256 / Ash Road roundabout and the A256 / Deal Road junction there can be seen to be a lower level of traffic flow than that assumed in the Discovery Park TA and therefore has overestimated traffic flows. However, this only represents one survey point.

6.11.281. Further, KCC has set out that Annual Average Daily Flow on the A256 Corridor has increased by 6302 vehicles between 2014 and 2018, which the ExA agrees represents a significant increase in traffic over the four years following the production of the Discovery Park TA. The ExA was unable to explore this difference in views given the very late stage in the Examination that the responses to ExQ5 were received (D11, four days before the close of the Examination). Nonetheless, based on the evidence that has been provided there remains significant uncertainty that the use of the Discovery Park TA offers an appropriate basis to consider the impacts of the Proposed Development on the A256.

6.11.282. Notwithstanding the above, KCC has set out [[REP11-017](#)] from its own knowledge that there are not any significant delays at the A256 / Ramsgate Road / Copart Access Junction and therefore support the

study's conclusion that there would not be a severe impact at the junction. Based on this, the ExA see no reason to disagree.

- 6.11.283. Further, on the A256 / Monk's Way, KCC has supported the results of the Study [[REP10-003](#), Appendix TR.4.1] if considered in isolation but note that peak hour queuing at the A257 / A256 Ash Road Roundabout leads to exit and entry blocking back within this junction. The ExA agree that this adds additional weight to the requirement for appropriate mitigation at A257 / A256 roundabout.
- 6.11.284. The ExA's primary concern is the impact on the A256 / Ash Road / A257 roundabout. As set out above, the study [[REP10-003](#), Appendix TR.4.1] identified 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). These are very significant queue increases. Even if they have been overestimated as asserted by the Applicant, the increase in queues are still likely to be substantial on these arms. The ExA is in little doubt that this would result in a severe impact at this junction as a result of the Proposed Development.
- 6.11.285. The Applicant seeks to justify this impact by setting out that KCC accepted a similar level of impact with no mitigation when planning permission was granted at Discovery Park (Planning ref: 14/00058). The ExA does not consider that the impact from one development can be compared to another as each must be considered on its own merits. It is clear from KCC's response set out above, that there were other material considerations that were considered when the Discovery Park planning application was granted, such as the extant traffic impact framework of the existing LDO; previous uses of the Discovery Park site (as Pfizer's Research and Development facility); and previously extant potential for associated traffic impact. The ExA is therefore not satisfied by the Applicant's comparison.
- 6.11.286. The ExA accept KCC's view that if this issue had been addressed by the Applicant sooner, it may have been possible to develop a mitigation scheme which addressed the impact and that this could have then been used as a basis for a financial contribution to KCC, as has been done for other junctions.
- 6.11.287. Given all of this, **the ExA concludes that the Proposed Development would have a severe impact (in terms of the NPPF) on the A256 / Ash Road / A257 junction that would not be mitigated by the measures currently included in the rdDCO. This weighs against the Proposed Development.**

Approach to securing the proposed off-site junction mitigation schemes

The Applicant's response to TR.2.1 [[REP6-013](#)] sets out that the off-site junction improvements are not part of the DCO application and will be dealt with through Section 278 Highways Agreements. However, the issue of securing the off-site mitigation schemes was raised through

TR.3.6. The Applicant replied [[REP7a-002](#)] by setting out that the mechanism for securing funding for improvements to the road network is a s106 obligation; a draft of which was included at Appendix TR.3.1 - part b [[REP7a-003](#)]. The Applicant also added that a Section 106 Agreement was being used in order to facilitate their integration with KCC's wider aspirations relating to the TTS.

- 6.11.288. Several iterations were made to the draft Section 106 Agreement [[REP8-006](#), [REP9-003](#) and [REP11-010](#)] following the examination of it through ISH7 [[EV-028](#)] and written questions; particularly TR.4.48 and TR.5.9. However, on the last day of the Examination the Applicant's proposed mitigation for the off-site improvement schemes at junctions 1, 2, 4, 6, 7, 10, 13, 15, 16 and 17 were secured through a signed and dated UU [[AS-583](#)] instead of a Section 106 Agreement that would have been signed by all relevant parties. This is in the form of financial contributions payable to KCC to undertake the works. It should be emphasised that this was provided on the last day of the Examination and therefore KCC has not had the opportunity to comment upon it.
- 6.11.289. **Whilst the UU does in the large reflect the wording of the latest draft s106 agreement [[REP11-010](#)] provided by the Applicant, and which KCC saw subsequently to its submission, the ExA considers that it would be prudent for the SoS to seek the views of KCC on the UU [[AS-583](#)].**
- 6.11.290. KCC [[REP8-027](#)] has accepted that the provision of financial contributions is an appropriate mechanism to secure the mitigation works where such works would sufficiently mitigate the impacts of the Proposed Development. Improvements would constitute Permitted Development and the level of financial contribution is deemed appropriate. The ExA agree with this view.
- 6.11.291. KCC has accepted in response to TR.4.41 [[REP9-024](#)] that the proposed junction improvement works that fall within the highway boundary, can be delivered under Permitted Development rights and therefore do not need to be secured in the dDCO. The ExA agree with this view. KCC did raise concern with regard to whether Permitted Development rights apply at Junction 13 and the Spitfire Way / Alland Grange junction, matters associated with these junctions have been discussed above.
- 6.11.292. The ExA notes that the reliance on KCC to deliver mitigation required to mitigate the impact of the Proposed Development could be considered a risk, as these works are not secured in the dDCO. However, KCC are the Local Highway Authority and it is within their interest to ensure the safe free flow of traffic on the LRN. There is no reason for the ExA to consider that the necessary mitigation will not be delivered by KCC once funding has been provided by the Applicant. Further, it is not uncommon for this arrangement to take place, particularly where flexibility is required, which has been sought by KCC in this case.
- 6.11.293. **Given the specific circumstances outlined above, the ExA is content that this approach in securing mitigation identified in the ES is appropriate, rather than securing such works in the dDCO.**

- 6.11.294. KCC's response to TR.4.48 [[REP9-024](#)] notes that if as a result of the passage of time it transpires that the mitigation measures are needed elsewhere, some flexibility needs to be maintained that allows KCC to apply such contributions to schemes identified later as being in fact necessary to alleviate the impact of the Proposed Development. The ExA agrees.
- 6.11.295. Notwithstanding the consideration of the individual junction improvements, the ExA has several concerns with regard to the level and timing of the proposed financial contributions set out in the UU [[AS-583](#)]. The Applicant has not engaged with KCC with regard to the potential costs of each junction mitigation scheme. Given that KCC would be responsible for undertaking the works such engagement would have aided the ExA in coming to its conclusions.
- 6.11.296. KCC in its response to TR.4.46 [[REP9-024](#)] raises numerous concerns with regard to the Applicant's estimated costings for each junction improvement scheme, which were provided at Appendix ISH7 - 42 of [[REP8-017](#)]. Some examples of these include: Insufficient allowances for resurfacing; inadequate allowance for kerbing; no allowance for High Friction Surfacing; no costs included for drainage matters; no allowance for lights and signs affected; allowances for removal/new barriers not included; no allowance for new footway construction, new edgings and resurfacing; cost of lane rental should be included; allowance for affected utilities, such as electrical services / connections; insufficient design allowance; insufficient site supervising and traffic management costs; no allowance for earthworks / landscaping; insufficient detail about what is included in the lump sum for signals and whether this is sufficient; and no allowance for cost of land take.
- 6.11.297. In response to these concerns the Applicant [[REP11-002](#), response to TR.5.7]) is of the view that:
- Further topographic survey information is needed to confirm how evolving scheme proposals affect existing infrastructure such as drainage and earthworks.
 - Inclusions for statutory utility diversion and / or protection works at this stage would be vague and at best ambiguous.
 - The position and nature of safety fencing and road restraint systems should be assessed during the design development.
 - High Friction Surface provision should be assessed in accordance with DMRB standards and an associated site risk assessment exercise and where existing HFS is present, it is anticipated that localised patching would be undertaken.
 - Adjustments to lighting column positions should be done following the detailed consideration of existing and modified lighting levels.
 - Lane rental charges will be managed and mitigated through a combination of working outside of traffic sensitive times, avoiding the reduction of lanes available to traffic and collaborating with other promoters to share a collective charge.
- 6.11.298. The ExA note these points, however, this response suggests that the Applicant cannot rule out that there will be some additional costs

associated with these matters, but there is insufficient detail to determine what those costs are likely to be. However, the ExA considers that this does not stop a reasonable and conservative estimate being made, which has not been done.

- 6.11.299. Further, whilst the Applicant provided a generic response to the issues raised above, it did not address the more detailed concerns of KCC with regard to each specific junction. Examples include: Insufficient allowances for resurfacing and kerbing works; allowances for removal/new barriers; allowance for impacts on signs; allowances for new footway construction, new edgings and resurfacing; insufficient detail about what is included in the lump sum for signals and whether this is sufficient; and no allowance for cost of land take. The ExA considers that these matters could result in significant additional costs that could go beyond the 44% optimism bias allowance included in the Applicant's calculation.
- 6.11.300. The Applicant asserts [[REP11-002](#)] that the cost estimates prepared for each junction improvement scheme have been based upon a combination of engineering experience, recognised industry publications (SPONS Civil Engineering and Highway Works Price Book and Project-On costs) and recently returned tenders for schemes of a comparable scale and complexity. The ExA acknowledge that the junction improvement schemes are not yet fully detailed and have been developed to a concept preliminary design standard. Further, the ExA is mindful that a 44% optimism bias allowance has been made to the costs. Nonetheless and despite all of this, the ExA considers that based on the evidence provided and the lack of information provided by the Applicant to address KCC's concerns, there are serious questions over the appropriateness of the cost estimates provided by the Applicant.
- 6.11.301. On this basis, the ExA is unable to conclude that the financial contribution set out in the UU for each junction improvement scheme is sufficient to mitigate the impacts of the proposed development and are fairly and reasonably related in scale and kind to the development and therefore fulfil the requirements of CIL Regulation 122.
- 6.11.302. **Consequently, the ExA conclude that the planning obligation should be disregarded in reaching a conclusion on this matter.**
- 6.11.303. Turning to the timing set out in the UU for the provision of the financial contribution for each junction improvement scheme, the Applicant provided further detail in relation to how these were estimated in its summary of oral evidence at ISH7 [[REP8-017](#), Appendix 42]. A table is provided at Appendix 2 'Mitigation Trigger Points', which sets out that the trigger point is either development traffic flows over 100 vehicles or end state of development (2039). The triggers for payment within the signed UU [[AS-583](#)] correlate with this table.
- 6.11.304. The ExA is mindful that this applies a generic threshold across each junction rather than considering when the Proposed Development traffic flows result in impacts that require mitigation. KCC share this concern

[[REP9-024](#), response to TR.4.47]. The Applicant replied to this concern in response to TR.5.8 [[REP11-002](#)] by stating:

"A trigger point depends on the baseline performance of the junction and the point at which the addition of the development traffic would result in the junction operating severely over capacity. The identification of a trigger point was discussed with KCC and it was agreed that it is difficult to define, given that the Thanet Strategic Transport Model (TSTM) has assessed only one forecast year which is the end of the Local Plan, and no interim years. There is no specific methodology for identifying trigger points in the absence of traffic data. Consideration was given to operational capacity of the junctions based on 2031 data and the quantum of development traffic at the junctions and proportional impact. The figure of 100 vehicles was therefore assessed based on previous experience of similar assessments to be a suitable approach."

6.11.305. However, the ExA is mindful that in the absence of an implemented link road, which does not form part of the Proposed Development, the Applicant is relying on the original TA. It is unclear to the ExA why it is not possible for the Applicant to model the estimated trigger points for each junction improvement scheme based on the spreadsheet methodology adopted for the original TA. In addition, no further details have been provided of the previous experience of similar assessments referred to by the Applicant or why such circumstances were similar to this case. The Applicant has failed to demonstrate robustly that a generic trigger point of 100 vehicles is appropriate and that mitigation at each junction will be provided when it is necessary.

6.11.306. Further, given that KCC would be responsible for implementing the junction improvement schemes, it is not clear to the ExA how the time taken to fully design and plan each junction improvement scheme has been taken into account after funding is received from the Applicant.

6.11.307. **The ExA considers it is likely that severe impacts, in the short term, may occur at the junctions before the mitigation schemes are delivered.**

6.11.308. On a related matter, the UU [[AS-583](#)] at paragraph 3 of Schedule Six states:

"In the event that the above junction improvements are not necessary, the payments may be put towards other highway improvements as the County Council deems necessary provided that such improvements are required for the purpose of mitigating the effects of the Project."

6.11.309. In response to TR.4.48 [[REP9-024](#)] KCC submits that this would be CIL Regulation 122 compliant, because as set out above, if as a result of the passage of time it transpires that the mitigation measures are needed elsewhere, some flexibility needs to be maintained that allows KCC to apply such contributions to schemes identified later as being in fact necessary to alleviate the impact of the Proposed Development. The ExA accepts this view.

On-site highway improvements

Site accesses

Cargo facility

- 6.11.310. The cargo facility and associated vehicle parking for HGVs and staff will be served by one access, which will be a new junction off Spitfire Way. This is proposed to be a three-arm roundabout. This is set out at Figure 9.1 of the original TA and forms Work No. 25 in the dDCO.
- 6.11.311. KCC in its LIR [[REP3-143](#)] set out that full, independent Stage 1 RSAs are required for all new proposed site access junctions. No changes were made to the proposed junction in the revised TA, although a Stage 1 RSA was provided at Appendix J [[REP5-021](#)]. This made numerous recommendations, including the provision of swept path analysis.
- 6.11.312. KCC's response to TR.2.36 [[REP6-046](#)] accepted the results of the junction capacity assessments presented. Further, KCC noted that whilst Stage 1 RSAs had been completed, no Designer's Responses have not been included. Concern was also raised about forward and intervisibility splays.
- 6.11.313. The Applicant addressed these issues through its response to TR.3.23 [[REP7a-002](#)]. The Designer's Response was provided at Appendix TR.3.23 [[REP7a-003](#)] and confirmation was provided that suitable intervisibility splays at the cargo access junction are achievable. Further, at Appendix TR.4.44 [[REP9-010](#)] the Applicant provided a drawing to demonstrate this.
- 6.11.314. The Designer's Response recommended some changes to the proposed junction to overcome the safety concerns and swept path analysis was undertaken. Following this, a new Stage 1 RSA was undertaken on the revised scheme, which concluded that there were no outstanding matters. KCC confirmed that it was content with this finding in its response to TR.4.44 [[REP9-024](#)].
- 6.11.315. **The ExA agree with these conclusions and considers based on the above, that the proposed access to the cargo facility is appropriate.**

Passenger terminal and NGA South accesses

- 6.11.316. The original TA sets out at paragraph 9.2.9 that the access to the proposed passenger terminal and the southern access to the NGA are adjacent to each other and as such a linked signalised junction layout is proposed. These are shown in figures 9.2 and 9.4 of the original TA. These form Work No. 27 in the dDCO.
- 6.11.317. KCC in its LIR [[REP3-143](#)] at paragraph 4.1.23 set out:

"The proposal to implement a linked signalised junction arrangement for the Northern Grass Area southern access and the passenger terminal access should be reconsidered. The introduction of signalised junctions is

not considered appropriate in this location and indeed, the passenger terminal access junction is shown to operate close to theoretical capacity in the 2039 + Proposed Development scenario on the Manston Road (westbound) arm. It is suggested that uncontrolled junction layouts should be tested in the first instance. There is also doubt about the ability of this form of junction to accommodate future flows pertaining to the Inner Circuit Route Improvement Strategy, which is a key component of the emerging Thanet Transport Strategy."

- 6.11.318. The Applicant replied to this in its comments on submitted LIRs [[REP4-028](#)] by setting out that a signalised junction is not inappropriate and through the junction modelling has been shown to have adequate theoretical capacity. The Applicant added that the signal junction arrangements have the added benefit of providing safe pedestrian crossing points. The same response also stated:

"The proposed link road as part of the Inner Circuit Route Improvement has no fixed alignment and an alternative arrangement has been discussed between the Applicant and KCC Highways which would draw traffic away from this section of Manston Road and therefore there would be no issue with future flows as a result of the Inner Circuit Route Improvement."

- 6.11.319. The revised TA at Table 6.42 shows an improvement in capacity at the junction that can be attributed to the improvement under the ICRIS and the Applicant's proposed Manston-Haine alternative link road. The revised TA also included swept path analysis at Figure 6.3 and an initial Stage 1 RSA for the junction at Appendix J.

- 6.11.320. KCC in response to TR.2.36 [[REP6-046](#)] set out that KCC accepted the results of the junction capacity assessments presented and was generally content with the associated swept path drawings, albeit some of the turning movements are shown to pass within close proximity of the channel lines, which it said should be amended accordingly. The same response also noted that whilst Stage 1 RSAs had been provided, the Designer's Responses have not been included with the submission and a number of issues raised by the Local Highway Authority previously are yet to be resolved. KCC also said that it required confirmation that the requisite visibility splays can be achieved from each of these accesses. Further, KCC stated in its response to TR.3.56 [[REP7a-034](#)] that:

"No speed data was provided in relation to the Terminal and Northern Grass access junction - as such, the audit team was unable to make fully informed recommendations in relation to scheme safety."

- 6.11.321. These issues were explored further by the ExA through TR.3.23. The Applicant [[REP7a-002](#)] responded by providing the Designer's Response and a revised Stage 1 RSA [[REP7a-003](#)] based on this response. It should be noted that this included a revised junction scheme. This concluded that there were no outstanding issues. The same response also explained that speed surveys were not undertaken on this section of Manston Road as these were not considered to be necessary, as the

Proposed Development will result in alterations to the character of Manston Road that are not reflective of the existing situation. This includes: Road widening; the provision of footways as a result of the development of the NGA and the airport; and the creation of signal junctions at Spitfire Way and the site accesses.

6.11.322. The Applicant also stated that:

"It is understood that KCC would prefer a priority junction arrangement due to the maintenance costs of signals. The Applicant has considered a staggered priority junction option at the passenger terminal and NGA accesses; however, a signal arrangement is preferred as it enables control of traffic along each of the arms and provides pedestrian crossings."

6.11.323. In reply to these points, through TR.4.44 [[REP9-024](#)] KCC set out in summary:

- KCC's concerns with regard to the signalised nature of the access remain and set out that the passenger terminal access junction is shown to operate close to theoretical capacity in the 2039 + Proposed Development scenario on the Manston Road (West) arm and there is doubt over the ability of this form of junction to accommodate future traffic flows arising from the ICRIS. KCC is therefore of the view that uncontrolled junction layouts should be tested.
- It is not content with the Designer's Response to the RSA in respect of the orientation of pedestrian crossings. It is noteworthy in this respect that the auditor's recommendation is not accepted on the basis that it would adversely affect the operational capacity of the junction.
- The Applicant's response in relation to the benefits of a signalised junction is not accepted, as no technical evidence has been presented to enable a direct comparison of the various junction options to be completed.
- The justification in relation to speed surveys is not accepted as existing traffic speeds on the major road in question are an important consideration in determining the appropriate form of junction to be provided.

6.11.324. The ExA also asked questions of the Applicant in TR.4.44 on such issues. The Applicant responded [[REP9-006](#)] by confirming that the revised junction scheme provided at Appendix TR.3.23 [[REP7a-003](#)] was not materially different to that proposed in the original TA and that the changes were minor and were proposed to address issues raised in the Stage 1 RSAs.

6.11.325. The ExA acknowledge the concerns of KCC with regard to the signalised nature of the accesses. However, Table 9.3 of the original TA shows that only one arm would be near to capacity (Manston Road W/B) in Year 2039. Paragraph 9.2.10 also notes that the queues that develop on the external approach arms are noted to discharge every cycle.

6.11.326. **Taking this into account and given that the ExA is content with the trip generation and distribution assumptions at Year 20 of the**

Proposed Development, the ExA is content that this is appropriate.

6.11.327. In terms of accommodating future traffic flows arising from the ICRIS the original TA does take into account future developments in the area and the revised TA considers the proposed access based on the TSTM and the applicant's proposed alternative Manston-Haine link road. The revised TA at Table 6.42 shows that the accesses would operate well within capacity on all arms. The ExA does not therefore share this concern.

6.11.328. The ExA also accept the Applicant's view that there are benefits to the signalised junction as opposed to other types, as signalised pedestrian crossings can be provided. The Auditor's recommendations in relation to the Stage 1 RSA in terms of the pedestrian crossing and their orientations are noted. However, the Designer's Response [[REP7a-003](#), Appendix 3.23] notes that:

"...guidance identifies that staggered crossings should, where possible, be aligned as left/right manoeuvres rather than right/left so that users turn to face oncoming traffic. It is not unacceptable to provide a right/left manoeuvre."

6.11.329. The ExA is satisfied with this explanation. Further, this explanation was accepted by the independent Auditor and KCC did not provide any substantive evidence to demonstrate that this would be inappropriate.

6.11.330. In terms of speed surveys, the ExA is content with the response of the Applicant. This set out that these were not undertaken as they were not considered to be necessary as the Proposed Development will result in alterations to the character of Manston Road that are not reflective of the existing situation, including road widening, the provision of footways and the creation of signal junctions at Spitfire Way and the site accesses.

6.11.331. **In conclusion and having regard to all of the above, the ExA is content that the proposed passenger terminal and NGA South accesses are appropriate.**

Northern Grass Area West access

6.11.332. The western access to the NGA would be from Manston Road. The junction is proposed to be a three-arm ghost right turn priority junction with informal pedestrian crossing facilities, as set out in Figure 9.3 of the original TA. This forms Work No. 29 in the dDCO.

6.11.333. No changes were made to the proposed junction in the revised TA and Appendix J provided a Stage 1 RSA. This raised several concerns, including the provision of swept path analysis. KCC's response to TR.2.36 [[REP6-046](#)] accepted the results of the junction capacity assessments presented. Further, KCC noted that whilst Stage 1 RSAs had been completed, Designer's Responses have not been included.

6.11.334. The Designer's Response was provided at Appendix TR.3.23 [[REP7a-003](#)] to the Applicant's response to TR.3.23 [[REP7a-002](#)] and included swept path analysis.

6.11.335. The Designer's Response recommended some changes to the proposed junction to overcome the safety concerns. Following this, a new Stage 1 RSA was undertaken on the revised scheme, which concluded that there were no outstanding matters. KCC has not raised any concerns with regard to these findings.

6.11.336. **The ExA accept the conclusions of the Stage 1 RSA and consider that the proposed NGA West access is appropriate.**

Fuel Farm Access

6.11.337. **The existing fuel farm access would remain unchanged as a result of the Proposed Development. The ExA see no reason to consider that this is not appropriate and KCC or other IPs have not raised any concerns in this regard.**

Junction 12: Manston Road / B2050 / Spitfire Way

6.11.338. As part of the Proposed Development the Applicant is seeking to deliver a mitigation scheme at this four-arm staggered priority junction. This would be delivered by the Applicant as it falls within the Order Limits. This is secured by Work No. 26 in the dDCO. The original TA, the revised TA and the TA Update at Appendix ISH7 - 43 [[REP8-017](#)] all record significant impacts on this junction as a result of the Proposed Development.

6.11.339. The original TA proposes a fully signalled junction with integrated pedestrian crossing facilities. The pedestrian facilities on the eastern and southern arms would be signalled, whilst the northern and western arm would have courtesy crossings. The original TA concludes at paragraph 7.15.7 that:

"The improvement scheme shows large reductions in total queues during the busiest AM and PM peak hours on some arms with smaller increases on some other arms. This is as a result of the nature of the signalised junction "balancing" the delay and queues across all arms. However, the overall performance of the junction with the new mitigation scheme in the AM and PM is proposed be better than that in the 2039 Baseline scenario with the existing layout."

6.11.340. KCC in its LIR [[REP3-143](#)] set out that:

"The Local Highway Authority has significant safety concerns with the proposed scheme of mitigation for the B2050 / Manston Road / Spitfire Way junction, in view of the incorporation of uncontrolled right turns and intervisibility splays between arms which appear to cross third party land."

6.11.341. The Applicant replied in its comments on submitted LIRs [[REP4-028](#)] that non-hooking right turns are proposed at this signal installation, which is proposed to sit within a low speed environment. Further, it was set out that a revised signalled design has been produced which ensures that the intervisibility does not encroach into third party land.

6.11.342. The revised TA tested two mitigation schemes, an amended signalised junction to the one in the original TA and KCC's preferred option of a roundabout alignment based on the SHP planning application roundabout design, which it is understood has been used for the purpose of the TSTM. This found that:

"The roundabout junction has RFCs in excess of the theoretical capacity of 0.85 but can still be stated as providing total junction queues significantly less than the existing junction form. Unlike the signalled option the roundabout does not provide dedicated signalled pedestrian crossing facilities.

Both improvement schemes show large reductions in total queues during the peak AM and PM peak hours. Whilst the total queues are marginally greater for the signalled scheme it is noted that the average delay for drivers is less due to the queues discharging every cycle within the signals compared to users of the roundabout who on average are estimated to be delayed for longer. In addition, the roundabout scheme does not benefit from signalised crossing opportunities for pedestrians and this would need to be provided elsewhere on Manston Road and Spitfire Way, resulting in additional delay. Overall it is concluded that the signals provide more capacity for drivers and better crossing opportunities for pedestrians and cyclists."

6.11.343. The ExA through TR.2.41 explored whether the revised TA demonstrated a signalised junction was more preferable and the best long-term solution. KCC replied [[REP6-046](#)] by noting that the junction capacity assessments indicate that the two layout options would offer similar capacity benefit relative to the existing junction layout. But also set out that:

"It is relevant to point out at this stage that the roundabout test is based on the geometrical layout of the existing 'Stone Hill Park' roundabout design. This design was intended to facilitate traffic flows associated with the Stone Hill Park, Mixed use development that is currently submitted to the Local Planning Authority - and not Aviation based development. This proposal is likely to generate very different traffic flow conditions at Spitfire Junction (Spitfire Way/Manston Road).

Therefore, it may not be appropriate to use the same geometry as a direct comparable to the signal junction scheme, as theoretically, a different roundabout solution could be designed to accommodate the change in flow profile relating to the revised traffic routing from an alternative Manston Road to Haine Road link."

- 6.11.344. The Applicant's response to TR.2.41 [[REP6-012](#)] replied to KCC concerns with regard to uncontrolled right turns and intervisibility by commenting that the Stage 1 RSA received on 30 April 2019 did not raise any concerns regarding these issues and the Applicant is satisfied that KCC's concerns regarding these issues and the Applicant is satisfied that KCC's concerns have been addressed. The Stage 1 RSA accompanied the Applicant's response to ExQ2 in Appendix TR.2.57 [[REP6-014](#)].
- 6.11.345. The ExA also asked through TR.2.41 whether the proposed signalised mitigation scheme would affect the footprint of the RAF Museum. The Applicant responded [[REP6-012](#)] by setting out that it would not. However, KCC disagreed [[REP6-046](#)] and took the view that it would.
- 6.11.346. The issues of intervisibility splays, the impact on the RAF Museum building footprint and KCC concerns with regard to uncontrolled right turns were examined further through TR.3.28. The Applicant advised [[REP7a-002](#)] that the intervisibility splay does just fall outside of the highway boundary, however, it is within the Order Limits and therefore can be delivered. The Applicant accepted that the proposed mitigation scheme would affect the footprint of the RAF Museum and set out:
- "The junction design has been revised through reduction of the length of left turn lane to 30m to fit 5 PCUs. This does not affect the junction capacity as the left turn flows are low – 69 in the AM peak hour and 18 PCU in the PM peak hour and can be accommodated within each cycle."*
- 6.11.347. Further, the Applicant advised that:
- "The uncontrolled right turn lanes have not been identified as a safety problem by the Stage 1 RSA and therefore are considered to be acceptable. The Designers Response and revised Stage 1 RSA are included in Appendix TR3.28. The revised Stage 1 RSA has no observations meaning that the Designers Response is accepted. It is understood that KCC continues to have concerns regarding the junction proposal and the Applicant will work with KCC to identify a mutually acceptable scheme."*
- 6.11.348. KCC replied to TR.3.28 [[REP7a-034](#)] by commenting that the incorporation of uncontrolled right turns within the junction intersection could result in forward visibility for right turning drivers becoming obstructed by vehicles making the opposing right turn, with the potential for collisions with oncoming traffic. KCC considered this risk particularly significant in relation to vehicles turning right from the B2050 Manston Road (North) into Spitfire Way, due to the curvature of the road. KCC is concerned that neither this issue nor the issue of the intervisibility splay between Manston Road (North) and Manston Road (West) crossing third party land have been identified by the RSA. KCC did not accept the findings of the initial Stage 1 RSA [[REP6-014](#), Appendix TR.2.57] for these above reasons and that no swept path analysis had been provided.
- 6.11.349. Through TR.4.29 [[PD-020](#)] the ExA asked 14 sub-questions. These related to the issue of intervisibility, the revised mitigation scheme and whether this would suitably mitigate the impact of the Proposed

Development based on the original TA and the TA Update [[REP8-017](#), Appendix ISH7 - 43]. A summary of the Applicant's response is provided below:

- Based on recent discussions, KCC accepts that the proposed signal junction arrangement has a lesser footprint than a roundabout and that a roundabout would impact on the Masterplan proposals, particularly the cargo airport.
- Uncontrolled right turns:
 - 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. Appendix TR.4.29ii [[REP9-010](#)] presents junction modelling to demonstrate this. The junction model has an extra two seconds added to the intergreen. Adjustments can be made to right turn bays to improve visibility.
 - The Stage 1 RSA did not pick up the issue of uncontrolled right turns as an issue as it is recognised that this a commonplace feature at signal-controlled junctions.
- Intervisibility:
 - Figure 7.5 of the revised TA 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 the Order Limits is illustrated in Appendix TR.4.29 [[REP9-010](#)] 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 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.
 - 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 introduced onto this plot of land so as to impede visibility. The ExA can be satisfied that intervisibility will be maintained.
- The revised mitigation scheme was necessary to avoid the RAF Museum building.
- The improvement scheme will mitigate the impact of the Proposed Development traffic based on the modelling in the original TA and TA Update [[REP8-017](#), Appendix ISH7 - 43] and has also been

demonstrated as being able to accommodate the additional traffic which would result from the Manston-Haine link road.

6.11.350. KCC replied to TR.4.29 [[REP9-024](#)] by setting out, in summary:

- Despite a roundabout being the preferred junction solution and being achievable within land within the Order Limits, KCC would be prepared to compromise on the form of junction if this enables common ground to be reached and a smaller footprint to be utilised (a requirement previously expressed by the Applicant). KCC has yet to receive a signal-controlled junction layout which it considers to be safe and appropriate.
- It is apparent that the intervisibility line does fall outside of the highway boundary to the north of the junction. It is not conclusive from the plans submitted that the small area of land outside of the highway boundary falls within the Order Limits and whilst it may be possible to address this matter using Permitted Development rights, this would rely on the co-operation of the landowner.
- The Applicant should be required to clarify whether the revised mitigation scheme has formed the basis of the junction capacity assessment presented in the latest TA update, as this is not clear from the report.
- 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.

6.11.351. In TR.5.3 [[PD-022](#)] the ExA further explored matters in relation to uncontrolled right turns, intervisibility and the width of footways in the revised mitigation scheme. A summary of the Applicant's response [[REP11-002](#)] was as follows:

- Intervisibility:
 - The small area of land outside of the highway boundary that is required for maintaining visibility as shown in Appendix TR.4.29 [[REP9-010](#)] is a flat grassy verge in front of the MoD building and does not include trees. The trees near to this location merely overhang the land.
 - As referred to in the Applicant's response to TR.4.29, junction intervisibility in accordance with DMRB standards (which relate to motorway and trunk roads) is regularly difficult to achieve in urban environments. Paragraph 2.18 of TD50/04 identifies that minor obstructions to visibility caused by slim obstructions within the junction intervisibility zone may be unavoidable.
 - The Applicant acknowledges that the trees will require maintenance as part of regular upkeep by KCC under their duty as the Highway Authority. This is in common with numerous hedgerows, verges and other roadsides around the country which are maintained by the respective Highway Authority.
 - This area of land was not included in the Order Limits as the DCO contains land required for capacity improvements, not for safety improvements.
- Footways:

- The footway is less than 1.3m for only a very short distance of 0.73m and as such is a very minor pinch point. Either side of this pinch point, the footway width exceeds 1.3m. The path is never reduced in width of less than 1.25m. It is noted that the width of 1.26m is sufficient to accommodate a wheelchair (0.9m) and two people (1.2m), as illustrated in Figure 6.8 of the Design Manual for Streets, published by the DfT.
- Although the DMRB Volume 6, Section 3, Part 5 'The Geometric Design of Pedestrian, Cycle and Equestrian Routes' sets out that widths of 1.3m may be provided over short distances (paragraph 7.4), it should be noted that the minimum width for any footway is 1.0m (DfT LTN2/04). The design of the footway at Manston Road and Spitfire Way is in excess of this.
- The proposed design will increase the safety of pedestrians at the junction. There is no provision in the current arrangement for controlled pedestrian crossings, while the proposed design provides safe controlled crossing points. It is considered that the scheme as a whole is a betterment to the pedestrian infrastructure in the location.
- In these circumstances, where there is an overall improvement in pedestrian and cycle facilities as a result of the Proposed Development, it would be expected that such a minor departure from standards would be acceptable.

6.11.352. KCC in response to this question [[REP11-017](#)] set out the following points:

- Uncontrolled right turns:
 - It is likely that extended intergreen would not eradicate the issue of (gap seeking) traffic attempting to turn right within the relevant signal phase. An additional two seconds on the intergreen is unlikely to result in any significant improvement to the issues already raised. It is not clear what adjustments to the right turn bays the Applicant is suggesting and how this might impact on the overall operation of the junction as revised plans have not been submitted for consideration.
 - KCC suggests that it is likely that this issue has simply been overlooked by the RSA Team. Unintentional oversights are not uncommon occurrences with RSA. The fact that this may have been overlooked, does not then absolve KCC (as the Local Highway Authority) of its responsibility to assess the proposals and highlight any issues that it considers to be of importance.
 - There is no compelling justification why a substandard design should be accepted simply because similar geometry exists at other signal-controlled junctions within the national / LRN and / or the RSA has not raised a specific issue of concern.
 - This junction will be subject to a significant amount of traffic flow once operating at full capacity (including an increased level of HGV activity), therefore the issues that have been raised should be addressed through positive revisions to the proposals, rather than tolerated or overlooked. In this case, it is evident that there is space available within the Order Limits to provide a more

favourable junction arrangement that could potentially address the issues raised (albeit this would result in more land take and a possible relocation of existing museum buildings), however at this juncture, such proposals are not currently before KCC or the ExA to consider.

- KCC is not content with deferring fundamental issues to the detailed design stage, as it is possible that following the granting of the DCO, the Applicant may be unwilling to engage with a request from the Local Highway Authority at the appropriate juncture, particularly if it instigates a need for further land take from the site or changes to existing buildings (such as the Museum). Also, any material change in the junction layout may require separate planning consent.
- Intervisibility:
 - Whilst the area of intervisibility passes through third party land (that has not currently been built on), KCC as the Local Highway Authority has no jurisdiction over this land, as such junction intervisibility is not secured in perpetuity, which is not acceptable. The required intervisibility would also require the loss of some established highway trees within the verge, this is not indicated on the plan provided in Appendix TR.4.29. Whilst theoretically these trees are capable of being removed, this would have a negative impact on visual and environmental amenity in this location.
 - Departures from standard such as intervisibility constraints should not represent the benchmark for highway design, where space exists within the site for a fully compliant junction scheme with the necessary visibility requirements to be delivered.
- Footways:
 - A 1.26 metre footway pinch point is substandard for the type and nature of the highway environment proposed. This road would fall within the category of a Local Distributor Road in accordance with The Kent Design Guide, which is the established guidance document for development (including geometrical highway design) within Kent. Page 123 of the Kent Design Guide sets out design parameters for new road schemes.
 - For a Local Distributor Road, a 3.0 metre footway width is recommended and a minimum desirable footway width of 1.8 metre width for footways required. This design parameter establishes safe, effective and comfortable passing opportunities for pedestrians (including road users with impaired mobility) considering the nature of the road type.
 - Lack of footway width (and thus space for two pedestrians to pass) directly adjacent to the external wall of the museum building is likely to create an intimidating pedestrian environment and generate subsequent road safety implications for vulnerable pedestrians. It is also evident that the 1.26 metre footway pinch point removes the ability for safe and connected cycle links to be completed to the spitfire junction, which is important as in the absence of an alternative provision, it forms part of the future

Manston-Haine Road Highway Link (which seeks to provide good quality road, foot and cycle linkage between Manston and Westwood to the north of the site).

- 6.11.353. Dealing firstly with the concern of KCC with regard to uncontrolled right turns. This is also a concern for the ExA who agrees with KCC, that due to the specific configuration of the junction and its arms, uncontrolled right turns could feasibly result in forward visibility for right turning drivers becoming obstructed by vehicles making the opposing right turn, with the potential for collisions with oncoming traffic. The ExA acknowledge the Applicant's view that uncontrolled right turns are commonplace at right turn junctions. However, this does not overcome the ExA's concern with regard to this specific junction. The ExA is also concerned that this was not identified in the Stage 1 RSA.
- 6.11.354. The Applicant's view that 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, is noted. However, the ExA agree with KCC that a two second extension to the intergreen is unlikely to improve this issue to any significant degree.
- 6.11.355. **Given the quantity of traffic anticipated to use the junction, including HGVs, the ExA considers that this issue results in significant highway safety concerns associated with the proposed mitigation scheme.**
- 6.11.356. In terms of intervisibility, it is accepted by the Applicant that a small area of land outside of the MoD building on the northern side of the junction falls outside of both the Order Limits and the highway boundary. Whilst the ExA accepts that it is currently grass verge and does not block views across the intervisibility line, this cannot be ensured in perpetuity and would rely on the co-operation of the landowner for regular maintenance. Given this, whilst it is unlikely that the small plot of land would be built upon, it could feasibly become overgrown and obstruct views. This would also cause harm to the highway safety of the junction.
- 6.11.357. The Applicant has set out that junction intervisibility in accordance with DMRB standards (which relate to motorway and trunk roads) is regularly difficult to achieve in urban environments and that paragraph 2.18 of TD50/04 identifies that minor obstructions to visibility caused by slim obstructions within the junction intervisibility zone may be unavoidable. However, in this case, the junction is included in the Order Limits and in the view of the ExA, it is not unreasonable to consider that additional land could have been utilised to achieve a junction improvement scheme that provides suitable intervisibility.
- 6.11.358. The ExA is also not satisfied with the Applicant's response that this area of land was not included in the Order Limits as the DCO contains land required for capacity improvements, not for safety improvements. Clearly, if an area of land is necessary to ensure the safe operation of a junction then this would offer appropriate grounds to seek to include it

within the Order Limits, particularly as this issue had been identified in the ES.

- 6.11.359. Turning to footways, the ExA considers that the pinch point alongside the RAF Museum is a cause for concern. The ExA agree with KCC that the proposed footway directly alongside the RAF Museum building at a width of 1.25 metres at its smallest would be an intimidating environment, given that a notable number of HGVs will use the junction. The ExA also has a concern that the pinch point could result in pedestrians stepping out into the highway to pass one another, particularly if a wheelchair or pushchair user is within the pinch point. The ExA also notes that the pinch point is alongside the approach to the junction. The driver's attention is therefore likely to be focused on navigating the junction, rather than looking out for potential hazards of pedestrians stepping into the carriageway.
- 6.11.360. The ExA also accepts KCC view that this pinch point could affect the ability to provide safe cycling provision, which was a matter identified in the Stage 1 RSA [REP6-014]. This adds to the concern of the ExA and could undermine the ability to achieve the mode share targets for cycling set out within the draft FTP [REP9-016].
- 6.11.361. The ExA notes that there will be an overall improvement in pedestrian facilities at the junctions, including signalised crossings. However, the ExA considers that this does not overcome the highway and pedestrian safety concerns.
- 6.11.362. Overall, the ExA considers that the proposed mitigation scheme for this junction has several failings that could result in unacceptable highway and pedestrian safety impacts.
- 6.11.363. **The ExA conclude that the potential impacts at Junction 12, which would see a large amount of traffic associated with the Proposed Development, would be moderate adverse – significant (based on the significance evaluation methodology in Chapter 14 of the ES) in terms of pedestrian amenity and delay, fear and intimidation. Further, given the intervisibility and uncontrolled right turn concerns, the ExA considers that there would be major adverse – significant effects in terms of accidents and road safety. The ExA is of the view that these constitute severe impacts in terms of the NPPF. This must weigh against the Proposed Development.**
- 6.11.364. For the avoidance of doubt, **the ExA considers that in the absence of any mitigation scheme, the impact on the local highway network at this junction would also be significant adverse and severe in terms of the NPPF.**

Emergency site accesses

- 6.11.365. The appendices to the Applicant's response to ExQ2 [REP6-014, Appendix TR.2.47] set out indicative access points. KCC were of the view that it was necessary for the Applicant to set out a justification / rationale for their positioning and operation and should be appropriately detailed and

assessed, with a general arrangement being identified and Stage 1 RSAs being provided, so that the suitability of the locations suggested can be fully appraised.

- 6.11.366. Following further discussions at the ISH7 [EV-028], a technical note was provided at Appendix ISH7 – 45 of the summary of the Applicant's case put orally at the traffic and transport ISH [REP8-017]. Whilst KCC raised particular concerns with regard to each access [REP9-024, response to TR.4.49], KCC were also of the view that it was likely that suitable emergency accesses could be achieved and that this matter could be addressed by a Requirement in the dDCO.
- 6.11.367. The ExA accept that suitable emergency site access can be achieved and that therefore this matter could be dealt with through a Requirement in the dDCO. The Applicant's response to the ExA's second dDCO [REP9-002] at Table A suggests a change to R4(1) of Schedule 2, to include the agreement of emergency access points with KCC.
- 6.11.368. **The ExA considers that this change is necessary and has included it within the ExA's rdDCO accompanying this report. On this basis, the ExA is content that suitable emergency accesses will be secured.**

Manston-Haine link road

- 6.11.369. The draft TTS seeks to deliver a Manston Road to Haine Road link as part of the ICRIS. The eLP at Policy SP47 also seeks to safeguard the route, as illustrated on the accompanying draft policies map.

Through TR.2.1 the ExA examined whether the link road should be secured in the dDCO. The Applicant's response [REP6-013] set out that:

"There are no changes necessary to the dDCO or revisions to the Work Plans as the Manston-Haine link road is not part of the DCO application, but is a scheme being brought forward by Kent County Council (KCC) Highways as part of the Inner Circuit Route Improvement Strategy (ICRIS) proposals included in the Thanet Transport Strategy. The delivery of the link road will be undertaken by KCC and land requirements for its delivery will be negotiated between KCC and the Applicant separate to the DCO."

- 6.11.370. KCC accepted that the delivery of the link road is a matter for them in their response to TR.4.8 [REP9-024]. The ExA agree.
- 6.11.371. The proposed route of the link road in the draft TTS runs through the NGA. The Applicant is of the view that this route would unreasonably impact on its plans for the NGA and could have security and safety implications. The summary of the Applicant's case put orally at the traffic and transport ISH [REP8-017] at Appendix ISH7 – 36 includes a note 'Safety and Security Issues with the Manston-Haine Link Road Transecting the Northern Grass Area'. This sets out that:

"...there will be interaction between the businesses (in the NGA) which will result in the intra-movement of freight transported by HGVs and other vehicles and there is a need for flexibility as to the exact configuration of the Business Park in order to facilitate this site intra-movement. The Manston Haine Link alignment as proposed by Kent County Council (KCC) will inhibit this flexibility and as a consequence, may result in a significant number of intra-movements across a public highway which would lead to road safety risks and delays to the throughput of traffic, as well as delays to the operations of the businesses."

- 6.11.372. The ExA accept that the proposed route of the link road within the draft TTS and eLP could conflict with the purpose of the NGA and its internal function.
- 6.11.373. The Applicant has proposed an alternative route of the link road in the revised TA that would utilise and widen Manston Road and then cut across the northern corner of the NGA. It would also include the realignment of Manston Road towards the northern part of the NGA. Appendix H of the revised TA [[REP5-021](#)] includes a feasibility design for the Applicant's proposed route, that would meet the design standards required by KCC and would be DMRB compliant.
- 6.11.374. The Applicant has safeguarded the alternative route within the submitted UU [[AS-583](#)] until 2031 (the end of the eLP plan period) and is willing to transfer the safeguarded land to KCC within this period for a nominal fee of £1. The UU [[AS-583](#)] also makes provision for a financial contribution of £500,000 towards the implementation of the link road. How this position was arrived at is discussed further below.
- 6.11.375. KCC and TDC accept that the route set out in the draft TTS and the eLP are both indicative and there is flexibility in its alignment [[REP6-046](#) and [REP6-058](#)]. KCC also acknowledges that the alternative route is likely to deliver similar benefits to the indicative route set out in the draft TTS [[REP6-046](#)]. However, KCC has raised numerous concerns with regard to the Applicant's proposed route and approach to the link road.
- 6.11.376. KCC has raised particular concerns [[REP6-046](#) and [REP8-027](#)] with regard to the potential cost of implementing the alternative link road and that more third-party land would be required. However, the ExA is mindful that KCC do not currently own any of the land required for the link road (on either alignment) and would be able to purchase the safeguarded land within the Order Limits from the Applicant for £1, simplifying and reducing the cost of implementation. Given that the Applicant owns the land, to deliver the indicative original route of the draft TTS would require them to come to a voluntary agreement for the land or KCC would have to compulsorily purchase the land. Both of which are likely to be notably more expensive than purchasing the land required for the safeguarded alternative route for £1.
- 6.11.377. Further, the Applicant's response to TR.3.3 [[REP7a-002](#)] sets out that the alternative route would be shorter in length. The ExA therefore considers

that in terms of cost, it is unlikely that the alternative route would be materially more expensive than the indicative route.

- 6.11.378. In terms of environmental impact, KCC accepts [REP9-024] that it is for it to prepare a planning application, assess the environmental impacts of, and undertake consultation on, the link road. Some concerns were raised by KCC [REP6-046] that because the alternative route would transect more agricultural land than the indicative route in the draft TTS, there is more potential for impacts, particularly in terms of archaeology. However, KCC also accepted [REP9-024] that the route contained within the draft TTS has not been the subject of detailed testing, nor has it been the subject of EIA screening or assessment or a feasibility study. In the view of the ExA, given the early stages of KCC's work on the indicative route in the draft TTS and that potential impacts are largely unknown, it would be unreasonable to withhold development consent on such grounds.
- 6.11.379. The loss of additional agricultural land to the north associated with the alternative link road is a concern for KCC [REP6-046]. It is evident to the ExA that to deliver the ICRIS, a substantial amount of agricultural land is required and the ExA agree with the Applicant [REP7a-002, response to TR.3.3] that if this is seen as a significant constraint, this could undermine the overall deliverability of the ICRIS. Further, the indicative route shown in Appendix H of the revised TA shows that the majority of the field to the north would remain in agricultural use.
- 6.11.380. KCC has requested [REP9-024] that the offset to the South / East of the proposed alternative link road is increased to 10 metres for areas contained within sheets 5 and 6 of the UU [AS-583] and a five metre offset for the remaining areas of alternative link road southbound towards Manston Road / Spitfire Way junction. However, the ExA considers that the requested 10 metre offset to the South / East of the proposed alternative link road would be excessive and could adversely impact on the proposed landscape buffer in this area. The ExA is of the view that the 4 metre safeguarded area to the east side of the proposed road is sufficient for the purposes of construction and also allows some flexibility in the route alignment.
- 6.11.381. KCC is of the view [REP9-024] that the route safeguarding period through the land owned by the Applicant should be for a period of 20 years in case of any delays in delivering the link road. The UU [AS-583] safeguards the land for the link road until December 2036; a period of 17 years from now. This has been extended by the Applicant from 2031 in previous drafts of the Section 106 Agreement [REP11-010].
- 6.11.382. **The ExA considers 17 years to be a significant and suitable period of time to allow KCC to deliver the link road.**
- 6.11.383. KCC in its response to TR.4.12 [REP9-024] is of the view that land to deliver an appropriate form of junction at Spitfire Way (Junction 12), which would link to the alternative link road, should be safeguarded. As

discussed above, there is dispute over the mitigation proposed at Junction 12. This has been considered above.

- 6.11.384. The UU [[AS-583](#)] includes a financial contribution for £500,000 towards the delivery of the link road. Whilst the draft TTS only seeks financial contributions from the strategic housing allocations to deliver the ICRIS, Policy SP47 of the eLP does require all development to appropriately contribute to the delivery of the safeguarded strategic routes, which includes the link road. It is clear to the ExA that the Proposed Development will increase traffic in the immediate area and therefore, should contribute to the delivery of the link road, thus ensuring compliance with emerging Policy SP47.
- 6.11.385. The eLP is, in itself, silent on how financial contributions towards the delivery of the strategic routes should be calculated. The Applicant, in its summary of oral evidence at ISH7 [[REP8-017](#)] has referred to the Strategic Site Allocations Impact Thanet Local Plan Evidence Base (July 2018) which identifies that strategic housing developments in Thanet should contribute to the transport strategy at a level commensurate to their likely impact and does not include the airport. KCC in its response to TR.4.8 [[REP9-024](#)] is of the view that whilst this document currently only encompasses strategic housing sites, this does not preclude the ability for the contribution apportionment mechanism to be reviewed, should a large commercial / employment development site be progressed which has direct synergy / relevance to strategic highway infrastructure.
- 6.11.386. However, to require all development not allocated in the eLP to review the contribution apportionment mechanism to satisfy the requirements Policy SP47, is in the ExA view, overly onerous. In the absence of any mechanism to calculate what the financial contribution from the Proposed Development should be, the ExA considers that the £500,000 financial contribution, when considered alongside the nominal fee of £1 required to purchase the safeguarded land for the alternative link road, is appropriate and is reasonably related in scale and kind to the Proposed Development.
- 6.11.387. It must also be borne in mind that if the link road is implemented, along with other ICRIS improvements, mitigation at several junctions (identified in the original TA) would not be required and the UU [[AS-583](#)] would allow the financial contributions for these to be put towards the implementation of the link road to mitigate the impact of the Proposed Development if necessary.
- 6.11.388. KCC are of the view [[REP11-017](#), response to TR.5.9] that the trigger for the financial contribution should be made prior to the occupation of the Proposed Development rather than when planning permission is granted for the link road, as secured in the UU [[AS-583](#)]. KCC has not explained why it considers this to be necessary. Given that the link road cannot be implemented until planning permission has been granted, the ExA considers that the trigger set out within the UU [[AS-583](#)] is appropriate.

- 6.11.389. TDC and KCC have noted [[REP6-058](#) and [REP6-046](#)] that the alternative link road would cut through the radar safeguarding area and through employment buildings associated with the NGA, as shown on the Masterplan [[APP-079](#)]. The ExA is mindful that R3 of the dDCO requires the Masterplan to be finalised. Given that the alternative link road only cuts through the northern corner of the NGA, the ExA is confident that at the detailed design stage an alternative layout of the employment buildings can be delivered that would deliver the same quantity of floorspace as proposed and assessed in the ES.
- 6.11.390. In terms of the radar safeguarding area, the Applicant in its response to TR.3.5 [[REP7a-002](#)] provided a Technical Note from its aviation advisors Osprey. This refers to CAP 670 ATS Safety Requirements (Part B, Section 4 of GEN 02), which sets out the CAA's safeguarding requirements and these are derived to ensure that the beam is unaffected or blocked by obstacles. The criteria for safeguarding radar systems provides a 3-dimensional disc / surface (or a 'curved' saucer) which has its centre at the position and height of the radar antenna. This then forms a slightly upward-sloping surface (disc) away from the radar. The base of this disc, in this case, sits at approximately 27 metres above the ground. Penetration of this surface is not permitted.
- 6.11.391. The Applicant's response also sets out that the intention of the safeguarding area is to prevent tall building construction which would result in degradation of the radar performance. The ExA accept that this does not preclude development below the 3-dimensional surface (disc) if there is no impact or if any impact can be managed or mitigated. The Applicant has set out that the base of the disc, which would be set at the height of the radar dish (approximately 27m) and rising away from the centre point that the link road, its furniture, and traffic would be below the disc and would not prejudice the radar's performance. Therefore, although inside the radius of the disk, the road would have no impact on radar performance. Having regard to the above CAA guidance, the ExA is content with this conclusion.
- 6.11.392. The ExA considers that the provisions set out within the UU [[AS-583](#)] to help deliver the link road are appropriate and the financial contribution meets the tests in CIL Regulation 122. **The ExA conclude that the Proposed Development will help to deliver the link road and is therefore in accordance with Policy SP47 of the eLP and the draft TTS. The ExA considers this to be a matter of neutral weight.**

Construction traffic

- 6.11.393. The construction movements associated with the Proposed Development are set out in the Preliminary CTMP, at Appendix K [[APP-072](#)]. Paragraph 6.3.18 of the original TA sets out that construction traffic movements were based on calculations provided by the project team. These are set out in Table 1 of the CTMP.
- 6.11.394. KCC has not raised any concerns with regard to these estimates and the ExA considers them, along with the timing of such movements to be based on reasonable assumptions. A proposed construction HGV strategic

route is proposed within the CTMP and KCC in its LIR [[REP3-143](#)] confirmed that this route was considered appropriate, subject to the implementation of any necessary highway and access improvements.

6.11.395. It is clear from the trip generation tables in the CTMP, the original TA and the revised TA that vehicle trip generation associated with construction would be much less than operational traffic, particularly in the peak traffic periods and significantly lower than the peak in traffic generation associated with the proposed development in 2039.

6.11.396. The CTMP [[APP-072](#)] at paragraph 5.1.1 sets out that it is proposed that the construction accesses will be the same locations as the permanent junctions to serve the Proposed Development. Further, paragraph 5.1.3 states:

"As the accesses are required in both the construction phase and operational phase of the development it is proposed that the access works to the final permanent arrangement are implemented at the start of the first phase of construction."

6.11.397. The Applicant confirmed at ISH7 [[EV-028](#)] that construction vehicle movements had been taken into account when calculating when off-site junction improvements would need to be delivered. These were provided in the Applicant's summary of oral evidence at ISH7 [[REP8-017](#), Appendix 42]. Whilst the ExA has raised concern above, with regard to how these have been calculated, given the lower levels of traffic associated with construction than operational traffic, the ExA considers that it is highly unlikely that any off-site junction improvement works would be required to mitigate the impacts of construction traffic.

6.11.398. The Applicant in oral evidence at the CAH1 [[EV-012](#)] set out that if the dDCO is granted, construction would not commence until 2021 and would likely be compressed into a shorter time frame, with operations beginning from quarter 1 of 2022. The ExA through TR.2.68 [[PD-011](#)] asked whether this would affect the volume of construction traffic in Years 1 and 2 of the programme.

6.11.399. The Applicant replied by setting out that it was always assumed that the majority of construction activity would take place in Phase 1 and there has been no change to the anticipated volumes of construction traffic. Further explanation was also given that:

"At the CAH oral evidence was given as to an amendment to the business plan so as to show an increased expenditure on construction in the first year following consent. This was a change to the business plan to bring it into line with ES and to ensure a robust worst case financial forecast with greater expenditure incurred earlier in the process. Whilst construction will begin later than anticipated the compressed programme was always modelled as a worst case within the ES [[APP-033,034,035](#)], the later start date will not change the effects reported in the ES [[APP-033, 034,035](#)] for the reasons described above."

6.11.400. This is accepted by the ExA.

6.11.401. **In conclusion, the ExA considers that the CTMP contains a range of appropriate mitigation measures to ensure that any impacts of the local highway network associated with construction activities are minimised. The ExA therefore considers that the CTMP offers a reasonable basis to inform a final version that must be agreed before the Proposed Development commences. This is secured by R6 of the rdDCO.**

Encouraging sustainable transport

Draft Framework Travel Plan

6.11.402. The Proposed Development when submitted included a draft FTP at Appendix L of the original TA [[APP-072](#)]. This sets out that the three main objectives of the FTP are:

- *“To actively promote and encourage travel by sustainable means for passengers;*
- *To actively promote and encourage travel by sustainable means for staff; and*
- *To improve the provision of sustainable travel options to the airport, including the introduction of a shuttle bus service from Ramsgate rail station.”*

6.11.403. In addition, the FTP sets out that there are two further objectives which relate to the promotion and longevity of the FTP:

- *“Continually raise awareness of sustainable transport opportunities amongst staff and passengers, including the promotion of cycling and walking; and*
- *To continually develop, implement, monitor, evaluate and review the progress of the Travel Plan towards achieving the targets.”*

6.11.404. The FTP also includes modal share targets for staff and passengers of the airport and measures to achieve, monitor and review them.

6.11.405. KCC in its LIR [[REP3-143](#)] set out that the mode share targets for staff and passengers should be more explicitly referenced to those achieved at similar UK airports and a detailed review of the measures within their respective Travel Plans and Surface Access Strategies undertaken. KCC also sets out:

“The Applicant should make explicit commitments to provide specific measures to enhance the quality of non-car modes of travel at appropriate stages in the build out programme, including the re-routing and frequency enhancement of local bus services (informed by the advice of local operators) and the provision of new and improved walking and cycling routes to the site. The Draft Travel Plan currently lacks such detail, which casts doubt over the achievability of the mode share targets presented.”

6.11.406. The Applicant in its comments on the LIRs [[REP4-028](#)] set out that the mode share targets have been based on the location of the site, its accessibility to public transport and the aspirations of the Applicant to

discourage car access and encourage public transport and shared vehicle use. Further, paragraph 4.2.8 of the FTP sets out that Newquay, Cardiff, Exeter, Inverness, Durham Tees Valley, Norwich and City of Derry are all useful potential benchmarks for the assumed base year mode split and the future year targets. It is therefore clear to the ExA that the FTP has had regard to other similarly sized airports.

- 6.11.407. The revised TA was accompanied by an updated FTP [[REP5-021](#), Appendix L] to reflect changes related to the traffic generation methodology agreed with KCC, namely in relation to shared taxis. KCC in its response to TR.2.60 [[REP6-046](#)] reiterated its concerns set out in its LIR [[REP3-143](#)].
- 6.11.408. The Applicant responded to these concerns through TR.3.43 [[REP7a-002](#)] by stating:
- “The Travel Plan sets out a framework with which the final Travel Plan will have to accord. The final Travel Plan will be subject to approval by the appropriate discharging authority. The Travel Plan will include explicit commitments to provide specific measures to enhance the quality of non-car modes of travel at appropriate stages in the proposed development build out programme, including the re-routing and frequency enhancement of local bus services (informed by the advice of local operators) and the provision of new and improved walking and cycling routes to the site. Such details cannot be finalised until more is known about the operation of the airport”.*
- 6.11.409. After discussions at ISH7 [[EV-028](#)] the Applicant provided a revised FTP [[REP8-017](#)]. This included a number of additional measures to help achieve the objectives of the plan, in terms of walking / cycling, public transport and car park management and the provision of a mitigation plan (Table 6.2). In addition, a third revision to the FTP was provided by the Applicant [[REP9-016](#)], which included more detail on the commitments related to fly parking and Controlled Parking Zones (CPZs). Whilst, KCC in its response to TR.4.52 [[REP9-024](#)] set out that these additional measures did not overcome its concern, the ExA considers that it is important to bear in mind that this is a draft FTP and the need for a final version to be agreed is secured through R7(2)(b) of rdDCO.
- 6.11.410. **The ExA considers that the modal targets are appropriate given the nature of the surrounding area and the measures to achieve and monitor them offer a reasonable basis to inform the final version. The ExA accepts the Applicant’s point set out above that some details cannot be finalised until more is known about the operation of the airport. The ExA is satisfied that the draft TA offers a suitable basis to agree a final version.**
- 6.11.411. The UU includes an annual financial contribution of £1,667 (for 20 years) to KCC for the monitoring of the TP. KCC has confirmed [[REP9-024](#), response to TR.4.52] that this is an acceptable figure. The ExA see no reason to disagree.

Bus services

6.11.412. The original TA at Section 4.6 considers access to bus based public transport and at Table 4.1 sets out the services, timings and their frequency. This along with the supporting documents such as the draft FTP and ASAS also set out that the target is for 10% of passengers and 6% of staff to use bus services by year 20 of the proposed development. There is also a target of 10% for passengers to use rail and then bus by year 20.

6.11.413. Paragraph 4.6.9 of the original TA notes that:

"The bus routes available within the vicinity of the site serve Ramsgate, Broadstairs, Westwood Cross (near Northwood), Birchington-on-Sea and Canterbury and may therefore offer an alternative to the private car for 45% of journeys to work subject to appropriate service timing enhancements and assuming that the potential employees originate in similar locations. The bus service coverage is therefore considered to be reasonable and suitable as a starting point to serve the development on the site subject to appropriate re-routing and increases in frequency."

6.11.414. The revised ASAS [REP9-005] also sets out that the current operation and capacity of the local bus routes is insufficient to meet the modal share targets in Year 20.

6.11.415. **The ExA agrees with the Applicant's assessment of existing bus services and that suitable enhancements will be needed.**

6.11.416. Further, KCC in its LIR [REP3-143] is of the view that:

*"...explicit commitments to provide specific measures to enhance the quality of non-car modes of travel at appropriate stages in the build out programme, **including the re-routing and frequency enhancement of local bus services (informed by the advice of local operators)** and the provision of new and improved walking and cycling routes to the site". (the ExA's emphasis)*

6.11.417. Paragraph 3.4.3 of the original TA notes that the focus of shuttle bus services to and from the site would be Ramsgate Station. Further, and as set out above, one of the draft TP's [REP9-016] objectives is to improve the provision of sustainable travel options to the airport, including the introduction of a shuttle bus service from Ramsgate rail station or Thanet Parkway rail station. The draft FTP also sets out at paragraph 4.3.13 that:

"The timing and frequency of the services will depend on the flight departure and arrival timetable as well as the rail timetables. Initial enquiries have been made with a local bus operator to establish costs and journey times but it is premature at this stage to negotiate a bus service for implementation. This will be established once the airport is operational and flight operators and times have been identified."

6.11.418. The Applicant also notes at paragraph 4.3.14 of the draft FTP that it will operate a shuttle bus service in the local area for staff based on shift patterns and staff home locations.

6.11.419. Paragraph 4.3.15 of the draft FTP states:

"It may be appropriate to enhance an existing bus service such as the 48/48A or the 11. However, given that operations won't commence until Year 3 of the project, which with a commencement of construction in 2021 would be 2023/24, it is premature to identify service improvements when it is not known whether the service would be still running in five years' time."

6.11.420. The revised ASAS [[REP9-005](#)] at paragraph 4.7.1 also sets out that the Applicant proposes to enhance the bus service provision by: Increasing the frequency of services to the Proposed Development; extending bus operating times; and introducing new routes and extending existing provision to service the Proposed Development. Paragraph 4.7.2 of the ASAS goes on to state:

"The existing routes link Manston to Canterbury and Ramsgate. These services will be retained, but to increase their viability as a mode of transport to access the Proposed Development, these will have a higher frequency of at least 2 buses per hour. An additional service could also run between Margate and the Proposed Development, to accommodate any demand generated from there."

6.11.421. The ExA through TR.2.66 [[PD-011](#)] asked the Applicant what evidence there was to suggest that this was feasible and how it would be secured. The Applicant replied, by stating that:

"The mitigation measures contained in the Airport Surface Access Strategy are set out in the Register of Environmental Actions and Commitments. Requirement 7 of the dDCO requires approval of an Operation Environmental Management Plan prior to the commencement of operation of the airport. This plan must contain a chapter addressing traffic management and green travel planning and relevant mitigation measures set out in the Register of Environmental Actions and Commitments must be included. Requirement 7 then provides that the airport must be operated and maintained in accordance with the approved Operation Environmental Management Plan."

6.11.422. The Applicant did not reply to Part I of TR.2.66 [[PD-011](#)] in relation to what evidence there was to suggest that the measures proposed in paragraph 4.7.2 of the ASAS were feasible. The ExA asked this question again at TR.3.41 [[REP7a-002](#)]. The Applicant stated:

"The Applicant proposes to provide shuttle bus services and is committed to do so through the Airport Surface Access Strategy, compliance with which is secured through the DCO by reference to the REAC."

6.11.423. At this point in time and accompanying the Applicant's response to ExQ3 a draft Section 106 Agreement was provided at Appendix TR.3.1 Part B

[[REP7a-003](#)]. The fifth schedule of the draft s106 related to public transport but contained limited details and omitted the financial contributions being proposed.

6.11.424. The issue of bus services was discussed at ISH7 [[EV-028](#)]. In oral evidence, the Applicant confirmed that no discussions with local operators had occurred and KCC confirmed that no discussions had taken place with their public transport department. The Applicant set out that as bus plans and timetables are not typically planned years in advance, meaningful engagement with KCC and bus operators at this stage is not applicable.

6.11.425. The Applicant agreed to include a financial contribution figure for public transport in the draft Section 106 Agreement under Action 47 [[EV-030](#)]. Subsequently, a revised Section 106 Agreement [[REP8-006](#)] was provided at D8, which included a financial contribution of £150,000 for public transport, which was defined as the enhancement of local bus services which may include the following: Increase in frequency of existing local bus services; extension of the operating times of local bus services; and extension of existing local bus routes.

6.11.426. Also at D8, when commenting on the initial draft Section 106 Agreement, KCC set out [[REP8-027](#)] that:

"To date, KCC is unaware of any specific discussions taking place between the applicant and any local bus operator. If agreement is/has been reached then it may be necessary for the bus operator to be included as a party to the section 106 agreement, so that relevant obligations between the two parties can be secured. At this point and given the lack of information, KCC does not agree to act as a conduit for public transport contributions, as there is a significant risk that the contributions offered by the applicant will simply remain unspent as they are not implementable. Until a defined Public Transport/Bus Strategy has been developed, it is not possible to define the Fifth Schedule with required clarity."

6.11.427. These issues were explored further through ExQ4 and ExQ5. In response to TR.4.55 the Applicant [[REP9-006](#)] explained that the £150,000 was for the provision of one bus service. Further, in response to TR.5.12 the Applicant [[REP11-002](#)] set out that this was informed through information from bus operators, for example Stagecoach South East has provided an indicative cost for a 12-hour bus service. Through the same question, the ExA also requested further information in terms of whether the provision of one bus was sufficient (to meet the identified modal share targets). The Applicant's response [[REP11-002](#)] stated:

"The £150,000 contribution is based on enhancement of the existing bus service, to provide improved frequency. Discussion would be required with KCC and bus operators nearer the time of commencement of services regarding the optimum means of service provision. It should be noted that it is not usual to undertake detailed negotiations with bus operators etc until more detail is known in terms of timetabling"

requirements etc. This would need to be addressed post consent and is secured through the Travel Plan which will need to be signed off by the relevant authorities."

- 6.11.428. On the last day of the Examination, the Applicant provided a signed and dated UU [[AS-583](#)] which reflected the provisions in the last revised draft Section 106 Agreement [[REP11-010](#)]. This, in the fifth schedule, secures the £150,000 public transport financial contribution to KCC for the enhancement of existing services and requires the agreement of a Manston Airport Bus Service Scheme, which is associated with the Applicant's commitment to provide a shuttle bus service to either Ramsgate rail station or the proposed Thanet Parkway rail station if or when it becomes operational.
- 6.11.429. The ExA has significant concerns with regard to whether the financial contribution of £150,000 for the provision of one additional bus is sufficient to meet the mode share targets set out in the original TA, revised TA, draft FTP and ASAS. The ExA considers that this is essential to ensure that the Proposed Development is seeking to provide adequate provision to promote sustainable modes of transport and to reduce impacts on the local highway network, as assessed in the ES.
- 6.11.430. **On this basis, the ExA is unable to conclude that the financial contribution of £150,000 is compliant with the CIL Regulation 122 and should not be taken into account as a reason to grant consent.**
- 6.11.431. However, the ExA does accept the Applicant's point that it is too early to have meaningful discussions with local operators and KCC due to the uncertainties about bus services and therefore can reasonably be achieved. Based on this, the ExA considers that an appropriate way forward would be to require the Applicant to agree a scheme of enhancement to existing local services with KCC prior to the operation of the Proposed Development, when there can be much more certainty.
- 6.11.432. Whilst the UU [[AS-583](#)] secures a Manston Airport Bus Service Scheme to be agreed with KCC before commencement, this relates solely to the self-operated shuttle bus service proposed by the Applicant.
- 6.11.433. The ExA acknowledge that R7 - OEMP of the rdDCO does require the Applicant to agree a finalised version of the FTP and ASAS and that such provisions are also contained in the REAC. However, given the clear importance of this issue in achieving the mode share targets and promoting sustainable development as required by national and local policy, the ExA considers that the rdDCO should contain a specific Requirement on this matter. The ExA has therefore proposed the inclusion of R7 in its rdDCO, which sets out that the Applicant must agree a Bus Service Enhancement Scheme, including the enhancement of existing services and the provision of shuttle bus services. The ExA considers that this would also fulfil the requirement in the UU to agree a Manston Airport Bus Service Scheme for shuttle buses.

6.11.434. The Applicant has previously stated [[REP8-017](#)] that:

"The Applicant is willing to add a mechanism to the DCO to ensure that engagement with public transport operators in relation to the provision of services is undertaken prior to the commencement of any operations at the airport, ensuring that an appropriate level of service is in place to achieve the bus modal share targets set out in the Framework Travel Plan for staff and passengers."

6.11.435. **Given all of the above, there is no reason for the ExA to believe that the Applicant would resist such a Requirement. However, the ExA would note that the Applicant has not considered the ExA suggested wording and the SoS may wish to seek the views of the Applicant on this matter before reaching his decision. The ExA is content that based on the inclusion of this Requirement, suitable provision will be secured to meet the mode share targets for buses, which are considered to be reasonable given the nature of the surrounding area.**

Draft Car Parking Management Strategy

6.11.436. The original TA included a Car Park Management Strategy (CPMS) at Appendix N [[APP-073](#)]. KCC in its LIR [[REP3-143](#)] set out that:

"The intention to levy a charge for staff car parking is noted and accepted in principle; however consideration should be given to the potential for overspill parking on the local highway network and how this could be mitigated against. The Highway Authority considers that there is a high likelihood of inappropriate parking occurring on the surrounding highway network by staff and passengers who wish to avoid parking charges."

6.11.437. The Applicant responded in its comments of LIRs [[REP4-028](#)] by setting out that charges are a means to discourage travel by car and this would be reviewed and revised if it results in an issue with overspill parking onto neighbouring streets.

6.11.438. KCC raised additional concerns through TR.2.65 [[REP6-046](#)]:

- It is unclear whether the passenger mode share assumptions align with those applied in the TA, as they are presented on an inconsistent basis.
- As the site is in a relatively isolated location, economically efficient on street parking enforcement may be challenging to deliver, which could have a bearing on the behaviour of road users.
- It would be more appropriate for the strategy / dDCO to include a commitment to funding necessary monitoring (and implementation if deemed necessary) of a CPZ around the site. It may also be necessary for TDC to introduce additional civil enforcement resource (Parking Wardens), as such discussion with TDC parking services team should also be sought to explore the feasibility and implications surrounding this issue.
- The justification for an overprovision of 1,151 spaces is currently insufficiently justified.

- The CPMS provides no information of the level of charge for parking, which could be a key component in managing demand.
 - Implications for Blue Badge Holders would also need to be considered.
- 6.11.439. The Applicant replied to these concerns through TR.3.44 [[REP7a-002](#)] by noting that:
- The passenger mode share that has been used in the CPMS has considered different types of passenger and the implications of this on parking demand based on information derived from comparable airports.
 - The Applicant is willing to include monitoring of the surrounding highway network within the FTP surveys and to work with TDC and KCC to implement parking control in the event that inappropriate parking occurs as a direct result of the airport.
 - The level of charge for parking will be informed by economic analysis at a later stage which will take into account the modal split targets and the cost of travel by other forms of transport.
 - Blue Badge car park spaces will be provided in accessible locations. Usage will be monitored to identify whether additional provision is required.
- 6.11.440. Further discussion took place at ISH7 [[EV-028](#)] and the Applicant agreed to produce a 'Passenger Parking Provision Technical Note' [[REP8-017](#), Appendix ISH7 – 50]. This was to provide further evidence to support the level of parking being provided on the site and provided clarity on mode share assumptions.
- 6.11.441. The Technical Note provides an additional calculation of parking requirements based on the mode share targets set out in the revised TA [[REP5-021](#)] and the updated TA [[REP8-017](#), Appendix ISH7 – 50]. This identifies a need for 1,734 parking spaces, as opposed to the original calculation in the CPMS [[APP-073](#)] of 1,815, which was based on passenger demand estimations and empirical evidence of passenger parking profiles from existing airport.
- 6.11.442. **The ExA considers these to be within a reasonable range of each other.**
- 6.11.443. In terms of concerns with regard to overprovision, the Technical Note at Section 2.3 states that:
- *"The space identified for flexible overspill parking will be a construction compound during the construction phases as shown in the Master plan [[APP-079](#)] and can only be used only after the works are complete in Phase 4 of the construction programme.*
 - *As set out in the CPMS, the space for "overflow parking" will ensure that there are no issues with overspill parking onto surrounding areas, which addresses concerns expressed by KCC regarding the risk of 'flyparking'. In addition, it will enable flexibility of size of spaces: blue badge parking and electric vehicle parking have larger dimensions than standard size spaces.*

- *A large area of this space is now also been ear marked for hire car facilities onsite, which will again reduce the number of spaces in the overflow parking area. As an example, at Southend Airport there are two car parks related to car hire. One car park of around 130 parking spaces for hire cars returned cars, and another of around 50 for cars that are near the terminal ready to be picked up by passengers arriving.*
- *As such it is considered that with numerous unknowns on the site between design of blue badge and electric spaces, hire car company's needs, nature and timing of flights and seasonality of arrivals and departures at the airport that a large over provision is needed to allow for a car park facility that accommodates for all needs in an efficient manner."*

6.11.444. KCC sets out in response to TR.4.50 [[REP9-024](#)] that it:

"...does not accept that this explanation provides sufficient justification for the extent of parking over-supply, which risks jeopardising the aims and objectives of the Framework Travel Plan. Whilst it is accepted that a careful balance needs to be struck in this respect, at present it is considered that the level of on-site parking proposed is excessive."

6.11.445. **Whilst the concerns of KCC are acknowledged, the ExA accepts the Applicant's explanation that there are many unknowns that warrant the provision of a large oversupply of on-site parking. The ExA is content that the exact level and cost of parking can be suitably agreed through the final CPMS that must be agreed by R7 of the rdDCO, to ensure that the objectives of the FTP are not jeopardised.**

6.11.446. Appendix ISH7 – 52 of [[REP8-017](#)] also provided an updated CPMS to include commitments for Blue Badge, Electric Vehicle parking and staff parking arrangements. KCC confirmed in their response to TR.4.51 [[REP9-024](#)] that it was content with these changes and the ExA see no reason to disagree.

6.11.447. **Overall, the ExA considers that the draft CPMS offers an acceptable framework to agree the final strategy.**

6.11.448. Turning to the issue of CPZs, TDC in its response to TR.4.51 [[REP9-026](#)] questions the extent to which a CPZ contribution is necessary given the proposed overprovision of parking on site, although TDC noted that the Applicant may charge both passengers and staff to park on site [[REP8-017](#), Appendix ISH - 52 Section 3.3]. TDC set out that the general cost of implementing a CPZ would be approximately £260 per metre. TDC also noted that it had not seen any information from the Applicant as to either the general area or specific streets in which a CPZ would be proposed.

6.11.449. The ExA raised these matters through TR.5.11 [[PD-022](#)]. The Applicant's response [[REP11-002](#)] set out that it agrees with TDC that a CPZ may not be required, particularly given the availability of overflow parking and the desire of all parties to maximise access to the airport by non-car modes. Whilst this is noted, the ExA considers that 'fly parking' by

passengers seeking to avoid paying on-site parking charges could feasibly be an issue in the surrounding areas and that provision should be suitably secured for the implementation of a CPZ if the monitoring of the FTP identified a need for such measures.

- 6.11.450. The Applicant's response to TR.5.11 [[REP11-002](#)] also sets out a methodology for establishing the CPZ, based on walking distances of 1km (10-minute walk) from all the passenger, cargo and NGA accesses, and roads where parking is appropriate. The plan provided by the Applicant in Appendix TR.5.11 [[REP11-003](#)] illustrates the existing and proposed extensions to the double yellow line restrictions and appropriate CPZ locations where parking bays would be marked out.
- 6.11.451. The same response also set out that the Applicant considers 890 metres of controlled parking could be needed and based on the cost per metre provided by TDC, this would equate to a financial contribution of £231,400. The signed and dated UU [[AS-584](#)] makes provision for an annual contribution for 20 years for this figure.
- 6.11.452. The ExA is mindful that due to the very late timing at which this information was provided in the Examination, it has not been able to examine the assumptions used by the Applicant, particularly as TDC has not had an appropriate opportunity to consider the methodology used and the streets included to calculate the CPZ contribution and whether the contribution is therefore appropriate.
- 6.11.453. **Given this, the ExA therefore recommends to the SoS that the views of TDC are sought before reaching a conclusion on this matter. However, as the ExA is unable to conclude that the proposed CPZ and the associated financial contribution is appropriate this must weigh against the Proposed Development.**

Airport Surface Access Strategy

- 6.11.454. The original TA included an ASAS at Appendix O [[APP-073](#)]. This was updated in the revised TA [[REP3-025](#)] at Appendix O. The ExA is mindful that the ASAS effectively summarises the contents of the draft FTP and the draft CPMS. The ASAS was updated at D9 [[REP9-005](#)] to take into account the changes made to these other documents.
- 6.11.455. **On this basis and given the findings of the ExA above, the ExA is content that it forms a suitable basis to agree the final draft, which is secured by R7 of the rdDCO.**

Register of Environmental Actions and Commitments

- 6.11.456. The REAC has also been updated throughout the Examination to reflect changes made to the above documents [[REP4-020](#), [REP7a-012](#), [REP8-018](#) and [REP11-008](#)].
- 6.11.457. **The ExA is content that the REAC accurately reflects and secures the commitments to secure sustainable modes of transport made within the draft TP, CPMS and ASAS.**

Manston village and pedestrian links

6.11.458. KCC in its LIR [[REP3-143](#)] set out that:

"Whilst the proposal to include 2.0m footways along the widened sections of Spitfire Way and Manston Road is welcome in principle, it is important that continuous and direct walking routes to local trip generators are provided where possible. It is notable in this respect that it is not proposed to provide such routes to local residential areas (notably Manston village), which is considered necessary in order to promote sustainable transport accessibility to the site by staff in particular. This could further encourage inappropriate pedestrian activity within the carriageway to the detriment of highway safety."

6.11.459. In response [[REP4-028](#)] to KCC's LIR, the Applicant set out that consideration could be given to alternative footway provision subject to feasibility. However, in response to TR.2.45 [[REP6-012](#)] the Applicant noted that it had given consideration to the need for footways and that these were not required. This was on the basis that Manston village was a small settlement and is unlikely to generate any significant numbers pedestrian trips to Manston Airport.

6.11.460. This view was contested by KCC in its response to TR.3.33 [[REP7a-034](#)], which stated:

"Manston has in excess of 1,000 residents and is situated within a close walking distance of the site. As such, it is considered vital that continuous and safe pedestrian infrastructure is provided in order to encourage non-car travel by staff in particular, in accordance with local and national planning policy."

6.11.461. The matter was further explored during ISH7 [[EV-028](#)] and the ExA asked the Applicant to provide a note on the possible need for improvements to pedestrian pavements and footpaths in Manston village to increase pedestrian accessibility to the airport and to address any safety issues arising from increased traffic flows (Action 46). In response, the summary of the Applicant's case put orally at the traffic and transport ISH [[REP8-017](#)] at Appendix 2, paragraph 13.1.1 stated:

"The draft S106 Obligation [[REP8-006](#)] includes funding for improvements to PRow TR10 which is considered an acceptable and appropriate means of connecting to Manston Village and the expanding population to the east due to the Manston Green development. This is in line with PRow Officer comments requests for a contribution and completion of an upgrade to the link. The population of Manston is small (100 houses or less), and the potential usage by residents of a footway alongside the B2050 from the village to the Airport is limited. The improvement of TR10 has the potential to attract higher usage as it will provide a connection to the Manston Green development, comprising 800 homes, as well as Manston Village and the western outskirts of Ramsgate."

6.11.462. The draft Section 106 Agreement [[REP8-006](#)] at Schedule 5 included provision for a financial contribution for the upgrade of PRow TR10 of £90,000.

6.11.463. KCC in its response to TR.4.54 [[REP9-024](#)] stated:

"...in isolation, this does not provide appropriate connectivity between the terminal building, Manston Village and future residential settlements to the east. 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."

6.11.464. KCC also set out that it was unaware of the where the figure of £90,000 had originated from and the sum offered by the Applicant was inadequate. KCC provided the following costings:

- TR8 – 889 m (length) x 3 m (width) = £120,015 (Based on the existing route - adjustment may be required once new route has been fully defined).
- TR9 – 190 m (length) x 3 m (width) = £25,650.
- TR10 – 964 m (length) x 3 m (width) = £130,140.

6.11.465. In the same response, KCC also set out concern that the PRowMS [[APP-073](#), Appendix M] did not contain an explicit commitment to improve the form of surface or widening of the routes.

6.11.466. The Applicant's response to TR.4.54 [[REP9-006](#)] set out that:

"KCC has provided a cost calculation for the upgrade of the whole length of TR10. A calculation has been made of the cost per m² and the length of TR10 between TR9 and the Manston Green boundary. The details of methodology for this cost is set out in Appendix Tr.4.54 [[REP9-010](#)]. In addition to the upgrade of TR10, a contribution for the provision of surfacing of the TR8 diversion has been included in Schedule 5 of the S106. This comprises £94,500 based on a length of 700m."

6.11.467. The revised Section 106 Agreement [[REP9-003](#)] was amended to this effect.

6.11.468. The ExA explored these issues further through TR.5.14 [[PD-022](#)]. The Applicant's response [[REP11-002](#)] set out that it was committed to improving PRow TR10 and TR8. The response continued by stating:

"The Applicant engaged with the KCC PRow Officer in developing costings and as a result a detailed methodology for understanding the costs of upgrading PRow was provided by KCC. This was used by the Applicant in all calculations, hence the methodologies employed by KCC and the Applicant are the same."

The difference in cost for upgrading PRow arises due to KCC considering the total length of existing PRows. As Appendix TR4.54 states, the section of TR10 which passes through the Manston Green development will be diverted and delivered by that committed development, and not

by the Applicant. The Applicant has therefore provided a cost for upgrading 666m of TR10, while KCCs costs consider a total length of 964m. TR8 requires upgrading and diverting as a result of the development proposals, resulting in a shorter route. The total length of the diverted TR8 would be 789.4m, compared to its existing length of 889m. The Applicant has provided costs based upon the diverted route which are appropriate.

TR9 does not require upgrading since the section of the route between TR10 and High Street is already paved. The remaining section of TR9, south of TR10, enters a field prior to reaching the airport boundary and becoming a dead end. As that section does not provide the connectivity between Manston Village or Manston Green Development and the Manston-Haine Road, there is no merit in upgrading this path."

- 6.11.469. A revised PRoWMS [[REP11-012](#)] was also provided a D11, which was amended to reflect the above answer.
- 6.11.470. However, a revised draft Section 106 Agreement [[REP11-010](#)] was also provided at this time. The Applicant amended the fifth schedule to include all of the financial contribution sought by KCC in its response to TR.4.54 [[REP9-024](#)], as set out above. Further, the signed and dated UU [[AS-583](#)] provided on the last day of the examination also contains all of the financial contribution sought by KCC.
- 6.11.471. The reason for this contradiction is unclear to the ExA, given the Applicant's response to TR.5.14 and the changes it has made to the draft PRoWMS.
- 6.11.472. **Given the stage of the Examination that this occurred, the ExA was not able to examine the matter any further and cannot come to any firm conclusions, as the Applicant's position is unclear and it must therefore weigh against the Proposed Development. The ExA recommends that the SoS seeks clarification from the Applicant and KCC if necessary, on these matters.**
- 6.11.473. Notwithstanding this, the ExA considers that should these matters be appropriately clarified and suitable provision is secured, then this would provide suitable pedestrian access from Manston village to the airport and the new residential development to the east of the airport. The ExA considers that this would notably improve pedestrian safety, which was a concern of KCC [[REP3-143](#)].
- 6.11.474. On a related matter, KCC has raised concerns [[REP3-143](#) and [REP7a-034](#)] with regard to increased traffic flows through Manston village. KCC set out at ISH7 [[EV-028](#)] that the delivery of the link road would direct traffic away from Manston village and this is evident within the revised TA and associated revised Chapter 14 of the ES [[REP5-022](#)].
- 6.11.475. However, in the absence of the link road, as considered in the original TA and original Chapter 14 of the ES [[APP-034](#)], there would be increased traffic flows through Manston village. The significance of this is considered at Table 14.25 of original Chapter 14 of the ES [[APP-034](#)].

The table concludes that there would be no significant impacts, in terms of severance, driver delay, pedestrian delay, pedestrian amenity, fear and intimidation and accidents and safety and no mitigation is required. In particular the table sets out:

"As the main pedestrian interactions with the proposed development traffic will be in the village of Manston which is already a traffic calmed location with a speed limit of 30mph and chicane buildouts, it's not considered that any further mitigation is required based on the predicted traffic flows from the development resulting in only a maximum of 6 additional vehicle per minute."

6.11.476. **The ExA accepts that no mitigation is required.**

Operation Stack / Brock

6.11.477. Operation Stack and Operation Brock are two schemes that have been put in place to manage disruption to services across the English Channel. Operation Brock remains available for use as an alternative to the older Operation Stack and is generally preferred by the DfT as it offers improvements by keeping the M20 open to traffic in both directions. Manston Airport can be used as part of these operations and is used to hold traffic destined for the Eurotunnel.

6.11.478. The Town and Country Planning (Manston Airport) Special Development Order 2019 came into effect on 24 January 2019. Article 3 grants planning permission until 31 December 2020, subject to limitations and conditions, for development consisting of use of land at Manston Airport for the stationing of goods vehicles and associated uses. Article 4 sets out limitations on the development. Article 5 sets out general conditions of development and articles 6, 7 and 8 set out conditions which must precede the development.

6.11.479. The ExA asked through TR.1.39 what effect the Proposed Development would have on Operation Stack / Brock. The Applicant responded to this question [[REP3-195](#)] by stating:

"Following discussions with the DfT and assurances that they will not require the site beyond the calendar year of 2020, the Applicant is confident that Operation Stack / Brock will not prejudice the delivery of the Proposed Development and nor would the Proposed Development prejudice Operation Stack / Brock."

6.11.480. At the Need and Operations Hearing ISH (ISH2) [[EV-014 to EV-014c](#)] it was confirmed by the Applicant that they have programmed to start the construction of the airport in 2021. The Applicant through TR.2.78 was asked if this overcame any potential conflict. The Applicant set out [[REP6-012](#)] that it was allowing for the situation that Operation Stack / Brock was extended beyond 31 December 2020, but this possibility has all but disappeared following the Parliamentary written answer given by Jesse Norman MP on 27 March 2019. This stated:

"The Town and Country Planning (Manston Airport) Special Development Order 2019 came into force on 24 January 2019, updating the SDO from 2015, and extends planning permission for the use of Manston as an emergency lorry holding facility until 31 December 2020. S.5(2) of the Order states that the land must be restored to its condition before the date of the Order coming into force, prior to the Order expiring on 31 December 2020. The Department will do this."

6.11.481. The ExA also understands [[AS-552](#)] that under the terms of the sale, part of the site is leased back to SHP to fulfil the requirements of Operation Stack / Brock until 31 December 2020.

6.11.482. **Based on the information before the Examination and whilst acknowledging the effects of Brexit are still somewhat uncertain, the ExA is content, as far as it can be, that Operation Stack / Brock will not have an impact on the Proposed Development.**

PRoW

6.11.483. The ExA examined the issues related to PRoW through its written questions Tr.1.40, Tr.1.41, Tr.1.42, Tr.1.43, Tr.1.44, Tr.1.45, Tr.1.46, Tr.1.47, Tr.1.48 and Tr.1.49 [[PD-007](#)] and F.2.10 and F.2.11 [[PD-010b](#)] and DCO.

The Current Position

6.11.484. ES Volume 2 - Chapters 11-16 [[APP-034](#)] sets out the existing situation in respect of PRoW and PRoW in close proximity to the Proposed Development are shown in Figure 11.36 of ES Volume 4: Figures [[APP-041](#)] and Long Distance Recreational Routes are shown at Figure 11.34.

6.11.485. The Applicant submitted a PRoWMS (Appendix M in ES Volume 25: Transport Assessment, Appendices J (Junction 21B)) [[APP-073](#)] and provided an amended version at D11 [[REP11-012](#)].

6.11.486. At the request of the ExA (Tr.1.48 and Tr.1.49), the Applicant provided further figures in its appendices to answers to ExQ1 [[REP3-187](#)]. Figure 2.1 shows "PRoW around Manston Airport" and Figure 2.2 (both at Appendix TR.1.48 shows "Affected PRoW sections" and Figure 2.5 (at Appendix Tr.1.49) shows "Existing pedestrian infrastructure and isochrone".

6.11.487. The ES [[APP-034](#)] states at paragraph 11.4.35 that:

"A single bridleway (reference TR8) is the only PRoW to be partly routed within the Proposed Development site. [...] It follows the existing fenceline of the non-operational airport along a section of the boundary that is otherwise open and unvegetated.

A network of bridleways (TR9 and TR10) continue eastwards from the High Street in southern Manston to join the A256 on the outskirts of Ramsgate."

6.11.488. Paragraph 11.4.36 states that to the north-east of the Proposed Development site, north of Manston, there are six PRow which cross arable and pasture fields. These PRow are coded TR22, TR23, TR24, TR25, TR26 and TR31.

6.11.489. Paragraph 11.4.37 lists other PRow located in close proximity to the Proposed Development site:

"TR32 which links Canterbury Road West (which forms the southern boundary of the Proposed Development site) with Cottington Road to the south-west of Cliffsend;

TE29 which runs south from the A299 west of Mount Pleasant to meet the northern fringes of Minster;

TE18 which heads west from Minster Road to join Plumstone Road to the west of the Proposed Development site boundary; and

TE16 which follows a north-easterly route from Minster Road to Manston Road to the north of the Proposed Development site boundary.

Elsewhere across the LVIA study area, the fields are traversed by a network of PRow at varying densities."

The Applicant's proposals

6.11.490. The Applicant set out its proposals in its TA Appendix M – PRowMS [[APP-073](#)] (Appendix M in ES Volume 25: Transport Assessment, Appendices J (Junction 21B)) and amended them in the amended PRowMS [[REP11-012](#)].

6.11.491. The first version of the PRowMS summarised the proposals as follows:

"The following mitigation measures are proposed to address the impact of the Proposed Development on the affected PRow:

TR8 will be diverted along the edge of the new proposed perimeter fence of the Airport. The route will remain as it currently is, until it is diverted onto a new alignment along the fence. The previous route will be permanently extinguished and the new route permanently established. This will be done early in the project life cycle so it is established before major works take place;

The width of the diverted TR8 bridleway will be increased to 3m and it is proposed it will run alongside a hedgerow planted east of the fence to allow for screening of the car park and the Airport site. Any way marker posts or other PRow infrastructure will be replaced and relocated as appropriate; and

TR9 will be extinguished south of the perimeter fence of the Airport so that no PRow falls within the red line boundary of the site."

and that at 4.1.6:

"Creation of a new link around the eastern boundary of the proposed Airport redevelopment will not be progressed. This however could be

potentially addressed by a bus service providing a northsouth link should the planned Thanet Parkway Station go ahead."

6.11.492. The D11 version of the PRoWMS [[REP11-012](#)] added that:

"Where TR8 is not diverted the surface will be upgraded and resurfaced to a width of 3m wide; and

TR10 will be upgraded to a surfaced route between TR9 and the edge of the proposed Manston Green Development."

6.11.493. The proposals for TR8 and TR9 are shown on Sheet 5 of the Access and Rights of Way Plans [APP-020]. The ExA considers that these show the limited scale of the proposed closure and the nature of the proposed diversion which serves to link TR8 with the southern end of Manston village.

6.11.494. In its response to Tr.1.42 [[REP3-139](#)], KCC did not object to the proposed closure of a section of TR9, stating that:

"The County Council accepts that the part of the bridleway that lies within the site boundary will have to be extinguished and that this is not currently used, as it is a dead-end route."

6.11.495. In its response to Tr.1.42 [[REP3-139](#)] KCC did not state any objection in principal to the diversion of TR8 but raised issues relating to the location of planting and the responsibility for maintenance.

Issues

6.11.496. The list of Principal Issues set out in the Rule 6 letter and amended in the Rule 8 letter contained:

"The effects on Public Rights of Way"

as a principal issue under traffic and transport.

6.11.497. In considering the evidence submitted to the Examination and the responses to the ExA's questions, the ExA identified six issues for the purposes of structuring this sub-section of the Recommendation Report:

- Involvement of KCC.
- Possible effects of the proposed closures on users of the PRoW.
- Securing the proposals in the dDCO.
- Mitigation.
- Responsibility for maintenance.
- Funding.

6.11.498. In doing so, the ExA is aware that the proposals are limited to the re-routing and upgrading of one PRoW (TR8) and the closure of another short section of a PRoW (TR9) and the upgrading of a third one (TR10).

Involvement of KCC

6.11.499. KCC is the relevant authority for PRow. In the PRowMS [[APP-073](#)] the Applicant stated at paragraphs 1.3.1 and 1.3.2 that:

"The PRow Officer for Kent County Council (KCC) has been consulted regarding the affected PRow and the proposed strategy.

A joint site visit was undertaken on 31 October 2017 by Wood and the KCC East Kent Area Office for PRow & Access Service. This was followed up with a series of email exchanges and telephone conversations."

6.11.500. However, KCC's WR [[REP3-137](#)] states that:

"It is understood that the PRow TR8 will be rerouted along the edge of the new proposed perimeter fence of the airport, with the previous route permanently closed and a new route permanently established. It is requested that contact is made with the KCC PRow and Access Service at the applicant's earliest convenience, to discuss any required route diversions."

6.11.501. The ExA is not able to reconcile these differing statements about the degree of involvement by KCC in the early strategies of the development of the PRowMS. The ExA also note KCC's comments set out below regarding its lack of involvement in the drafting of a Section 106 Agreement.

6.11.502. However, the ExA considers that, taking into account the level of engagement by KCC in its submissions to the Examination on the issue of PRowS, the level of involvement of KCC has been improved.

Possible effects of the proposed closures on users of the PRow

6.11.503. First the ExA notes that paragraph 4.1.5 of the PRowMS [[APP-073](#)] and in the amended version [[REP11-012](#)] that:

"The proposed mitigations take into account the existing habits of PRow users as well as maintain the function of the links affected."

6.11.504. However, the ExA also notes that in its response to Tr.1.40, KCC [[REP3-139](#)] stated that:

"The County Council PRow & Access team has not completed specific studies of the current usage of the sections of the potentially affected PRow. However, the County Council is aware that the area is known to be well used for equestrian and recreational use."

and, in response to the same question, the Applicant stated [[REP3-195](#)] that:

"The Applicant has not undertaken any other studies of current usage of the sections of the potentially affected PRowS."

and that:

"It should be noted that proposed closure and diversion of a section of TR8 does not result in additional distance. The short section of TR9 that is proposed to be closed does not connect to other walkable routes as such, and as provision is retained no further studies were considered relevant."

- 6.11.505. In considering this lack of evidence as to current usage of the affected PRoW the ExA has borne in mind that the only closure proposed is to a short section of TR9 measuring 73m and that, as stated above, KCC has stated that this is not currently used [[REP3-139](#)].
- 6.11.506. Taking into account the length of the section of TR9 to be closed and the fact that it is currently unused and that the diversion of TR8 does not add any distance for walkers and is between the same two points as the original line, **the ExA concludes and recommends that the proposed closure of a section of TR9 and the diversion of a section of TR8 would not adversely impact on users of these PRoW.**

Securing the proposals in the dDCO

- 6.11.507. The Applicant's proposals are secured in its final dDCO [[REP7a-017](#)] by Article 13 – Permanent stopping up of public rights of way; by Schedule 1 which includes *"Work No.24 – Works to construct a diversion to an existing public right of way"*; and by *"Schedule 3 – Permanent Stopping Up of Public Rights of Way, Part 1 – Public Rights of Way to be Stopped Up and For Which A Substitute Is To Be Provided And Part 2 – Public Rights Of Way To Be Stopped Up And For Which No Substitute Is To Be Provided."*
- 6.11.508. The Public Rights of Way Management Plan is secured in the dDCO through reference to it in R6 - CEMP.
- 6.11.509. A PRoWMS is secured in the dDCO through reference to it in R6 - OEMP.
- 6.11.510. In its examination of the dDCO, the ExA considered whether or not there should be a time limit set for the execution of Article 13(2)(a) which provides that:

"No public right of way [...] is to be wholly or partly stopped up under this article unless the new public right of way to be constructed and substituted for it has been completed."

and whether reference to the Access and Rights of Way Plans [[APP-020](#)] should be referenced in this Article.

- 6.11.511. At ISH1, the Applicant confirmed [[REP1-004](#)] that it would consider the introduction and wording of a time limit.
- 6.11.512. However, the Applicant subsequently stated in its response to DCO.1.3 [[REP3-195](#)] that:

"The Applicant does not consider such a time limit to be necessary. This power relates to a single right of way. Protection is provided to the users

of the public right of way in that article 13(2)(b) of the dDCO [APP-006] states that the provision and maintenance of the temporary alternative route by the undertaker must be to the reasonable satisfaction of the street authority. It is unlikely that the street authority will be satisfied with a route that is significantly less convenient to the users and the route itself must be maintained to a standard that meets with the street authority's satisfaction."

6.11.513. At ISH1, the Applicant confirmed [REP1-004] its position that Article 13 referred to Schedule 3 and that the Access and Rights of Way Plans were incorporated through the descriptions in that Schedule.

6.11.514. **The ExA accepts the validity of both those arguments and does not recommend any amendments to Article 13.**

Responsibility for maintenance

6.11.515. In its response to Tr.1.42 [REP3-139], KCC stated that:

"In respect of ongoing maintenance, it will be expected that site operators take on maintenance responsibilities for any landscaping and enhancements to benefit the PRow network."

and that:

"KCC requests that maintenance responsibilities are captured within the DCO."

6.11.516. However, the Applicant stated in response to F.2.11 [REP6-012] that:

"KCC is currently responsible for maintenance of the public rights of way. [...] Responsibility for ongoing maintenance of the PRow should remain with the highway authority. There is no justification for transferring responsibility to the Applicant."

6.11.517. Further, the PRowMS [REP11-012] states at paragraph 3.2.1 that:

"KCC requested that PRows are to be created and funded under a Section 106 Agreement and would be maintained by KCC while remaining part of Manston Airport land."

6.11.518. **The ExA has taken account of the apparently conflicting evidence, above, but considers that, in this case, it need not be the responsibility of the DCO to allocate responsibility for the maintenance of a PRow and does not wish to make any further conclusions or recommendations on this.**

Mitigation

6.11.519. As stated above, the Applicant proposes to divert and upgrade TR8 and to upgrade TR10.

6.11.520. The Applicant's response to DCO.1.8 [REP3-195] states that:

"Any mitigation outside of the Order Limits is not authorised by the Order but, pursuant to R8(1) in Schedule 2 of the dDCO, no part of the Proposed Development can commence until the details of both off-site and on-site mitigation, its monitoring and management have been submitted to and approved [...]"

R8(2) provides that the ecological mitigation must then be implemented, monitored and managed by the undertaker in accordance with the written details approved under R8(1)."

6.11.521. However, the ExA notes that paragraph 3.3.2 of the PRowMS [[REP11-012](#)] states that:

"The Masterplan has been designed to include a 5m wide corridor between the airport fence line and edge of the project order limit to incorporate the diverted TR8 (refer to Figure 3.1). This 5m corridor will incorporate the 3m wide bridleway and any appropriate screening."

6.11.522. The ExA notes that R8(1) does cover both "proposed on-site and off-site ecological mitigation".

6.11.523. **The ExA concludes and recommends that, in principle, the upgrading of these two stretches of PRow are a potential useful part of the Proposed Development and that this is adequately secured in R8 of the RdDCO at Appendix D to this report but that the scale and level of benefit of these improvements means that they are not a determining factor in the ExA's overall conclusions on PRow.**

Funding for mitigation

6.11.524. Paragraph 4.1.6 of the PRowMS as submitted [[APP-073](#) and [REP11-012](#)] states that:

"KCC has requested that the new links are to be created and funded under a Section 106 Agreement."

6.11.525. In its response to Tr.1.44 [[REP3-139](#)], KCC stated that:

"The County Council agrees that any agreement made between KCC and the applicant will be made through a Development Consent Obligation under s174 of the 2008 Planning Act, as appropriate. KCC would expect money to be secured to improve the surface of the existing and diverted bridleways to a minimum width of 3m along the entire length. This will include bridleways TR8 and TR10."

6.11.526. However, in its response to TR.1.44 [[REP3-195](#)], the Applicant stated that:

"The Applicant does not consider that an agreement under s.106 of the 1990 Act (as amended by the 2008 Act) as proposed by KCC is necessary in this instance. [...] It should also be noted that the proposed diversion

route is shorter than the existing route and as such maintenance of the path in the future should be no more than they are currently."

6.11.527. Nevertheless, paragraph 4.1.7 of the PRowMS [[REP11-012](#)] states that:

"Amendments to the PRow will be secured through the Development Consent Order and funds have been identified within the Section 106 agreement based on funding methodologies provided by KCC."

6.11.528. The Applicant provided an initial draft Section 106 Agreement at DL7a included within appendices Appendix Tr.3.1 Part B [[REP7a-003](#)]. This contained a third Schedule dealing with PRow.

6.11.529. In its answers to ExQ4 [[REP9-026](#)], KCC stated that:

"The draft section 106 agreement was not sent to KCC for comment [...]. KCC notes with some concern that the applicant submitted this first draft of the section 106 agreement without any discussion about the headline terms at the very least with KCC potential, which would be the expected way to proceed and secure agreement between the relevant parties. In fact, to date, there has still been no engagement from the applicant with regard to agreeing the headlines in the section 106 agreement, let alone any detailed drafting points."

6.11.530. A second draft Section 106 Agreement dated 14 June 2019 was submitted to the Examination at D8 [[REP8-006](#)] which, in its fifth Schedule covenanted:

"£90,000.00 (Ninety thousand pounds) to be used for the ongoing maintenance of that part of public right of way TR10 as shown on the PRow Plan."

6.11.531. In its response to TR.4.48 [[REP9-024](#)], KCC stated that:

"Neither the first draft section 106 agreement nor the second revised draft agreement was shared or discussed with KCC before being submitted to the Examining Authority."

and that:

"KCC's view is that no weight or little weight should be given to the draft section 106 agreement, including if it were to be offered as unilateral undertaking under section 106."

and that:

"KCC notes that the party proposed to sign the obligation is said to be RiverOak Fuels Limited, who are an unknown entity. The section 106 agreement does not identify the nature of their interest in the land and whether they have an interest capable/sufficient for the purposes of section 106(1) TCPA 1990."

6.11.532. Finally the Applicant's Section 106 UU in favour of KCC [[AS-583](#)] was submitted on the final day of the Examination which, in Schedule 1, covenants:

"...not to cause permit or allow the Project to come into Operation until the PRow Contribution has been paid in full to the County Council:

1. the diversion of TR8 for which £120,015 of the PRow Contribution shall be used;

2. the works to TR9 to enable the diversion of TR8 to be completed for which £25,650 of the PRow Contribution shall be used; and

3. the improvement works required to TR10 for which £130,140 of the PRow Contribution shall be used."

6.11.533. As this was submitted on the final day of the Examination, the ExA had no opportunity to examine the provisions of the UU, including seeking the views of KCC.

6.11.534. However, the ExA notes the response by KCC to TR.4.48 [[REP9-024](#)] concerning both the lack of consultation and its view of the lack of weight to be given to any UU.

6.11.535. **The ExA concludes and recommends therefore, that it cannot come to any conclusion on the adequacy of any funding offered for the mitigation and, therefore, that it cannot take account of the mitigation measures in its conclusion and recommendation on this issue.**

Link from TR9 to the proposed Thanet Parkway Station

6.11.536. Paragraph 4.1.6 of the PRowMS [[APP-073](#) and [REP11-012](#)] states in connection with a strategy to create a new link between Thanet Parkway Station and TR9 that:

"[The] creation of a new link around the eastern boundary of the proposed Airport redevelopment will not be progressed. This however could be potentially addressed by a bus service providing a north south link should the planned Thanet Parkway Station go ahead."

6.11.537. KCC's WR [[REP3-137](#)] states that:

"...the County Council requests that the additional connection to Thanet Parkway is still considered by the applicant, as this will greatly benefit the connectivity of the site and will further increase opportunities available to the local community for recreation, active travel and exercise."

6.11.538. The Applicant's response to TR.1.47 [[REP3-195](#)] states that:

"The reason stated for not providing this route is because the alternative route would be a very long route around the eastern side of the site following the perimeter fence that would potentially make it unattractive to users as it would take a long time to take this circuitous route."

and paragraphs 3.4.2 and 3.4.3 of the PRowMS [[APP-073](#) and [REP11-012](#)] state that:

"A link across the site would present a security and safety risk, as it would cross the runway, taxiways and other operational infrastructure. It is industry standard approach to restrict only security checked members of staff or passengers onto the airport apron. Therefore, PRow directly crossing a site such as this is wholly inappropriate.

The alternative route would be long and run along the eastern side of the site. It would likely follow the proposed boundary fence, potentially making it unattractive to users due to its positioning in addition to its length. The length would be around 3.5km."

6.11.539. The ExA notes that paragraph 4.1.6 of the PRowMS states that:

"Creation of a new link around the eastern boundary of the Proposed Development will not be progressed. This, however, could be addressed by a bus service providing a north- south link, should the planned Thanet Parkway Station go ahead."

6.11.540. The ExA has proposed a bus enhancement scheme in Article 7 of the rdDCO which states that:

"7(4) No part of the authorised development is to begin operation until a Bus Service Enhancement Scheme, has been submitted to, and approved in writing by, the local highway authority. This must contain measures to enhancement existing bus services and include shuttle bus service provision."

6.11.541. Taking this into account, the **ExA concludes that there should not be a new PRow specified within the PRowMS creating an additional connection to Thanet Parkway.**

PSED

6.11.542. The ExA notes that the Proposed Development would make provision for 'Blue Badge' parking spaces close to the passenger terminal, as set out in the revised CPMS [[REP8-017](#)].

6.11.543. Further, the ExA considers that with the imposition of the ExA's recommended R7(4) there would be sufficient provision of bus services, which may allow older people and those with disabilities to access the airport by means other than a private motor vehicle.

6.11.544. Consequently, the ExA is content that it has made all reasonable attempts to ensure that the airport would be accessible for those with protected characteristics, in accordance with the PSED.

ExA's conclusions

Assessment

- 6.11.545. The ExA has found that when the original TA and revised TA are considered with the additional work (Technical Notes) undertaken by the Applicant during the Examination, overall, the assessment of impact has been robust. The ExA is of the view that there is a need to place restrictions on passenger flight departures and arrivals around the am and PM Peak periods, to ensure that there is no impact on the highway network above what has been assessed by the Applicant in the ES.
- 6.11.546. Further, the ExA has also found that there is a need for a restriction of HGV movements during the am and PM Peaks as set out in the FMS. In addition, the financial contribution for HGV signage is appropriate and compliant with CIL Regulation 122.

Strategic Road Network

- 6.11.547. The ExA is satisfied that the Proposed Development will not have any material adverse impacts on the SRN and no mitigation is required in this regard. Highways England withdrew its objection and KCC did not raise any outstanding objections on this point. In addition, the ExA considers the Proposed Development complies with the NPSNN.

Local Road Network

- 6.11.548. The ExA is content that the improvement schemes proposed by the Applicant at junctions 1, 2, 4, 6, 7, 10, 15, 16 and 17 are appropriate. The ExA has found that there is no need for any mitigation at junctions 8 and 25.
- 6.11.549. The ExA considers that there are doubts whether the improvement scheme at Junction 13 is deliverable, as third party land is needed to secure suitable visibility splays and there is no evidence to suggest that the landowner is willing to allow this to occur, whether through Permitted Development rights or not. There is therefore no guarantee that a suitable mitigation scheme can be delivered by the Applicant or KCC. In the absence of the implementation of the Manston-Haine link road, the ExA considers that a major adverse significant effect (having regard to the significance evaluation methodology in Chapter 14 of the ES), particularly in terms of accidents and road safety and a severe impact in terms of the NPPF, on Junction 13, cannot be ruled out.
- 6.11.550. Whilst junctions 20 and 21 are proposed to be upgraded through the Manston Green development, the delivery of this cannot be guaranteed. In the absence of such junction upgrades, the ExA concludes that there could be significant adverse effects (having regard to the significance evaluation methodology in Chapter 14 of the ES) or a severe impact, in terms of the NPPF, from the Proposed Development.
- 6.11.551. In the absence of the delivery of the ICRIS, including the Manston-Haine link road, it has been found that, whilst not significant in terms of the ES or severe in terms of the NPPF, there would be some minor impacts on junctions 26 and 27 and this weighs negatively against the Proposed Development.

- 6.11.552. In a similar manner, there would be a worsening of highway safety at the Spitfire Way / Alland Grange junction due to its increased usage as a result of the Proposed Development. Whilst, in the view of the ExA the impact would not result in a significant effect (in terms of the ES) or a severe impact in relation to the NPPF, this worsening weighs against the Proposed Development.
- 6.11.553. The ExA considers that the Proposed Development would have a severe impact on the A256 / Ash Road / A257 junction that would not be mitigated as part of the development. The ExA is not satisfied that this impact is acceptable and is not justified by similar impacts being accepted in the past by KCC, as there were clearly different circumstances. This potential severe impact weighs against the Proposed Development.
- 6.11.554. The ExA accept that the provision of financial contributions to KCC is an appropriate mechanism to secure the junction improvement works and that the UU [[AS-583](#)] secures this provision. However, the ExA is not satisfied that the amount or timing of the financial contributions has been adequately calculated. As a result, the full impact of the proposed development on the local highway network may not be mitigated and / or it could lead to short term severe impacts before necessary mitigation is required and delivered.
- 6.11.555. In terms of on-site works, the ExA has found that the cargo facility, NGA West, passenger terminal and NGA South and fuel farm accesses are all appropriate to serve the Proposed Development. However, the ExA has found several issues associated with Junction 12. These could result in highway and pedestrian safety impacts. The ExA concludes that the potential impacts at Junction 12, which would see a large amount of traffic associated with the Proposed Development, would be moderate adverse – significant (based on the significance evaluation methodology in Chapter 14 of the ES) in terms of pedestrian amenity and delay, fear and intimidation. Further, given the intervisibility and uncontrolled right turn concerns, the ExA considers that there would be major adverse – significant effects in terms of accidents and road safety. The ExA is of the view that these issues constitute severe impacts in terms of the NPPF.
- 6.11.556. The ExA is content that the matter of emergency accesses can be dealt with by way of a proposed Requirement in the DCO. This has been suitably secured in the ExA's rdDCO.
- 6.11.557. The ExA has considered the Applicant's approach to the Manston-Haine link road thoroughly and consider it to represent a reasonable and pragmatic approach to contributing to its delivery, in accordance with the draft TTS and Policy SP47 of the eLP. The ExA considers this to be a matter of neutral weight.
- 6.11.558. In overall conclusion on the LRN, the ExA concludes that there will be some significant adverse effects and severe impacts from the Proposed Development on the LRN that will not be suitably mitigated. This runs contrary to the ANPS, NPPF, PPG, Policies EC2 and TR3 of the LP, Policy

SP43 of the eLP and LTP4. The ExA considers that this must weigh heavily against the Proposed Development in the planning balance.

Construction

- 6.11.559. There would be no unacceptable impacts from construction traffic and the ExA is satisfied with the measures proposed in the CTMP and that these form an appropriate basis to agree a final version through R6 of the rdDCO.

Promoting sustainable modes of transport

- 6.11.560. The ExA considers that the modal targets set out in the draft FTP are appropriate given the nature of the surrounding area and that the measures to achieve and monitor these in the draft FTP offer a reasonable basis to inform the agreement of the final version that is secured by R7 of the ExA's rdDCO. The UU includes an annual financial contribution of £1,667 (for 20 years) to KCC for the monitoring of the TP, which the ExA considers to be appropriate.
- 6.11.561. Whilst the ExA is not content that the financial contribution of £150,000 for enhancing existing bus services is sufficient or compliant with CIL Regulation 122, it is accepted that it is too early to have meaningful discussions with local operators and KCC due to the uncertainties about bus services and therefore what can reasonably be achieved. Based on this, the ExA considers that an appropriate way forward would be to require the Applicant to agree a scheme of enhancement to existing local services and the provision of a shuttle bus(es) with KCC prior to the operation of the Proposed Development, when there can be much more certainty. This is secured in the ExA's rdDCO at R7 (4).
- 6.11.562. The ExA considers that the CPMS forms an appropriate basis to agree the final version required by R7 of the ExA's rdDCO. In terms of the Applicant's proposed CPZ and associated financial contribution to TDC, the ExA has been unable to reach a robust view on this issue due to the very late submission of it in the Examination. The ExA recommend to the SoS that the views of TDC are sought before reaching a conclusion on this matter. However, at the current time it must weigh against the Proposed Development.
- 6.11.563. In a similar manner, the ExA was not able to fully examine the matter of improvements to the PRoW to Manston village to allow pedestrian access and the Applicant's position is somewhat unclear in this regard. The ExA recommends that the SoS seeks clarification from the Applicant and KCC if necessary, on these matters. However, at the current time it must weigh against the Proposed Development.
- 6.11.564. The ExA considers that the ASAS forms an appropriate basis to agree the final version through R7 of the ExA's rdDCO. Further, the ExA considers that the REAC appropriately secures necessary commitments relating to transport where necessary.

- 6.11.565. As set out above, the ExA shares the concern of KCC that the issues associated with Junction 12 and the footpath pinch point could affect the ability to provide safe cycling provision at this junction, which would link to the Applicant's proposed alternative link road. The ExA considers this could undermine the ability to achieve the mode share targets for cycling set out within the draft FTP [[REP9-016](#)].
- 6.11.566. Given the above, the ExA is unable to reach a firm conclusion with regard to whether the Proposed Development appropriately seeks to promote sustainable modes of transport. The ExA recommends clarification is sought from the relevant parties as set out above, before coming to a view on this matter. However, at the current time it must weigh against the Proposed Development.

Operation Stack / Brock

- 6.11.567. The ExA acknowledges that the effects of Brexit are still uncertain, but based on the evidence provided to the Examination, the ExA is content, as far as it can be, that Operation Stack / Brock and the provisions of The Town and Country Planning (Manston Airport) Special Development Order 2019 will not have a detrimental impact on the Proposed Development.

Public Rights of Way

- 6.11.568. Taking into account its opinion that these actions would not adversely affect users of these PRow, the ExA concludes and recommends that the proposed closure of a short stretch of TR9 and the re-routing of a stretch of TR8 are both necessary and proportionate.
- 6.11.569. The ExA considers that the mitigation proposed in the form of the upgrading of stretches of TR8 and TR10 is potentially beneficial but, given the limited nature of the mitigation proposed and the uncertainty of the adequacy of the funding proposed for it, the ExA has not considered the mitigation in coming to the recommendation above.

Overall traffic and transport conclusion

- 6.11.570. For all of the above reasons, the ExA considers that the Proposed Development will result in some significant adverse effects and severe impacts on the LRN. Further, the ExA is unable to find that the Proposed Development appropriately promotes sustainable modes of transport. Whilst the Proposed Development would help to deliver the link road, the ExA is of the view that this is a matter of neutral weight. The ExA concludes that its findings with regard to traffic and transport weigh heavily against the Proposed Development in the planning balance.

6.12. WATER RESOURCES

Introduction

- 6.12.1. This section of the Recommendation Report considers the impacts on water resources (surface and groundwater) from construction and operation activities arising from the Proposed Development.
- 6.12.2. The ExA's IAPI prepared in accordance with s88 of the PA2008 and Rule 5 of the EPR was published with the Rule 6 letter [[PD-005](#)]. The ExA had regard to the application documents and the RRs received in formulating this list. The Rule 6 letter made it clear that the list was not a comprehensive or exhaustive one and that regard would be had to all important and relevant matters in reaching a recommendation after the conclusion of the Examination [[PD-005](#)].
- 6.12.3. The ExA identified that impacts on water resources during the construction and operation of the Proposed Development would be an area that would be both important and relevant in the Examination of the application. 2052 RRs were received [[RR-0001 to 2052](#)]. A number of these RRs raised construction and operational effects on water resources as an issue.

Relevant policy considerations

ANPS

Flood Risk

- 6.12.4. Paragraphs 5.147 to 5.171 of the ANPS address flood risk. The Applicant, the ExA and the SoS in taking decisions should take account of the policy on climate change adaptation as set out in the NPPF and other supporting guidance.
- 6.12.5. There is the potential for airport expansion to result in increased risk from climate change effects, particularly to increased surface water runoff rate and pressure on potable water supply. There may also be effects on groundwater.
- 6.12.6. The Applicant should identify and assess the risks of all forms of flooding to and from the Proposed Development, and demonstrate how these flood risks will be managed, taking climate change into account.
- 6.12.7. When assessing the potential impacts of climate change on airports which can be wider than flooding impacts, such as implications from heat and water availability and the potential adaptation strategies for them, the applicant should take into account the latest UK CCRA, the latest set of UKCP and other relevant sources of climate change evidence.
- 6.12.8. The Applicant should ensure that the Proposed Development design takes into account flood risk and should put forward measures to mitigate the impact of flooding.
- 6.12.9. The Applicant should ensure any ES that is prepared identifies appropriate mitigation or adaptation measures. This should cover the estimated lifetime of the new infrastructure. Should a new set of UK Climate Projections become available after the preparation of an ES, the

ExA or the SoS will consider whether they need to request additional information from the Applicant as part of the development consent application.

- 6.12.10. When determining an application, the SoS will need to be satisfied that the potential effects of climate change on the development have been considered as part of the design.

Water quality and resources

- 6.12.11. Paragraphs 5.172 to 5.186 of the ANPS deals with water quality and resources. Airport infrastructure projects can have adverse effects on the water environment, including groundwater, inland surface water and transitional waters. During construction and operation, it can lead to increased demand for water, involve discharges to water, and cause adverse ecological effects resulting from physical modifications to the water environment. There may also be an increased risk of spills and leaks of pollutants to the water environment. These effects could lead to adverse impacts on health or on protected and other species and habitats and could, in particular, result in surface waters, groundwaters or protected areas failing to meet environmental objectives established under the WFD.
- 6.12.12. Where applicable, an application for development consent has to contain a plan with accompanying information identifying water bodies in a river basin management plan (RBMP). Development may result in an increased potential for impacts on the water environment, especially the quality of the surface and groundwater through the discharge of waters contaminated with de-icer along with hydrocarbons and other pollutants.
- 6.12.13. Where the Proposed Development is subject to an EIA and the development is likely to have significant adverse effects on the water environment, the Applicant should ascertain the existing status of, and carry out an assessment of, the impacts of the Proposed Development on water quality, water resources and physical characteristics as part of the ES.
- 6.12.14. The impact on local water resources can be minimised through planning and design for the efficient use of water, including water recycling.
- 6.12.15. The SoS will need to consider whether the mitigation measures put forward by the Applicant which are needed for operation and construction (and which may be over and above any which may form part of the development consent application) are acceptable.
- 6.12.16. The SoS will generally need to give more weight to impacts on the water environment where a project would have adverse effects on the achievement of the environmental objectives established under the WFD. In terms of WFD compliance, the overall aim of development should be to prevent deterioration in status of water bodies, to support the achievement of the objectives in the RBMP and not to jeopardise the future achievement of good status for any affected water bodies. If the development is considered likely to cause deterioration of water body

status or to prevent the achievement of good groundwater status or of good ecological status or potential, compliance with Article 4.7¹³⁹ of the WFD must be demonstrated.

NPPF and PPG

6.12.17. The NPPF sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (paragraphs 155 to 165). Supporting guidance explains that essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk is permissible in areas of high flood risk, subject to the Exception Test¹⁴⁰. In addition, as set out in the NPPF, new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change.

6.12.18. The NPPF is supported by PPG which covers:

- Water supply, wastewater and water quality¹⁴¹; and
- Flood risk¹⁴².

Thanet Local Plan 2006 'Saved' Policies

6.12.19. TDC's LIR [[REP3-010](#)] provides further detail on these policies:

- Policy EC2 - Kent International Airport
- Policy EP13 - Groundwater Protection Zones

Draft Thanet Local Plan to 2031 Policies

- Policy SE03 - Contaminated Land
- Policy SE04 - Groundwater Protection

Water resources legislation and policy

6.12.20. The control and protection of groundwater is covered by legislation and a series of guidance and policies issued by the Environment Agency. Relevant legislation includes, but is not necessarily limited to, the following:

- The WFD (Standards and Classification) Directions (England and Wales) 2015;
- The WFD (England and Wales) Regulations 2017;

¹³⁹ Article 4(7) allows for deterioration of status or non-achievement of good status or potential under certain distinct conditions

¹⁴⁰ The Applicant needs to show that the sustainability benefits of the development to the community outweigh the flood risk. It also needs to show that the development will be safe for its lifetime taking into account the vulnerability of its users and that it won't increase flood risk elsewhere

¹⁴¹ Available at: <https://www.gov.uk/guidance/water-supply-wastewater-and-water-quality>

¹⁴² Available at: <https://www.gov.uk/guidance/flood-risk-and-coastal-change>

- The Environmental Permitting (England and Wales) Regulations 2010 together with subsequent amendments;
- Floods and Water Management Act 2010;
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017;
- The EU Floods Directive (2007/60/EC), as enacted into domestic law by the Flood Risk Regulations 2009;
- The EU WFD (2000/60/EC), as enacted into domestic law by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003;
 - Under the WFD, the Environment Agency has produced nine RBMPs for England to manage water quality targets and river basin planning. These were updated during 2015¹⁴³. One of the aims of the WFD is for all water bodies to achieve Good Ecological Status by 2027 and to ensure no deterioration from current status.
 - Article 7.1 of the WFD requires member states to formally delineate water bodies that are used for the abstraction of drinking water, called drinking water protected areas (DrWPAs). All groundwater bodies in England and Wales are classified as DrWPAs due to the low abstraction thresholds set in the WFD. Article 7.2 stipulates that the requirements of the Drinking Water Directive must be met in England and Wales and this is the responsibility of the Drinking Water Inspectorate. Article 7.3 requires the protection of these water bodies “*with the aim of avoiding deterioration in their quality in order to reduce the level of purification treatment required in the production of drinking water*”. Safeguard zones can be established for this purpose if required.
 - Under the WFD, the Environment Agency has produced nine RBMPs for England to manage water quality targets and river basin planning. These were updated during 2015. The Proposed Development is located within the South-East River Basin District.
- Environment Act 1995;
- Water Resources Act 1991;
 - Section 93 of the Water Resources Act 1991 allows for the designation of statutory water protection zones (WPZs) (for groundwater or surface waters). These may be designated to prohibit or restrict the carrying out of activities that are giving rise to the entry of poisonous, noxious or polluting matter into groundwater or surface waters and which present a risk of pollution. They may also be used to impose requirements on persons who carry out activities in the zone to take such steps as may be specified or described by the defined WPZ.
- Environmental Protection Act 1990; and
- COPA.

¹⁴³ The review and update of the current RBMPs is now underway - <https://www.gov.uk/government/collections/river-basin-management-plans-2015>

Issues

- 6.12.21. The ExA carried out an IAPI which had regard to consideration by the ExA of the application documents and of RRs received in respect of the application [[PD-005](#)] which was modified in the Rule 8 letter [[PD-006](#)]. Flood risk was raised as an issue in the IAPI [[PD-005](#)]. Issues that arose during the course of the Examination included:
- The Applicant's methodology;
 - flood risk and climate change;
 - WFD;
 - the drainage strategy;
 - water quality and groundwater contamination; and
 - dDCO Requirements.
- 6.12.22. It is important to record that the ExA asked the Applicant written questions about the effects of the Proposed Development in construction and operation on water resources in ExQ1 [[PD-007](#)]; ExQ2 [[PD-010b](#)]; ExQ3 [[PD-014](#)] and ExQ4 [[PD-020](#)]. The questions were cross-cutting in nature, addressing:
- Biodiversity;
 - climate change;
 - WFD; and
 - dDCO Requirements.
- 6.12.23. The ExA held a one-day ISH (ISH6) at which water resources was an agenda item [[EV-021](#), [EV-027](#), [EV-027a](#)].

Thanet District Council LIR

- 6.12.24. TDC's LIR [[REP3-010](#)] concluded that the Proposed Development is not currently considered to be fully in accordance with Local Plan policies EC2 and EP13 or draft local plan policies SE03 and SE04. TDC argued that Requirements in the Applicant's dDCO [[APP-006](#)] did not oblige the Applicant to undertake site investigations to inform the identified mitigation measures nor to undertake groundwater quality monitoring to protect the sensitive groundwater receptor, which TDC considered to be a significant omission. TDC believe that on the basis of the application dDCO [[APP-006](#)], reinstating airport operations is likely to have a negative local impact.

Kent County Council LIR

- 6.12.25. KCC in its LIR [[REP3-143](#)] raised the operation of the drainage system, which includes the two attenuation basins for water quality control reasons. KCC highlighted that these basins will need to operate to manage surface water in the event of extreme rainfall, and consideration must be given to adequate sizing and operations of the drainage system including the network, basins and associated pump, so that local flood risk is not created.

6.12.26. The Applicant's application dDCO [[APP-006](#)] did not include provision for KCC as LLFA to be part of the review and consultation process in relation to surface water drainage (R13 - Surface and foul water drainage). KCC requested that this was amended accordingly. KCC was added as a consultee to R13 at D5 [[REP5-003](#)].

6.12.27. KCC notes that it is the statutory consultee for surface water drainage under the terms of The Town and Country Planning (Development Management Procedure) Order 2015 and surface water is not within the Environment Agency's remit.

Canterbury City Council LIR

6.12.28. CCC's LIR [[REP3-246](#)] did not raise water resources as an issue.

Dover District Council LIR

6.12.29. DDC's LIR [[REP3-227](#)] did not raise water resources as an issue.

Surface water baseline

6.12.30. There are no river watercourses on or adjacent to the site [[APP-040](#), Figure 8.1], partly due to the high permeability of the underlying chalk. A series of water channels and streams that form part of the Minster Marshes are located approximately 1km to the south of the main site. Minster Marshes drain into the River Stour, approximately 3km south of the site, which flows east into Sandwich and Pegwell Bays. Currently runoff from the site infiltrates locally and, due to the highly permeable nature of the underlying geology, is unlikely to reach these surface water systems via overland flow routes.

6.12.31. A number of Southern Water reservoirs are within approximately 3km of the site. A number of small uncovered reservoirs are located approximately 1.5km or more from the westernmost boundary of the site. A covered reservoir is located approximately 0.5km north of the site and one further uncovered reservoir located approximately 0.3km from the southern boundary [[APP-033](#)].

6.12.32. There are a number of other small water features (eg ponds) located within approximately 3km of the site.

Groundwater baseline

6.12.33. The Environment Agency and Southern Water confirm that the Proposed Development site is underlain by a principal aquifer, associated with the underlying chalk, which can provide high levels of water storage. This aquifer supports local PWS. The Thanet Formation has been classed as a 'Secondary A' aquifer by the Environment Agency. A Secondary A aquifer is defined as a permeable layer capable of supporting water supplies at a local rather than strategic scale [[APP-047](#)].

6.12.34. The site is located entirely within a groundwater SPZ catchment. The inner zone (SPZ1), where risk of contamination from pollution causing

activities is greatest, is identified in an area at the eastern end of the site and in a strip beneath the runway. This is surrounded by a wider area of outer zone (SPZ2) that also dominates the area beneath the runway, in the south of the site. The remainder of the site falls within the wider SPZ catchment area (SPZ3). These SPZs can be seen on Figure 2.2 of ES Appendix 8.1 [[APP-047](#)].

- 6.12.35. The entire site is also located within a Safeguard Zone (SGZ) and a groundwater Nitrate Vulnerable Zone (NVZ), as shown on figures 2.3 and 2.4 respectively of ES Appendix 8.1 [[APP-047](#)].
- 6.12.36. There are no licensed abstractions located within the site boundary, but a number of individuals and organisations are licensed to abstract water from groundwater or ponds / lakes up to 1km outside the site boundary. The abstractions are for private water undertaking, PWS and agriculture. Abstractions licensed for non-PWS purposes are listed in Table 8.10 of the ES [[APP-033](#)].
- 6.12.37. There are a number of PWS boreholes located in the vicinity of the site, all licensed to Southern Water. These are described in more detail in ES Appendix 8.1, with their locations are shown on Figure 3.2 of Appendix 8.1 [[APP-047](#)]. The closest abstraction point is the Lord of the Manor source, located to the South West of the site boundary. One of the adits which feeds this source, the so-called Western Adit, lies underneath the runway [[APP-047](#), Figure 3.3 of Appendix 8.1]. The Hydrogeological Impact Assessment (ES Appendix 8.1) includes the results of work to delineate the catchment of the Lord of the Manor PWS around the site, the results of which can be seen in Figure 3.4 of Appendix 8.1 [[APP-047](#)].
- 6.12.38. Two historic permitted discharges have been identified within the site [[APP-033](#)]. These are as follows:
- A discharge consent held by the Modern Jet Support Centre Ltd, which discharged site drainage to land, and was revoked in 2004; and
 - a discharge consent held by Kent International Airport Ltd (consent number P02258). This discharge allowed drainage from the runway and apron areas to discharge to Pegwell Bay via a pipe located on the southern edge of the airport. Discharge was pumped (against topographic gradient) from the site to this pipe.
- 6.12.39. There are a further ten permitted discharges identified up to 500m outside the site boundary, and a further nine located up to 1km from the site boundary. All those identified discharge to land, groundwater or saline estuary, being used for single domestic properties, surface waters, site drainage and process waters from trade effluents or storm sewage overflows for public supplies. Ten of the permitted discharges [[APP-033](#), Table 8.11] are currently operational.

Applicant's methodology

- 6.12.40. The Applicant sets out the results of the assessment of the effects of the Proposed Development on water resources (including potential effects on water quality, surface water, groundwater and flood risk) in Chapter 8 of

the ES [[APP-033](#)]. The chapter outlines the relevant policy, legislation and guidance that has informed the assessment and the data gathering methodology that was adopted as part of the water resources assessment. This led on to a description of the overall baseline conditions, the scope of this assessment and the assessment methodology. The chapter concluded with a summary of the results of the assessment.

6.12.41. Three other reports support the chapter:

- Hydrogeological Impact Assessment [[APP-047](#), Appendix 8.1];
- FRA and Outline Drainage Strategy [[APP-048](#), Appendix A of Appendix 8.2]; and
- WFD Assessment addendum note [[APP-048](#), Appendix 8.3] and Figure 8.1 WFD Catchment [[APP-040](#)].

6.12.42. The Applicant's environmental management of the construction works associated with the Proposed Development will be delivered via the implementation of the CEMP [[REP9-017](#)]. It outlines the environmental procedures that require consideration throughout the construction process in accordance with legislative requirements and construction industry best practice guidance. This is secured via R6 in the dDCO.

6.12.43. The Applicant's environmental management measures associated with the operation of the Proposed Development will be delivered via the implementation of a separate OEMP [[REP9-011](#)]. The only mitigation measures related to the operation of the Proposed Development included in the CEMP are those which are relevant to parts of the Proposed Development which will be operational before construction is completed. This is secured via R7 in the dDCO.

6.12.44. The REAC [[REP11-008](#)] summarises the Applicant's committed mitigation measures, including water quality, within the chapters of the ES and associated appendices [[APP-033](#), [APP-047](#) to [APP-049](#)]. Cross-references are provided to the Requirements that will secure the commitments in the dDCO). Table 2.1 (pages 9 to 15) contains the actions and commitments relating to construction of the Proposed Development and Table 3.1 (pages 53 to 62) contains those relating to the operation of the Proposed Development. Appendix A details the management plans which will be in place during construction and operation of the Proposed Development, to enforce the mitigation measures within the REAC. This is secured via R7 in the dDCO.

6.12.45. The Environment Agency accepted that the relevant chapters in the ES covering drainage, groundwater protection and land quality [[APP-033](#)] cover the issues the it had raised in discussion with the Applicant in a satisfactory manner for this stage of development [[REP3-217](#)].

6.12.46. **The ExA concludes and recommends that the Applicant's approach to the assessment of impacts on water resources is adequate.**

Flood risk and climate change

- 6.12.47. Environment Agency flood mapping indicates that the whole of the site is located within an area where flooding from rivers and the sea is very unlikely (Flood Zone 1, where there is a less than a 0.1% (1 in 1,000) chance of flooding occurring each year). The nearest flood risk is coastal flooding associated with Pegwell Bay, located approximately 2km South East of the site. The Environment Agency confirms there is no risk of flooding to the site from reservoirs [REP4-005].
- 6.12.48. Flooding from land (rainfall run-off and surface water flooding) is considered to be a potential source of flood risk to the Proposed Development, in particular in the lower elevation ground across the middle of the site. The flood risk would occur through rainfall falling directly onto the site, particularly when the ground is saturated. The majority of this flood risk has been identified to be of low risk (each year, the chance of flooding is between 1 in 1,000 (0.1%) and 1 in 100 (1%)). There are areas of higher risk (with a greater than 1 in 30 (3.3%) chance of flooding) which are likely to be associated with localised depressions [APP-048, Appendix 8.2].
- 6.12.49. Groundwater within the Thanet district is not identified to be of strategic concern, but a Strategic Flood Risk Assessment (SFRA) completed for TDC recommended that flooding from groundwater, surface water and foul water drainage networks are considered at a site-specific level [APP-048]. The Applicant has concluded that as the site is covered with relatively permeable soils and geology, groundwater flooding is not considered to be a significant risk to the site [APP-048].
- 6.12.50. **No evidence was submitted to the contrary and the ExA finds no reason to disagree with this conclusion.**
- 6.12.51. The ExA questioned the Applicant in CC.1.2 [PD-007] on whether there are any critical features of infrastructure design which may be seriously affected by more radical changes to the climate beyond those projected in the latest set of UK Climate Projections ie UKCP18¹⁴⁴.
- 6.12.52. The Applicant responded that given the level of design, the relevant impacts that need to consider more radical changes in climate all relate to flooding. High-end but still plausible climate change projections, known as H++ scenarios, have been developed by the Met Office to sensitivity test for climate change impacts [REP3-195, Appendix CC.1.2]. Because there is no flood risk from rivers on site, that even using the H++ scenario of 120% uplift in flows does not increase risk to infrastructure design or receptors.

¹⁴⁴ UKCP18 uses cutting-edge climate science to provide updated observations and climate change projections out to 2100 in the UK and globally. The project builds upon UKCP09 to provide the most up-to-date assessment of how the climate of the UK may change over the 21st century

- 6.12.53. The Environment Agency did not disagree with this conclusion in its SoCG with the Applicant [[REP4-005](#)]. **The ExA concludes that flood risk and climate change issues have been adequately addressed.**

Water Framework Directive

- 6.12.54. The overall purpose of the WFD (2000/60/E) is to establish a framework for the protection of surface fresh water, estuaries, coastal water and groundwater. The primary objectives are to improve surface water and groundwater quality and to ensure that pollutants are prevented from entering groundwater and surface water. This is implemented into English law through The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003.
- 6.12.55. The responsibility for ensuring that the WFD is implemented lies with Environment Agency, and public bodies have a duty to 'have regard' to the objectives of the WFD in exercising their functions. In the case of the Proposed Development this includes KCC, which is the LLFA which is responsible for consenting works in ordinary watercourses¹⁴⁵. In addition, Natural England has responsibility for ensuring compliance with the objectives and measures associated with Natura 2000 sites, designated as protected areas under the WFD.
- 6.12.56. The Applicant concluded that based on the assessment provided in WFD Assessment addendum note [APP-048, Appendix 8.3] and Figure 8.1 WFD Catchment [[APP-040](#)] document, along with the findings presented in the ES chapters 6 to 17 [[APP-033](#); APP-034; APP-035], no components or phases of the Proposed Development would lead to a deterioration of any WFD elements or the WFD status of any water body in the study area or compromise the conservation objectives of any protected areas. The Applicant concluded that the mitigation package presented in section 4 of Appendix 8.3 [APP-048] would avoid deterioration as a result of the Proposed Development.
- 6.12.57. The ExA asked the Applicant in NE.4.1 [[PD-020](#)] to provide confirmation of any agreement with the Environment Agency regarding the conclusions of the WFD assessment provided as Appendix 8.3 of the ES [APP-048].
- 6.12.58. The Applicant responded that there has been no specific Environment Agency approval of the WFD assessment. However, the Environment Agency has had opportunity to disagree with assessment via the SoCG and through the Examination process and has not done so. The Applicant

¹⁴⁵ An ordinary watercourse is one of the two types of watercourse in statutory language in England. Ordinary watercourses include every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than a public sewer) and passage through which water flows and which does not form part of a main river. An internal drainage board where relevant, or lead local authority has permissive powers to carry out flood defence works for ordinary watercourses at their discretion

concluded that the WFD assessment is acceptable to the Environment Agency [[REP9-006](#)].

- 6.12.59. **The ExA concludes that because the Environment Agency's SoCG confirmed at section 5.1 [[REP4-005](#)] there were no matters which were not agreed, the WFD assessment can be considered to be adequate.**

Drainage strategy

- 6.12.60. Details of the current site drainage arrangements can be found in the Outline Drainage Strategy [APP-048, Appendix A of Appendix 8.2].
- 6.12.61. The site has a significant north south fall, with the runway at the site's highpoint. The main site outfall is at the south-eastern site boundary and comprises a large diameter (up to 1,200mm) pipe which travels on a south-easterly trajectory, discharging into Pegwell Bay [[APP-033](#)].
- 6.12.62. An existing pumping station is located adjacent to the passenger apron. This supplies a 300mm diameter pipe that runs along the site's western boundary and enters into a gravity system around the runway threshold. This then runs along the site's southern edge before discharging into the outfall to Pegwell Bay [[APP-033](#)].
- 6.12.63. The ExA questioned the Applicant in Ec.1.7 [[PD-007](#)] on its drainage strategy [[APP-045](#) to APP-048] for the Proposed Development.
- 6.12.64. The Applicant responded that the drainage strategy has been developed to address Environment Agency concerns regarding the potential for infiltrating drainage on the site to contaminate underlying groundwater. This requires that all surface water is collected, treated and then discharged to the coast at Pegwell Bay. The Applicant has consulted [[APP-033](#) Table 8.6, [REP4-005](#) Section 2] with the Environment Agency to develop a drainage strategy that meets their concerns about infiltration and is also effective in preventing flooding on the site or to neighbouring land. The Applicant, therefore, believes that reasonable steps have been taken to provide a drainage solution that addresses the Environment Agency concerns and that does not adversely impact Pegwell Bay [[REP3-195](#)].
- 6.12.65. The Environment Agency in its SoCG [[REP4-005](#)] states:
"4.1.9 The discharge to Pegwell Bay will be of clean surface water (roof drainage) and fully treated surface water therefore does not require an Environmental Permit."
- 6.12.66. Natural England noted that the Applicant's response to Ec.1.7 sets out the maintenance works required to the outfall to Pegwell Bay. These works would require for works within the SSSI consent from Natural England as they are separate to the DCO application. Consent will depend on the method used and mitigation included [[REP8-028](#)].

6.12.67. The ExA amended R13 - Surface and foul water drainage by adding new clauses (3) and (4) [[PD-015](#)]:

"(3) No part of the authorised development is to commence until the construction of the entire surface and foul water drainage system is completed.

"(4) Construction of the attenuation basins must be completed within the first phase of construction if construction is undertaken in phases."

6.12.68. The ExA did this in order to secure mitigation that is required to support the Applicant's conclusion of no adverse effect on integrity in its RIAA (see Chapter 7 of this report). The mitigation seeks to ensure that the ecological protection embedded in the surface and foul water drainage system is available prior to operation and essential elements are in place as early as possible in the construction period.

6.12.69. The Applicant was of the opinion that the current drafting of new subparagraph (3) would not be appropriate. It argued that due to the way that construction is carried out it is not possible to separate the construction of the surface water and foul water drainage system from any other element of construction. The surface and foul water drainage system is generally an integral part of the other elements of the construction [[REP8-016](#)]. The Applicant proposed the following wording:

"(4) No part of the authorised development is to begin operation until the construction of the entire surface and foul water drainage for that part is completed."

6.12.70. The Applicant's proposed new wording was discussed at both ISH6 [[EV-021](#)] and ISH8 [[EV-023](#)]. The ExA has considered the oral submissions made on this issue at ISH8 [[EV-023](#)] and the submission made in the Applicant's summary of oral evidence given at ISH8 [[REP8-016](#)] and agrees with the Applicant's revised wording [[PD-020](#)].

6.12.71. The Applicant agreed with the amendment of sub paragraph (4) of R13 [[REP7-002](#)].

6.12.72. Natural England is satisfied with the proposed wording of R13 [[REP8-028](#)].

6.12.73. Southern Water is satisfied with the proposed wording of R13 [[REP4-009](#)].

6.12.74. **The ExA concludes and recommends that the Applicant's drainage strategy together with R13 will appropriately mitigate the impacts on water resources and protected sites.**

Water quality and groundwater contamination

6.12.75. Natural England in its RR [[RR-1408](#)] states:

"5.2.2. Water quality

- *A clear list of the designated sites and relevant interest features which have the potential to be affected by the surface water outfall. What type of habitat surrounds the outfall?*
- *Clarification as to how the EA's permitting regime will apply to the surface water discharge."*

6.12.76. All designated sites and relevant interest features are detailed in the Applicant's RIAA [[REP7a-014](#)].

6.12.77. The Environment Agency in its SoCG [[REP4-005](#)] states:

"4.1.9 The discharge to Pegwell Bay will be of clean surface water (roof drainage) and fully treated surface water therefore does not require an Environmental Permit".

6.12.78. Richard Card [AS-071] queried whether the toxic chemicals in firefighting foam used at airport and fire school at Manston were not contaminating the underlying aquifer.

6.12.79. Southern Water in response [AS-080] stated:

"We are aware of the generic formulations of modern firefighting foams and hold copywrite material on the toxicity for many of the chemical compounds they contain. The chemical compounds of most concern have been studied for several years and well validated analytical methods are available which can detected concentrations below the Suggested No Adverse Response Level (SNARL). However we are unable to give specific information for Manston Airport as testing hadn't been carried out recently as the site has not been in use."

6.12.80. The Applicant in ES Chapter 15: Health and Wellbeing [APP-034] concluded that potential risks to human health arising from mobilisation of existing ground contamination or from releases of stored chemicals (eg aviation fuel) had been assessed in Chapter 10: Land Quality and Chapter 8: Freshwater Environment [[APP-033](#)]. As detailed in those chapters, risk assessments have been undertaken and suitable control measures will be in place (ie design of drainage, storage and secondary containment to regulatory standards). There would therefore be no pathway to off-site receptors and no adverse effect on public health and wellbeing.

6.12.81. PHE in its SoCG [[REP5-017](#)] states:

"3.1.8 The parties agree that the approach proposed in relation to contamination of controlled waters, in agreement with Southern Water and the Environment Agency should ensure that contamination should be avoided."

6.12.82. The ExA agrees with PHE that R13 and R15, agreed with the Environment Agency and Southern Water, will protect controlled waters from contamination.

6.12.83. Natural England in its SoCG [[REP5-015](#)] states:

"3.1.13 Natural England acknowledges that due to the presence of an aquifer, intrusive groundworks on the Development site will be kept to a minimum. Where intrusive groundworks are necessary, they will be carried out in a single stage and the locations will be chosen carefully to reduce the risk of contamination of the aquifer."

6.12.84. R15 – Piling and intrusive works [[PD-018](#)] states:

"15.—(1) No operations consisting of piling or other intrusive works (including drilling) are to commence until a risk assessment and a method statement have been submitted to and agreed in writing by the relevant planning authority following consultation with the Environment Agency and Southern Water."

6.12.85. The Environment Agency approved of this Requirement [[RR-0538](#)].

6.12.86. Southern Water is satisfied with the proposed wording of R15 [REP4-009] which ensures the protection of the Lord of the Manor water source aquifer beneath the Proposed Development.

6.12.87. TDC in its LIR [[REP3-010](#)] states:

"4.5.19 The proposals are not currently considered to be fully in accordance with Local Plan policies EC2 and EP13 or draft local plan policies SE03 and SE04. The draft DCO requirements do not currently oblige the developer to undertake site investigations to inform the identified mitigation measures nor to undertake groundwater quality monitoring to protect the sensitive groundwater receptor, which is considered a significant omission. Therefore, on the basis of the current draft of the DCO, reinstating of airport operations is likely to have a negative local impact."

6.12.88. Site investigation and monitoring provisions are now provided for through R6, R7, R11 and R23 [[PD-018](#)].

6.12.89. The ExA introduced R23 in order to reinforce the best monitoring, auditing and reporting regime for the Proposed Development in line with Schedule 4 Section 7 of The Infrastructure Planning (Environmental Impact Assessment) 2017 Regulations [[PD-018](#)].

6.12.90. **The ExA concludes and recommends that R6, R7, R11, R13, R15 and R23 will appropriately mitigate and monitor the impacts on water resources.**

DCO Requirements

6.12.91. The Environment Agency in its RR stated [[RR-0538](#)]:

"Draft Development Consent Order (July 2018) We request the following changes and additions are made to the Requirements set out in Schedule 2 of the Draft Development Consent Order to ensure a comprehensive approach to addressing possible land contamination and controlled waters risk on the proposed development site."

Requirement 5 (detailed design of fuel depot) We agree with this requirement as outlined.

Requirement 6 (construction environmental management plan) We agree with this requirement as outlined.

Requirement 7 (operation environmental management plan) We request that the following additional items are included regarding the management of fuel storage and transport and in relation to vegetation management using herbicides: (xii) Fuel storage and transport arrangements (xiii) Operational use of herbicides to control vegetation

We welcome the overarching outlining of mitigation measures in document 2.5 Register of Environmental Actions and Commitments and as required by Requirement 7(2) (d) of the DCO.

Requirement 11 (contaminated land and groundwater) This requirement refers to 'contaminated land'. This is a term with a strict legal definition. We request that the wording of this requirement is amended slightly to reflect this and also expanded to include the full wording of our standard approach to land contamination as outlined

Requirement 13 (surface and foul water drainage) We agree with this requirement as outlined.

Requirement 15 (piling and other intrusive works) We agree with this requirement as outlined."

- 6.12.92. The Environment Agency's requested amendments [[RR-0538](#)] to R7 and R11 were accepted by the ExA and Applicant [[PD-015](#) and [PD-018](#)].
- 6.12.93. KCC in its LIR [[REP3-143](#)] requested that it should be consulted in regard to R13. This was accepted by the ExA and Applicant [[PD-015](#) and [PD-018](#)].
- 6.12.94. TDC in its LIR [[REP3-010](#)] queried the lack of site investigation and groundwater monitoring provisions in the application dDCO [[APP-006](#)]. Site investigation and monitoring is now provided for through R11 and R23 [[PD-018](#)].
- 6.12.95. The ExA introduced R23 in order to reinforce the best monitoring, auditing and reporting regime for the Proposed Development in line with Schedule 4 Section 7 of The Infrastructure Planning (Environmental Impact Assessment) 2017 Regulations [[PD-018](#)]. It states:

"No part of the authorised development is to begin operation until a monitoring, auditing and reporting plan for the register of environmental actions and commitments has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the highway authority, the Environment Agency, Historic England, the Civil Aviation Authority and Natural England to the extent that it relates to matters relevant to their function."

- 6.12.96. The Applicant agreed with the inclusion of R23 in the dDCO [REP8-016].
- 6.12.97. Other proposed amendments to relevant Requirements are dealt with in Chapter 10 of this report.

ExA's conclusions

- 6.12.98. The ExA is satisfied that the Environment Agency, Natural England, KCC, TDC and Southern Water concerns regarding effects from the Proposed Development on water resources have been dealt with adequately by the Applicant via Requirements:
- R6 - CEMP;
 - R7 – OEMP and REAC;
 - R11 – Contaminated land and groundwater;
 - R13 – Surface and foul water drainage;
 - R15 – Piling and other intrusive works; and
 - R23 – Monitoring.
- 6.12.99. The CEMP and REAC includes measures to identify and control any water resources effects that may emerge before construction starts or during the construction period.
- 6.12.100. Given the evidence presented, the ExA concludes and recommends that water resources issues have been adequately assessed, and that the requirements of the ANPS and NPPF are met.
- 6.12.101. The ExA's overall conclusion is that the construction and operation of the Proposed Development would avoid significant effects on water resources in accordance with the ANPS (paragraphs 5.147 to 5.186) and NPPF (paragraphs 155 to 165). The ExA concludes and recommends that mitigation measures would be an integral part of the Proposed Development and would be appropriately secured through the dDCO and related documentation certified under Article 41 (eg CEMP, REAC and OEMP).
- 6.12.102. The ExA concludes that there are no water resources issues that would weigh against granting development consent.

7. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

7.1. INTRODUCTION

- 7.1.1. The SoS is the competent authority for the purposes of the Habitats Directive¹⁴⁶ and the Habitats Regulations¹⁴⁷. Regulation 63 of the Habitats Regulations states that if a plan or project is likely to have a significant effect on a European Site as defined by the Habitats Regulations¹⁴⁸ (either alone or in-combination with other plans or projects), then the competent authority must undertake an appropriate assessment of the implications for that site in view of its conservation objectives.
- 7.1.2. Consent for the Proposed Development can only be granted if the competent authority's appropriate assessment concludes that the integrity of European sites would not be adversely affected, subject to Regulation 64 (considerations of overriding public interest).
- 7.1.3. Throughout the Examination, evidence has been sought from the Applicant and the relevant IPs through written questions and ISHs in effort to ensure that the SoS has such information as may reasonably be required to carry out his duties as the competent authority. The ExA issued a Report on the Implications for European Sites (RIES) [[PD-019](#)] on the 17 June 2019.
- 7.1.4. Consultation on the RIES was undertaken between 17 June 2019 and 2 July 2019. The RIES was issued to ensure that IPs, including Natural England, had been consulted formally on Habitats Regulations matters. This process may be relied on by the SoS for the purposes of Regulation 63(3) of the Habitats Regulations. Comments on the RIES were received from the Applicant [[REP10-002](#)] and Natural England [[REP10-007](#)] at D10. Five10Twelve challenged the validity of Natural England's comments on the RIES [[REP11-034](#)].

7.2. POLICY CONTEXT

- 7.2.1. Paragraph 43 of the NPPF states that the right information, particularly where HRA is required, is crucial to good decision-making. Paragraph 175 of the NPPF states that planning permission should be refused if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort compensated for. Paragraph 177 states that the

¹⁴⁶ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive').

¹⁴⁷ The Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations').

¹⁴⁸ Sites of Community Importance (SCIs), Special Areas of Conservation (SACs), candidate SACs, Special Protection Areas (SPAs); and under UK policy, potential SPAs and listed Ramsar sites.

presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan will not adversely affect the integrity of the habitats site. Paragraph 176 lists sites that should be considered in such an evaluation.

- 7.2.2. Section 4.19 of the ANPS describes the approach that should be taken by the decision-maker in relation to the Habitats Regulations, noting the role of the SoS as the competent authority and the requirement to consult Natural England. It also states that applicants should refer to the ANPS sections on biodiversity, land use and air quality. The ANPS states that, where it is not possible to rule out an adverse effect on the integrity of a European site, the Habitats Directive provides for a derogation subject to certain tests being met.

7.3. PROJECT LOCATION

- 7.3.1. As described in Chapter 2 of this report, the Proposed Development comprises provision of air cargo services, passenger services, aircraft MRO and end-of-life recycling. The necessary licence(s) to operate the airport will be sought separately from the DCO application; for example, an application to the CAA under the ACP.
- 7.3.2. The Proposed Development is located near Ramsgate in Kent.
- 7.3.3. The existing airport is not located within a European site, however the airport's existing drainage outfall is located within the Thanet Coast and Sandwich Bay SPA and Ramsar; Sandwich Bay SAC and it is approximately 200m from the Thanet Coast SAC [[REP3-087](#), [REP7a-014](#) Figure 3.1]. The Applicant identified sites within a 15km radius from the perimeter of the Order Limits specified within the dDCO [[REP7a-014](#), Figure 3.1]. The Applicant stated that this took into consideration potential aircraft flight paths and the environmental effects which the European sites could experience, such as disturbance from construction and operations on-site, and pollution derived from aircraft entering and leaving the airfield.
- 7.3.4. The Applicant identified eight main impact pathways for potential effects on European sites including:
- Changes in water quality and scour at the drainage outfall;
 - increased noise from aircraft movements;
 - changes in air quality due to increased emissions from traffic and aircraft;
 - disturbance to birds from the scaring noise;
 - bird barrier effects;
 - construction impacts including increased dust and noise emissions;
 - increased disturbance to birds during construction; and
 - in-combination effects.

7.4. HRA IMPLICATIONS OF THE PROJECT

- 7.4.1. The Applicant submitted a RIAA as Appendix 7.1 [[APP-044](#)] of the application. The SoS considered that the information provided in the RIAA was sufficient to accept the application for examination on 14 August 2018 [[PD-002](#)].
- 7.4.2. An updated version of the RIAA was submitted at D1 [[REP1-007](#)], which addressed matters raised by the ExA at Appendix F to the Rule 6 letter [[PD-005](#)]. A further RIAA was submitted at D7a [[REP7a-014](#)], which addressed a number of matters raised during the Examination. In addition, at D9, the Applicant submitted responses to the ExQ4 on ecology and biodiversity [[REP9-006](#)] and associated appendices [[REP9-010](#)], which included material further updating the RIAA [[REP7a-014](#)].
- 7.4.3. The Proposed Development is not connected with or necessary to the management for nature conservation of any of the European site(s) considered within the Applicant's assessment.
- 7.4.4. As noted above, the Applicant scoped its assessment by identifying European sites within 15km of the Proposed Development. The European sites considered in the RIAA are listed in Table 2.1 of the RIES [[PD-019](#)]. Natural England commented on the RIES at D10 [[REP10-007](#)] and confirmed that it agreed with the identification of sites that could potentially be affected by the proposal within 15km of the Order limits as set out in Table B.1 of the RIAA [[REP7a-014](#)]. This response also confirmed that the appropriate likely significant effects (LSE) had been identified, although Natural England noted that the matrices at Annex 1 of the RIES should be amended to include the potential for water quality or scour impacts on the Thanet Coast SAC but that these should still be screened out from further assessment based on the distance of the Proposed Development from the sites.
- 7.4.5. Natural England did not identify any other European site or qualifying features that could be affected by the Proposed Development. No other European sites and qualifying features have been identified as being potentially affected by the Proposed Development by any other IP.

7.5. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

- 7.5.1. The Applicant's RIAA [[REP7a-014](#)] identified the relevant features at the following European site(s) for inclusion within the assessment:
- Thanet Coast and Sandwich Bay SPA;
 - Thanet Coast and Sandwich Bay Ramsar;
 - Thanet Coast SAC;
 - Sandwich Bay SAC;
 - Outer Thames Estuary SPA;
 - Margate and Long Sands SAC;
 - Stodmarsh SPA;
 - Stodmarsh SAC;
 - Stodmarsh Ramsar; and
 - Blean Complex SAC.

- 7.5.2. The Swale SPA and Ramsar sites were also considered but were screened out of further consideration based on the Applicant's air quality assessment [[REP7a-014](#)].
- 7.5.3. The European sites and designated features that were considered in the Applicant's assessment are listed in Table 2.1 of the RIES [[PD-019](#)]. Natural England confirmed that the correct features are listed in the screening matrices at D3 [[REP3-089](#)]. TDC questioned the scope of the in-combination assessment at D3 of the examination [[REP3-010](#)]. At ISH6 [[EV-021](#)] the ExA questioned TDC as to whether it considered that any other projects should have been considered as part of the in-combination assessment but TDC confirmed at ISH6 that it was now satisfied with the scope of projects assessed. Paragraph 3.2.4 of the RIAA [[REP7a-014](#)] identified potential in-combination effects with other developments that could arise for works in Pegwell Bay, including increased recreational pressure, impacts associated with cable laying works associated with the nearby Thanet Offshore Extension Windfarm and increased nitrogen deposition, however only impacts associated with increased recreational pressure appeared to have been addressed in the document. In ExQ4 [[PD-020](#), Ec4.7] the ExA asked the Applicant to confirm where in the assessment material these matters had been addressed. The Applicant confirmed in its answers to ExQ4 [[REP9-006](#)] the basis for the conclusions reached in the assessment and signposted to where this information could be found in the RIAA [[REP7a-014](#)]. The Applicant also supplied an updated Table 3.2 Screening Assessment in its Appendix to Ec4.1 [[REP9-010](#)] and new cross referencing and commentary on information contained in the Thanet Offshore Extension Windfarm ES.
- 7.5.4. The Applicant concluded that the Proposed Development could lead to a LSE on the following European sites either alone or in-combination with other plans or projects [[REP7a-014](#)]:
- Sandwich Bay SAC;
 - Thanet Coast and Sandwich Bay Ramsar;
 - Thanet Coast and Sandwich Bay SPA; and
 - Thanet Coast SAC.
- 7.5.5. Natural England agrees with this assessment in its comments on the RIES [[REP10-007](#)].
- 7.5.6. In [[REP10-007](#)] Natural England also states that it is satisfied that the Applicant's D6 submission relating to NO_x [[REP6-016](#)] and D7 submission detailing effects in relation to nitrogen and acid deposition (Appendix I to the RIAA [[REP7a-014](#)]) provide evidence sufficient to rule out likely significant air quality effects on the Swale SPA / Ramsar sites.
- 7.5.7. Due to the interface between the air quality assessment and the examination of the transport proposals and TA the ExA asked Ec.4.5 [[PD-020](#)]. The question sought to clarify which, of the various air quality assessments carried out by the Applicant, was relevant with regards to the findings in the RIAA. The Applicant's response confirms that the RIAA [[REP7a-014](#)] relies on various assessments contained in the

environmental information. For NO_x the RIAA relies on the ES addendum submitted at D6 [REP6-016]. For nitrogen and acid deposition the findings in the RIAA relies upon Appendix I to the RIAA [REP7a-014]. The ExA also requested in ExQ4 [PD-020, Ec.4.5] an explanation as to whether the original air quality assessment addresses Natural England's concerns raised in previous representations. Natural England responded stating that:

"if the Applicant now wishes to rely on the original Transport Assessment which did not include a Manston-Haine link road, then Natural England's view is that the air quality assessment would have to be re-done. This is because the original air quality assessment contained numerous inaccuracies and did not contain an in combination assessment" [REP9-025].

7.5.8. The Applicant's response to Ec.4.5 states that:

"The original air quality assessment, reached similar conclusions to those reported in the ES Addendum. It was not updated to take into account Natural England's comments as the revised TA and data associated with the Thanet Strategic Transport Model had, by then become the primary basis for assessment. Nonetheless, it may be necessary to make minor updates to the air quality assessment contained in the original ES to be certain that NE would be completely satisfied. Given the similarity of results between the two assessments, this would seem entirely unnecessary. As has been noted in other parts of the Applicant's submission, the original TA (and any results associated with it) should be considered as a highly robust sensitivity test for issues such as this and not as a limitation to the assessment". [REP9-006]

7.5.9. The ExA does not consider that the revised TA, which assumes an implemented Manston-Haine link road, can be considered to represent a robust sensitivity test for the Proposed Development in the absence of a secured link road. This is because the revised air quality assessment is based on unsecured transport assumptions. The ExA considers that although the changes in overall emissions are predicted to be limited in the assessment scenarios considered to date [APP-033, REP7a-014], no updated air quality assessment, based on the original TA, was provided to address the ExA or Natural England comments regarding the robustness of the original air quality assessment [PD-007, PD-010b, PD-014, PD-020, REP3-087, REP3-089, REP6-048, REP7-012, REP7a-014, REP8-028, REP9-025, REP10-007].

7.5.10. **The ExA concludes and recommends that the Applicant has not demonstrated that the outcome to the assessment is beyond reasonable scientific doubt.**

7.5.11. In the absence of the final air quality assessment, the ExA considers that the RIAA lacks justification for screening out a further assessment of air quality effects on the integrity of the Swale SPA/Ramsar sites.

7.5.12. In the absence of such information **the ExA concludes and recommends that these sites should also be considered as part of an appropriate assessment.**

7.5.13. The ExA's conclusion also has implications for the assessment of effects on the designated sites discussed below.

7.6. CONSERVATION OBJECTIVES

7.6.1. As noted above, the Applicant identified LSE for a number of European sites. These sites were assessed to determine if adverse effects on their integrity (AEoI) could be excluded. As part of this assessment, the Applicant included copies of the conservation objectives for the relevant sites in the RIAA [[REP7a-014](#)] at Appendix D, in Table 4.1 and in the assessment of effects in Chapter 4 of the RIAA.

7.6.2. Natural England stated that it remained concerned that the operation of the airport would hinder the 'restore' Conservation Objective for turnstone in its D8 response [[REP8-028](#)] but otherwise makes no reference to the conservation objectives in its representations. Natural England subsequently agreed with the Applicant's assessment of no AEoI for turnstone [[REP10-007](#)] as discussed below.

7.6.3. The ExA is content that the correct conservation objectives have been made available to it in respect of the European sites progressed to AEoI assessment stage. The conservation objectives are summarised in Appendix D of the RIAA [[REP7a-014](#)] and have not been reproduced here.

7.6.4. As highlighted above, the ExA considers that due to the lack of a final updated air quality assessment, addressing Natural England and ExA concerns raised during the Examination, the Applicant's assessment does not provide sufficient justification to support exclusion of the Swale SPA and Ramsar sites from further assessment. The ExA notes that Natural England's website lists the Swale SPA conservation objectives as being to:

"Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- *The extent and distribution of the habitats of the qualifying features*
- *The structure and function of the habitats of the qualifying features*
- *The supporting processes on which the habitats of the qualifying features rely*
- *The population of each of the qualifying features, and,*
- *The distribution of the qualifying features within the site."*

7.7. FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY

7.7.1. Table 4.1 of the RIES [[PD-019](#)] lists the sites and features which the Applicant included in its assessment of effects on site integrity. The Applicant concluded that there were no AEOI of any European site as a result of the Proposed Development, either alone or in combination with other plans or projects [[REP7a-014](#)]. These conclusions were disputed by Natural England during the Examination and by other IPs [[PD-019](#)].

Mitigation

7.7.2. The Applicant's conclusion of no AEOI depends in part on the successful delivery of various mitigation measures delivered through management plans during construction and operation. These are described as follows:

Construction

- Mitigation of noise, vibration, dust, drainage and physical activity through the oCEMP secured via R6 [[REP7a-014](#), [PD-018](#)];
- construction measures in the REAC secured via R7; and

Operation

- Operational measures in the REAC secured via R7; and
- NMP secured via R9 [[REP7a-014](#), [PD-018](#)].

7.7.3. The ExA's second dDCO which it consulted upon lists the environmental management documents as certified documents (Article 41 and Schedule 10 [[PD-018](#)]).

7.7.4. The dDCO also includes a series of Requirements 6 and 7, 9, 11, 12, 13, 14, 15, 19a-c and 23 that provide environmental and ecological mitigation. Under these requirements, construction and operation must be carried out in accordance with the control documents.

7.7.5. The dDCO Requirements securing mitigation relevant to European sites are:

- R6 – CEMP. This secures the MHCP and plans to mitigate dust, noise and vibration and drainage impacts;
- R7 – OEMP. This secures the provision of environmental management plans, including for noise, air quality, wildlife management and water and drainage for approval by the relevant LPA;
- R9 – Noise mitigation. This secures the NMP, which includes operating restrictions, including restrictions on night flights;
- R11 – Contaminated land and groundwater. This secures mitigation of contamination if discovered on site during construction;
- R12 - Protected species. This requires final pre-construction surveys to be carried out for protected species and the preparation of schemes of protection and mitigation measures to be approved by the relevant planning authority in consultation with Natural England and the KWT;
- R13 – Surface and foul water drainage. This requires the Applicant to agree surface and drainage plans (including details of pollution control and monitoring) with relevant authorities, consistent with commitments in the REAC;

- R14 – Traffic management. Governs routing of construction and operational traffic with potential to give rise to noise disturbance and emissions to air;
- R15 – Piling and other intrusive works. Requires a piling risk assessment and method statement to be prepared. This has potential implications for emissions of noise and for contaminated discharges;
- R21 – Airport operation. This requires limits to air transport movements; and
- R23 – Monitoring. This prevents operation until a monitoring, auditing and reporting plan for the REAC has been submitted and approved in writing by TDC following consultation with the Environment Agency and Natural England.

7.7.6. Natural England initially raised concerns with the works required to repair and refurbish the existing drainage outfall at Pegwell Bay. Natural England’s D4 response [[REP4-057](#)] highlighted concerns about the proposed method and timing of the works, which should be outside of the wintering period to avoid disturbance to the bird interest features of the designated site. At D6, Natural England responded to ExA question DCO.2.9 [[REP6-048](#)] stating that it wished to be referenced as a consultation body at R13(1) and R13(2) in relation to surface water drainage because of a potential risk from contamination of Sandwich Bay SAC. Natural England was included in R13 of the ExA’s second dDCO [[PD-018](#)]. Natural England confirmed that the concerns raised in relation to the drainage outfall had been satisfactorily addressed in the updated RIAA [[REP7a-014](#)].

7.7.7. Natural England also raised concerns that the operation of the airport would hinder the ‘restore’ conservation objective for turnstones in the Thanet Coast and Sandwich Bay SPA [[REP8-028](#)] and that considering the uncertainty in the assessment, further mitigation would be required. At ISH6 [[EV-021](#)] Natural England suggested that further mitigation might be achieved through contributions to a Strategic Access Management and Monitoring Plan (SAMM). TDC’s D8 submission [[REP8-029](#)] stated that the SAMM would not be an appropriate mechanism for mitigating this particular impact on the SPA since:

“it is specifically targeted to mitigate a particular impact, and there is no provision in the SAMM for contributions/mitigation to mitigate the impact of the proposed development (aircraft movements and the noise associated)”.

7.7.8. At D10 the Applicant provided comments on the RIES, which included additional information on aircraft noise effects on turnstone at Appendix A [[REP10-002](#)]. The appendix provides an assessment in relation to flight paths and fleet mix.

7.7.9. Section 4 of the appendix [[REP10-002](#)] included ‘precautionary mitigation’ in the form of a proposed s106 biodiversity contribution of £100,000 to mitigate any unforeseen impacts on bird populations in Pegwell Bay. £20,000 of the fund would support a current KWT bird disturbance monitoring study with:

"...use of the remaining funds (£80,000) for implementation of mitigation schemes to assist with restoration measures for affected bird population. It is likely that this would involve measures such as access control to minimise human disturbance such as water sports and dog walking which already occur at locations such as West Cliffe."

- 7.7.10. Natural England's D10 submission [[REP10-007](#)] stated that it had been working with the Applicant and confirmed that it was satisfied that sufficient evidence had now been provided to resolve uncertainty over noise disturbance impacts on turnstones in Pegwell Bay and that an adverse effect on integrity could be ruled out.
- 7.7.11. Natural England added that whilst not necessary to reach a conclusion of no AEOI, the financial contributions proposed by the Applicant added further weight to the conclusions and guarded against the potential for unforeseen circumstances such as a change in fleet mix, to have an impact. Natural England notes that the NMP encourages use of quieter aircraft, whilst funding for disturbance monitoring and projects addresses any risk of residual impact.
- 7.7.12. At D11 [[REP11-010](#)] the Applicant incorporated the proposed biodiversity contribution into the fourth Schedule of a draft s106 Agreement. The fourth schedule states that Tranche 1 of this fund (£20,000) would go towards a current KWT bird disturbance monitoring study and Tranche 2 (£80,000) would be used to develop and support projects directly relevant to species affected by the disturbance caused by the operation of Manston Airport. The eleventh schedule [[REP11-010](#)] imposes a covenant on TDC to repay £80,000 of the biodiversity contribution in the event that Tranche 1 funded survey finds that the operation of Manston Airport does not affect bird populations in Pegwell Bay.
- 7.7.13. On the final day of the Examination the Applicant submitted separate UUs for the benefit of KCC [[AS-583](#)] and for TDC [[AS-584](#)]. The undertaking for TDC incorporated the proposed biodiversity contribution.
- 7.7.14. Having considered the additional assessment information provided by the Applicant [[REP10-002](#)] and Natural England's position [[REP10-007](#)] that the financial contributions are not necessary to reach a conclusion of no AEOI, **the ExA has not attributed any weight to the financial contribution set out in the UU in terms of its conclusions regarding AEOI.**

AEOI of Sandwich Bay SAC

- 7.7.15. The drainage outfall to Pegwell Bay is located within Sandwich Bay SAC. The predicted flightpaths for planes arriving from / departing to the east cross the designated site in the northern section of Pegwell Bay [[REP7a-014](#), Figure 4.4]. Road traffic is predicted to increase on roads adjacent to the designated site (eg the A256 [[REP7a-014](#)]). The SAC is designated for the presence of five Annex I habitats (Embryonic shifting dunes; white dunes, shifting dunes along the shoreline; grey dunes, fixed

coastal dunes with herbaceous vegetation; Dunes with *Salix repens ssp. argentea*; and Dune slacks).

7.7.16. Road traffic and aircraft emissions may increase ambient NO_x concentrations to which vegetation is exposed. This has potential to increase soil nutrient enrichment and acidification affecting plant communities. The Applicant considered the potential for direct effects on the sensitive habitats due to a deterioration in air quality. The Applicant concluded that due to the limited increase in concentrations of pollutants, adverse effects on the integrity of the SAC could be excluded both alone and in combination with other plans and projects [[REP7a-014](#)].

7.7.17. Natural England confirmed in [[REP8-028](#)] that it agrees with the conclusions of the revised air quality assessment in the RIAA [[REP7a-014](#)]:

"i.e. that an adverse effect on the integrity of European sites from air quality impacts can be ruled out..."

7.7.18. As highlighted above, the ExA considered that the evolution of the traffic modelling had resulted in an incomplete air quality assessment. The ExA considers that the likelihood of a new assessment reaching a different conclusion is limited due to the limited change in air quality emissions predicted in either of the scenarios assessed (with or without Manston-Haine link). Consequently, the ExA considers it likely that the conclusion of the assessment based on revised information would be no AEoI.

7.7.19. However, the ExA has to make its recommendation based on the information before it at examination. In the absence of the further air quality assessment being provided by the Applicant or information to inform a derogation under the Habitats Directive, the ExA is not able to conclude beyond reasonable scientific doubt that there is no AEoI on the Sandwich Bay SAC Annex I habitats.

AEoI of Thanet Coast and Sandwich Bay Ramsar

7.7.20. The drainage outfall to Pegwell Bay is located within Thanet Coast and Sandwich Bay Ramsar. The predicted flightpaths for planes arriving from / departing to the east cross the designated site in the northern section of Pegwell Bay and planes arriving from/departing to the west cross the designated site on the north Thanet Coast [[REP7a-014](#), Figure 4.4]. Road traffic is predicted to increase on roads adjacent to the designated site (eg the A256). The Ramsar site qualifies under Ramsar Criterion 6 for supporting internationally important numbers of non-breeding ruddy turnstone and it also qualifies under Ramsar Criterion 2 by supporting 15 Red Data Book invertebrate species.

7.7.21. The Applicant considered the potential for adverse effects on turnstone (non-breeding) due to construction and operation of the drainage outfall and due to disturbance/displacement effects due to noise/visual presence from aircraft.

- 7.7.22. The Applicant considered the potential for adverse effects on invertebrate species resulting from road traffic and aircraft emissions that may increase ambient NO_x concentrations to which vegetation that invertebrates depend on is exposed; as well as the potential for soil nutrient enrichment and acidification to affect plant communities.
- 7.7.23. The Applicant concluded that adverse effects on the integrity of the Ramsar could be excluded either alone and in combination with other plans and projects [[REP7a-014](#)].

Outfall – turnstone

- 7.7.24. The ExA has considered the impact of the drainage outfall as assessed in [[REP7a-014](#), [REP9-006](#) and [REP9-010](#)] and the mitigation measures secured by R8 (securing ecological mitigation measure implementation, monitoring and management); R11 (contaminated land and groundwater management); R12 (securing pre-construction surveys and protected species mitigation, where not previously addressed); and R13 (securing mitigation measures in relation to drainage, pollution control and monitoring) of the ExA's second dDCO [[PD-018](#)]. With these measures in place and with the requirement for such measures to be agreed with the relevant planning authority in consultation with Natural England and/or the Environment Agency, the ExA considers that the potential risk of effects on the designated features is mitigated and/or minimised and that the Applicant's conclusion of no AEOI on the turnstone due to construction and operation of the drainage outfall is supported.
- 7.7.25. NE stated that it accepted the Applicant's conclusions relating to the drainage outfall as set out in the RIAA [[REP7a-014](#)] in its D8 response [[REP8-028](#)].

Disturbance/displacement effects due to noise/visual presence from aircraft - turnstone

- 7.7.26. The RIAA [[REP7a-014](#)] assessed disturbance and displacement effects on turnstone due to noise and visual presence of aircraft in Pegwell Bay and on the north Thanet coast, including new data and assessment as Appendix G to that report. Natural England commented at D8 [[REP8-028](#)] that there was some uncertainty over whether an AEOI would be avoided and that it would normally recommend inclusion of mitigation measures to give more confidence in a conclusion of no AEOI. The RIES [[PD-019](#)] identified turnstone disturbance effects as an area of residual disagreement between Natural England and the Applicant. The ExA raised Ec.4.2 [[PD-020](#)] in relation to the requirement for mitigation for turnstone and the status of ongoing discussions between Natural England and the Applicant. Natural England's comments on the RIES [[REP10-007](#)] highlight that Natural England worked with the Applicant to resolve uncertainty over impacts on the turnstone population following publication of the RIAA. Natural England states that the Applicant's answers to ExQ4 Appendix Ec.4.2 [[REP9-010](#)] demonstrates that the proposed flightpath is similar to that used by the previous operational airport; that noisier aircraft were previously allowed at Manston; and that no disturbance was identified during a previous study due to commercial

aircraft operations. Natural England concludes in [REP10-007] that, based on this additional assessment information, it is satisfied that sufficient evidence has been provided to resolve uncertainty over noise disturbance impacts on turnstones and that it can accept the Applicant's conclusion of no AEOI.

- 7.7.27. Five10Twelve [eg [AS-120](#), [REP8-062](#), [REP8-063](#), [REP9-056](#), [REP9-058](#), [REP9-059](#), [REP9-061](#), [REP9-062](#), [REP9-065](#), [REP9-066](#), [REP9-069](#), [REP9-071](#), [REP11-034](#), [REP11-35](#), [REP11-39](#), [REP11-40](#)] and NNF [eg [AS-156](#), [REP8-083](#), [REP11-055](#), [REP11-056](#), [REP11-057](#), [REP11-058](#)] independently commissioned the ERCD of the CAA to prepare noise contour data for the Proposed Development. Both organisations challenged the validity of the Applicant's noise contours and Five10Twelve stated that Natural England's comments on the RIES [REP10-007] could not be relied on, nor could the ExA rely on Natural England's answer to the ExA's ExQ4 Ec.4.2 [[REP9-025](#)].
- 7.7.28. The Applicant's response to ExQ4 Ns.4.3 [[REP9-006](#)] argues that the approaches adopted by NNF and Five10Twelve are crude and not truly comparable with the approaches adopted in the ES. The Applicant's appendices to the answers to ExQ4 [[REP9-010](#)] include a technical note that provides commentary on the difference between the approaches.
- 7.7.29. The ExA has considered the implications of the additional noise contour information provided by IPs and the Applicant's response in the noise section of Chapter of this report. The ExA found no reason to disagree with the Applicant's conclusions and rebuttal of the alternative noise contour data produced by NNF and Five10Twelve.
- 7.7.30. The ExA has also considered the Applicant's Appendix Ec.4.2 [[REP9-010](#)] response and is persuaded that the similar nature of the flight path; the proposed use of planes no louder than previously used and the lack of reported bird disturbance during previous airport operations provides sufficient evidence to resolve the uncertainty regarding noise disturbance impacts on turnstones in Pegwell Bay and on the north Thanet coast. The ExA notes that Natural England agree with this conclusion in its D10 response [[REP10-007](#)].
- 7.7.31. **The ExA concludes and recommends that this information is persuasive in supporting a conclusion of no AEOI on the turnstone feature of the Ramsar.**

Air quality

- 7.7.32. The RIAA [[REP7a-014](#)] concluded that the additional contribution of air-borne and deposited nitrogen (NO_x, nitrogen deposition and acid deposition) from the Proposed Development, in areas containing habitats on which the Red Data Book species of invertebrates depend (within the Ramsar site), would not undermine the conservation objectives of the Ramsar site. Therefore, there would be no AEOI for the Thanet Coast and Sandwich Bay Ramsar.

- 7.7.33. As highlighted above, the ExA considered that the evolution of the traffic modelling had resulted in an incomplete air quality assessment. The ExA considers that the likelihood of a new assessment reaching a different conclusion is limited due to the limited change in air quality emissions predicted in either of the scenarios assessed (with or without Manston-Haine link). Consequently, the ExA considers it likely that the conclusion of the assessment based on revised information would be no AEOI.
- 7.7.34. However, the ExA has to make its recommendation based on the information before it at Examination. In the absence of the further air quality assessment being provided by the Applicant or information to inform a derogation under the Habitats Directive, the ExA is not able to conclude beyond reasonable scientific doubt that there is no AEOI on the Thanet Coast and Sandwich Bay Ramsar invertebrates feature.

AEOI of Thanet Coast and Sandwich Bay SPA

- 7.7.35. The drainage outfall to Pegwell Bay is located within Thanet Coast and Sandwich Bay SPA. The predicted flightpaths for planes arriving from/departing to the east cross the designated site in the northern section of Pegwell Bay and planes arriving from/departing to the west cross the designated site on the north Thanet Coast [[REP7a-014](#), Figure 4.4]. Road traffic is predicted to increase on roads adjacent to the designated site (eg the A256).
- 7.7.36. The Applicant considered the adverse effect on the SPA population of golden plover (non-breeding), due to:
- Adverse effects on habitats used for foraging and roosting in Pegwell Bay due to impacts from construction and operation of the drainage outfall;
 - increased disturbance during construction (eg adjacent to the airport site);
 - increased visual and auditory disturbance caused by aircraft flights;
 - disturbance from noise associated with bird-scaring activities; and
 - the potential barrier effect of the Proposed Development to the movement of golden plover between roost and foraging areas.
- 7.7.37. The Applicant considered the potential for adverse effects on the SPA population of turnstone (non-breeding) due to construction and operation of the drainage outfall and due to disturbance/displacement effects from the noise/visual presence from aircraft [[REP7a-014](#)].
- 7.7.38. The Applicant also considered the potential for airport operations to prevent little tern (breeding) from recolonising the SPA due to disturbance/ displacement from noise and shadow created by planes on take-off and landing.
- 7.7.39. The Applicant concluded that adverse effects on the integrity of the SPA could be excluded both alone and in combination with other plans and projects [[REP7a-014](#)].

Outfall – golden plover and turnstone

- 7.7.40. Natural England stated that it accepted the Applicant's conclusions relating to the drainage outfall in the RIAA [[REP7a-014](#)] in its D8 response [[REP8-028](#)].
- 7.7.41. The ExA has considered the impact of the drainage outfall as assessed in [[REP7a-014](#), [REP9-006](#), and [REP9-010](#)] and the mitigation measures secured by R8, R11, R12 and R13 of the dDCO [[PD-018](#)]. With these measures in place, as highlighted above, the ExA considers that the Applicant's conclusion of no AEOI on golden plover and turnstone due to construction and operation of the drainage outfall is supported.

Visual/auditory disturbance due to aircraft – golden plover, turnstone and little tern

- 7.7.42. The RIAA [[REP7a-014](#)] assessed disturbance and displacement effects on golden plover, turnstone and little tern due to noise and visual presence of aircraft in Pegwell Bay and on the north Thanet coast, including new data and assessment at Appendix G to that report.
- 7.7.43. The potential for impacts on turnstone has been considered in respect of the Ramsar designation above. On the same basis, the ExA considers that the conclusion of no AEOI for turnstone due to aircraft-related disturbance is also supported in respect of the SPA.
- 7.7.44. In respect of golden plover, Natural England's D8 representation [[REP8-028](#)] discussed the additional noise contour data provided by the Applicant at D4 [[REP4-018](#)] and the additional noise and bird survey information included in the updated RIAA [[REP7a-014](#)]. Natural England stated that that although golden plover:
- "...are found in parts of Pegwell Bay that are predicted to experience significant noise levels. However, the highest numbers are found in the south of the Bay, and they have more available habitat than turnstones, in the form of grassland and arable habitat inside and outside the SPA. Therefore, Natural England is more certain that an adverse effect on the integrity of this species will be avoided during operation of the airport."*
- 7.7.45. The ExA has considered the additional information presented in the updated RIAA [[REP7a-014](#)] and Natural England's D8 comments and consider that the conclusion of no AEOI on golden plover due to aircraft-related disturbance is supported.
- 7.7.46. The Applicant assesses the potential for adverse effects on little tern in the updated RIAA [[REP7a-014](#)]. No likely significant effects on breeding little tern are identified due to the absence of this species from the SPA. Natural England's D3 WR [[REP3-089](#)] agrees that little tern are "*features of the SPA but no longer breed within the site*".
- 7.7.47. On the basis of absence of breeding little tern from the SPA, the ExA considers that a conclusion of no AEOI is supported in respect of breeding little tern.

- 7.7.48. The Applicant also considers the potential for the Proposed Development to prevent recolonisation of the SPA by little tern.
- 7.7.49. The ExA notes the RIAA [[REP7a-014](#)] statement that:
- "Following the third JNCC review (Stroud et al. 2016) of the SPA designated species, it was suggested little tern be removed, due to recent absence from the SPA, although this change is as yet unratified."*
- 7.7.50. The ExA also notes the RSPB [[REP3-013](#)] statement that the RIAA is incorrect because the review:
- "...assessed whether the UK's network of Special Protection Areas (SPAs) is sufficient for the bird species listed in Annex 1 of the Birds Directive. It did not assess whether a species should or should not be removed as a designated species for any SPA"*.
- 7.7.51. The ExA has considered the additional noise data [[REP4-018](#)] and the updated RIAA [[REP7a-014](#)] and consider that whether little tern should potentially be removed from the designation is irrelevant to the consideration of AEoI.
- 7.7.52. Natural England [[REP3-089](#)] states that the closest available nesting area for little tern is at Shell Ness on the southern edge of Pegwell Bay, outside the area where aircraft are predicted to fly over at altitudes of less than 500m. Natural England [[REP3-089](#)] also states that provision of additional noise contour maps (for both peak L_{Amax} and continuous L_{Aeq} noise levels) showing contours in 5dB increments from 55dB upwards, will *"enable a judgement to be made of the change in noise predicted to be experienced by birds in particular locations"*. [[REP3-089](#)] also suggests that operational disturbance to little tern could arise due to over flying aircraft.
- 7.7.53. The amended RIAA [[REP7a-014](#)] provided discussion of the noise contour maps stating that a peak noise level of 55dB L_{Amax} would be experienced infrequently (eight times per day, 110 days of the year). The report included cross reference to a literature review of disturbance by aircraft, which concluded that:
- "...beyond distances of 500m in altitude and 1km ground-level, lateral distance little tern is unlikely to be disturbed by the visual presence of flying aircraft other than helicopters"*.
- 7.7.54. Natural England's D10 representation states that:
- "We are also satisfied that operational noise effects on little terns can be ruled out based on the noise contour maps provided at Deadline 4 [[REP4-018](#)]"*.
- 7.7.55. Based on the distance from the nearest potential breeding ground to the flight path and due to the low predicted L_{Amax} noise level at the site and the conclusions of the literature review in respect of disturbance thresholds, **the ExA concludes and recommends that the RIAA**

[[REP7a-014](#)] assessment of factors likely to influence the return of the little tern is sufficient to support the Applicant's conclusion of no AEOI on little tern due to aircraft related disturbance.

Disturbance due to construction – golden plover

- 7.7.56. The ExA has considered the potential for construction disturbance to increase noise and vibration and result in increased displacement of golden plover from foraging/resting places in suitable farmland adjacent to the Order Limits as assessed in the RIAA [[REP7a-014](#)].
- 7.7.57. As discussed in the RIES [[PD-019](#)], the ExA raised ExQ2 Ec.2.9 [[PD-010b](#)] regarding the potential for works at Thanet Parkway Station to give rise to in-combination effects with respect to impacts on functionally linked habitat for golden plover. The Applicant's response to ExQ2 [[REP6-012](#)] provided information in respect of the parkway station, including details of winter bird survey reports prepared in respect of that development, which concluded that arable habitat present onsite was unsuitable for golden plover and therefore not functionally linked. On this basis the Applicant stated that no in-combination assessment was required. The updated RIAA [[REP7a-014](#)] incorporated additional information at Appendix H regarding the suitability of habitat in surrounding farm land to support foraging/resting golden plover.
- 7.7.58. Natural England confirmed its view in [[REP3-089](#)] that although the 750m buffer around the airport supports golden plovers when agricultural practices are favourable, based on the temporary nature of the work and with mitigation measures in place (eg CEMP and Continuous Flight Auger (CFA) piling), construction would not have an adverse effect on the integrity of the site.
- 7.7.59. **The ExA considers that** based on the additional information presented regarding land use within the 1km buffer and with the incorporation of mitigation measures secured by R6 and R15, **the Applicant's conclusion of no AEOI due to construction disturbance for golden plover is supported.**

Noise from bird scaring – golden plover

- 7.7.60. KWT and Natural England highlighted the need to clarify what methods would be used to scare away birds from the airfield in order to understand likely effects on golden plover. The ExA raised ExQ1 Ec.1.6 [[PD-007](#)] and ExQ2 Ec.2.4 [[PD-010b](#)] requesting further information regarding bird scaring methods. The updated RIAA [[REP7a-014](#)] Appendix H included further analysis of the amount of functionally linked habitat surrounding the Proposed Development and its suitability for golden plover and details of bird scaring measures.
- 7.7.61. In its D8 submission [[REP8-028](#)], Natural England states that based on the additional information provided, it is satisfied that an AEOI for golden plovers from bird scaring on the airfield can be ruled out.

- 7.7.62. The ExA has considered the additional information regarding Thanet Parkway Station; bird scaring techniques and the use of functionally linked land, which highlights that much of the land that would be subject to bird scaring activity has limited use by golden plover (due to land use or existing disturbance issues). On this basis, **the ExA considers that the Applicant's conclusion of no AEoI due to increased disturbance from bird scaring for golden plover is supported.**

Barrier effects – golden plover

- 7.7.63. In its comments on the RIES [[REP10-007](#)] Natural England stated that operational phase barrier effects on golden plovers can be ruled out based on the survey information provided at Appendix F of the updated RIAA [[REP7a-014](#)] and the information on functionally linked land at Appendix H. The ExA has considered the updated desk study data of flight paths, flight line survey data, predominance of foraging areas for golden plover to the south of the site and the limited history of collisions at the previous operational airport (one collision in the period 2007-2013) and **the ExA agrees that the conclusion of no AEoI due to barrier effects on golden plover is supported.**

AEoI of the Swale SPA

- 7.7.64. The Applicant screened out the Swale SPA from further consideration based on its air quality assessment [[REP7a-014](#)].
- 7.7.65. As highlighted above, the ExA considered that the evolution of the traffic modelling had resulted in an incomplete air quality assessment. The ExA considers that the likelihood of a new assessment reaching a different conclusion is limited due to the limited change in air quality emissions predicted in either of the scenarios assessed (with or without Manston-Haine link). Consequently, the ExA considers it likely that the Swale SPA could be screened out of further assessment.
- 7.7.66. The ExA has to make its recommendation based on the information before it at Examination.
- 7.7.67. In the absence of the further air quality assessment being provided by the Applicant or information to inform a derogation under the Habitats Directive, **the ExA is not able to conclude beyond reasonable scientific doubt that the Swale SPA should be screened out of further assessment or that there is no AEoI.**

AEoI of the Swale Ramsar

- 7.7.68. The Applicant screened out the Swale Ramsar from further consideration based on its air quality assessment [[REP7a-014](#)].
- 7.7.69. As highlighted above, the ExA considered that the evolution of the traffic modelling had resulted in an incomplete air quality assessment. The ExA considers that the likelihood of a new assessment reaching a different conclusion is limited due to the limited change in air quality emissions predicted in either of the scenarios assessed (with or without Manston-

Haine link). Consequently, the ExA considers it likely that the Swale Ramsar could be screened out of further assessment.

- 7.7.70. The ExA has to make its recommendation based on the information before it at examination.
- 7.7.71. In the absence of the further air quality assessment being provided by the Applicant or information to inform a derogation under the Habitats Directive, **the ExA is not able to conclude beyond reasonable scientific doubt that the Swale Ramsar should be screened out of further assessment or that there is no AEOI.**

7.8. CONSIDERATION OF ALTERNATIVES, IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST (IROPI) AND COMPENSATORY MEASURES

- 7.8.1. The Applicant has not presented an assessment of alternatives or consideration of IROPI, since the RIAA [[REP7a-014](#)] concludes that there are no AEOI.
- 7.8.2. In light of the ongoing discussions regarding the assessment of effects on turnstones and the assessment of air quality effects, the ExA , questioned the Applicant and Natural England at ISH6 [[EV-021](#)] on 5 June 2019 whether there was a need for the ExA to consider the application of alternatives and IROPI under the HRA process, in relation to any of the features for which an adverse effect on integrity had been identified or which remained uncertain during the Examination [[PD-019](#)].
- 7.8.3. Natural England stated at ISH6 [[EV-021](#)] that it did not consider that there was a need to consider assessment of alternatives or IROPI but that further mitigation was required in respect of effects on the Thanet Coast and Sandwich Bay SPA and Ramsar sites. This was reported in the RIES [[PD-019](#)].
- 7.8.4. Subsequently Natural England concludes in [[REP10-007](#)] that, based on additional assessment information provided by the Applicant, it is satisfied that sufficient evidence has been provided to resolve uncertainty over noise disturbance impacts on turnstones and that it can accept the Applicant's conclusion of no AEOI for the Thanet Coast and Sandwich Bay SPA and Ramsar. As highlighted above, the ExA considers that the Applicant's conclusions of no AEOI are supported in respect of all matters except for air quality.
- 7.8.5. In the absence of updated air quality assessment information or information to inform a derogation under the Habitats Directive, **the ExA lacks the evidence to support a conclusion of no AEOI in respect of air quality effects on Swale SPA and Ramsar sites, Sandwich Bay SAC and the Thanet Coast and Sandwich Bay Ramsar site beyond reasonable scientific doubt at the close of the Examination.**

- 7.8.6. Since the Applicant concludes no AEOI for the European designated sites considered above, it has not incorporated compensatory measures into its proposals. Mitigation measures are included by the Applicant to support its conclusion of no AEOI on the designated sites [REP7a-014]. The ExA discussed mitigation measures during the Examination and did not consider compensatory measures in respect of the designated sites (compensatory measures were only considered in relation to the main airport site as part of the EIA process).

7.9. HRA CONCLUSIONS

- 7.9.1. Drawing from the information provided in the application and all documentation received pertaining to the Examination as a whole, the ExA has summarised its understanding of HRA-relevant matters in the RIES [PD-019].
- 7.9.2. Following publication of the RIES and following ISH6, matters were identified by Natural England (in relation to impacts on turnstones that are features of the Thanet Coast and Sandwich Bay SPA and Ramsar) and the ExA (in relation to the air quality assessment to be relied on) that were subject to examination through ExQ4 [PD-020].
- 7.9.3. The Applicant responded to these matters in its representations at D9 [REP9-006, REP9-010] and D10 [REP10-002], as did other IPs and statutory consultees. The ExA was satisfied with the Applicant's response in relation to turnstones, the conclusions of which were agreed with Natural England [REP10-007]. Whilst Natural England's comments on the RIES [REP10-007] suggest that there are no outstanding matters of concern in relation to the Applicant's assessment of no AEOI, its comments in response to ExQ4 [REP9-025] identify that:
- "If the Applicant now wishes to rely on the original Transport Assessment which did not include a Manston-Haine link road, then Natural England's view is that the air quality assessment would have to be re-done. This is because the original air quality assessment contained numerous inaccuracies and did not contain an in combination assessment"*.
- 7.9.4. The Applicant was provided an opportunity in the form of ExQ4 Ec.4.5 [PD-020] to provide certainty regarding the air quality assessment.
- 7.9.5. The Applicant stated [REP9-006] that:

"ii. The original air quality assessment, reached similar conclusions to those reported in the ES Addendum. It was not updated to take into account Natural England's comments as the revised TA and data associated with the Thanet Strategic Transport Model had, by then become the primary basis for assessment. Nonetheless, it may be necessary to make minor updates to the air quality assessment contained in the original ES to be certain that NE would be completely satisfied. Given the similarity of results between the two assessments, this would seem entirely unnecessary. As has been noted in other parts of the Applicant's submission, the original TA (and any results associated with

it) should be considered as a highly robust sensitivity test for issues such as this and not as a limitation to the assessment”.

- 7.9.6. The ExA does not consider that the revised TA, which assumes an implemented Manston-Haine link road, can be considered to represent a robust sensitivity test for the Proposed Development in the absence of a secured link road. This is because the revised air quality assessment is based on unsecured transport assumptions. The ExA considers that although the changes in overall emissions are predicted to be limited, no updated air quality assessment, based on the original TA was provided to address the ExA or Natural England comments regarding the robustness of the original air quality assessment. Consequently, the Applicant has not demonstrated that the outcome to the assessment is beyond reasonable scientific doubt.
- 7.9.7. The ExA lacks comfort that a robust air quality screening and assessment underpins the HRA provided by the Applicant [[REP7a-014](#)].
- 7.9.8. Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 states that:
- “In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site”.*
- 7.9.9. On the basis that the ExA is not in receipt of all of the relevant information and applying the precautionary principle the ExA does not consider that it is possible at this stage to conclude beyond reasonable scientific doubt that the project will not have an AEoI for the Swale SPA and Ramsar sites (which were screened out of assessment based on the updated air quality assessments provided during the Examination) and the Sandwich Bay SAC and the Thanet Coast and Sandwich Bay Ramsar site (which rely on the air quality assessments for their conclusion of no AEoI).
- 7.9.10. Regulation 64(1) of the Conservation of Habitats and Species Regulations 2017 states that:
- 7.9.11. *“If the competent authority is satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (2), may be of a social or economic nature), it may agree to the plan or project notwithstanding a negative assessment of the implications for the European site or the European offshore marine site (as the case may be)”.*
- 7.9.12. The Applicant did not attempt to pursue any other argument available in terms of derogations.
- 7.9.13. In examining the application, the ExA has not:

- Been able to ascertain that the project will not adversely affect the integrity of the Swale SPA and Ramsar and the Sandwich Bay SAC and the Thanet Coast and Sandwich Bay Ramsar sites; or
- been presented with information to inform conclusions regarding alternative solutions or imperative reasons of overriding public interest either as part of the application material or during the Examination.

7.9.14. **The ExA is therefore required to recommend refusal to the SoS as the competent authority for the decision as to whether to grant development consent, noting that the SoS in reviewing the recommendation may ascertain that the Proposed Development will not adversely affect the integrity of the European sites or may satisfy himself that there being no alternative solutions, the plan or project must be carried out for IROPI.**

8. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

8.1. INTRODUCTION

8.1.1. The need for the Proposed Development has been considered in Chapter 5 of this report. The potential impacts of the Proposed Development have been considered by the ExA in Chapter 6 and Chapter 7.

8.1.2. This chapter summarises the findings of the ExA in relation to these matters and then considers whether or not the ExA considers that a case for development consent has been demonstrated.

8.1.3. **The ExA informs the Secretary of State that the conclusions set out below are taken solely with regard to the provisions of the dDCO as recommended by the ExA and appended to this report at Appendix D.**

8.1.4. The conclusions rely on the fact that, amongst other things, the ExA recommend the following provisions which were not included in the dDCO as submitted with the Application [[APP-006](#)]:

- Night-time flight restrictions;
- daytime passenger flight restrictions;
- a noise contour area cap;
- an ATM cap;
- a QC reduction between 06:00 to 07:00;
- early morning noise and ATM restrictions;
- a reduction of the SOAEL level of noise at which insulation and ventilation is offered;
- a Requirement on monitoring; and
- the securing of an Education Employment and Skills Plan including a local hiring and workplace training policy, provision for the establishment of a local employment partnership board to assist in the delivery of the plan, including a process under which the plan is continually reviewed;
- the securing of a Bus Service Enhancement Plan;
- the consideration of emergency site accesses;
- the inclusion of the ASAS and HGV Signage Strategy; and
- further assessment of the historic character of the airfield, historic buildings survey, and archaeological investigation of the site to form part of a development masterplan.

8.2. FINDINGS AND CONCLUSIONS

Principle of the development and the need case

8.2.1. Paragraph 1.41 of the ANPS states that:

"...the NPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Heathrow Northwest Runway..."

- 8.2.2. The Examination of this application has therefore been conducted under s105 of the PA2008.
- 8.2.3. The ANPS states at paragraph 1.12 that:
- "The Airports NPS provides the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport, and will be an important and relevant consideration in respect of applications for new runway capacity and other airport infrastructure in London and the South East of England."*
- 8.2.4. Therefore, the ANPS is an important and relevant consideration under s105(2) of the PA2008.
- 8.2.5. Given this, in considering the question of the need for the Proposed Development, the ExA has had particular regard to paragraphs 1.41 and 1.42 of the ANPS which state that:
- "...the Secretary of State considers that the contents of the Airports NPS will be both important and relevant considerations in the determination of [an application for development consent for an airport development not comprised in an application relating to the Heathrow Northwest Runway], particularly where it relates to London or the South East of England. Among the considerations that will be important and relevant are the findings in the Airports NPS as to the need for new airport capacity and that the preferred scheme is the most appropriate means of meeting that need.*
- [...] the Government accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow."*
- 8.2.6. The ExA has examined closely whether the Applicant has demonstrated sufficient need for its proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow.
- 8.2.7. In doing so, the ExA has looked at the issue of need in relation to the provision within existing airports as well as addressing the proposed Northwest Runway at Heathrow.
- 8.2.8. In examining this application, the ExA has considered the ANPS to be both important and relevant and has considered it to be an important task to establish whether sufficient need has been demonstrated.
- 8.2.9. The ExA's conclusions on need are set out below.

Local Impact Reports

- 8.2.10. Section 105(2)(a) of the PA2008 also requires that in deciding the application the SoS must have regard to any LIR submitted before the deadline specified.

- 8.2.11. Having had regard to the assessment criteria in the ANPS and the LIR and relevant LP policy the ExA then consider each of the topics examined and reach a conclusion to carry forward to an overall summary of benefits and disbenefits.
- 8.2.12. TDC's LIR [[REP3-010](#)] states at paragraph 4.1.4:
"The adopted Thanet Local Plan 2006 allocates Manston Airport for aviation uses and airside development [...] TDC does not object to the development of the Manston Airport for aviation and has made significant efforts to support a functioning aviation use on the site."
- 8.2.13. The Saved Policies of the LP include several policies relevant to the principle of the Proposed Development. Policy EC2 supports the development, expansion and diversification of the airport, subject to certain criteria that relate largely to mitigating potential impacts, such as, noise, air quality, landscape and visual, transport and the water environment. Policy EC4 safeguards land at the airport (shown on the policies map) for airside development. Further, Policy EC5 safeguards land to the east of the existing terminal building (shown on the policies map) for terminal related purposes.
- 8.2.14. The eLP is currently undergoing examination. The submission eLP takes a neutral stance with regard to the application site and whilst it is not allocated for aviation use, it has also not been allocated for any other use. The eLP refers to the application for development consent and sets out that this approach has been taken so that this application is not prejudiced.
- 8.2.15. Given the above, the ExA concludes that the principle of the development is supported by the development plan and does not conflict with the eLP. However, for the Proposed Development to be compliant with the development plan as a whole, it must be acceptable in other regards, as set out in the criteria of Policy EC2 of the LP. The findings and conclusions of the ExA in relation to these matters are set out in the following sections of this chapter.

Need

- 8.2.16. Paragraph 1.39 of the ANPS states that:
"...the Government has confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have positive and negative impacts, including on noise levels. We consider that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts."
- 8.2.17. The ExA is not convinced that there is a substantial gap between capacity and demand for general air freight within the South East. Capacity is available or could be available at other airports within the South East or at other airports within reach of the South East should the demand exist,

and such capacity could largely be achieved relatively simply through Permitted Development rights or existing facilities.

- 8.2.18. The ExA is of the opinion that general air freight would continue to be well-served in the UK with spare capacity at Stansted in the short term (to 2030) and the proposed Northwest Runway at Heathrow in the longer term, and that new integrators are more likely to wish to be sited in a more central location. If constructed and operated then the Proposed Development could carry out a role within the market focused on perishables and oversized niche freight as previously but it seems unlikely that tonnage achieved will be significantly more than previously handled. Without the proposed Northwest Runway at Heathrow more demand may be available but the ExA's conclusions relating to new integrators, that is that they would be more likely to base themselves in a more central location, remain valid.
- 8.2.19. The Applicant argues that price is not the only determinant in where freight business may go – factors such as facilities, speed, handling efficiency and location all count too. Whilst the ExA agree with this view, it seems logical to assume that price is the main component in any decision made and that bellyhold freight will generally be cheaper. If demand were present, then facilities could be constructed at other airports where speed and handling efficiency could be largely matched to the Applicant's plan and the ExA is not convinced that the location of the Proposed Development is entirely favourable.
- 8.2.20. In terms of passenger traffic, the full extent of the Azimuth Report forecasts [[APP-085](#)] may be difficult to reach. However, the ExA considers that there would be a market for passenger traffic from the airport although the extent to which such traffic would be viable for the airport operators has not been assessed in depth.
- 8.2.21. GA was not examined in depth in the Examination, and the Azimuth Report [[APP-085](#)] does not cover the subject in detail. Nevertheless, the ExA note the support for GA facilities in the APF and the NPPF (paragraph 104) and the representations received on this matter.
- 8.2.22. Appendix 1 of the Applicant's Overall Summary of Need Case [[REP11-013](#)] states that little weight should be afforded to the submissions of SHP given the withdrawal of this company's objection to the Proposed Development. In this context however the ExA note the comments of York Aviation, which states that they strongly refute criticism of their work by the Applicant in its written answers and consider that they have "provided substantial and well evidenced responses throughout the process" [[REP11-070](#)].
- 8.2.23. Paragraph 1.42 of the ANPS states:
- "...the Government accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow."*

- 8.2.24. The ExA concludes that the levels of freight that the Proposed Development could expect to handle are modest and could be catered for at existing airports (Heathrow, Stansted, EMA, and others if the demand existed). The ExA considers that Manston appears to offer no obvious advantages to outweigh the strong competition that such airports offer.
- 8.2.25. The ExA, therefore, concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports.
- 8.2.26. Given this conclusion, the fact that this Proposed Development has been examined under s105 of the PA2008, and that the ANPS is important and relevant, **the ExA concludes that the failure to demonstrate sufficient need weighs substantially against the case for development consent being given.**
- 8.2.27. The ExA has taken this as the starting point for its consideration of the range of other issues related to this application, as set out below.

Air quality

- 8.2.28. The ExA agrees with PHE that the air quality assessment can be considered to be conservative and protective of health.
- 8.2.29. The ExA has considered the information provided by the Applicant in the revised air quality assessment which included the cumulative contribution from road traffic and agrees with Natural England that the air quality assessment is acceptable. The ExA therefore concludes that the air quality modelling and assessment is adequate.
- 8.2.30. The ExA acknowledges the changes in overall emissions from the revised TA are predicted to be limited, as confirmed by Natural England. The ExA is of the view that the Applicant's assessment has been conservative and is adequate for the purposes of the EIA.
- 8.2.31. The ExA concludes that the air quality modelling and assessment has adequately assessed health effects.
- 8.2.32. The ExA concludes that the mitigation measures in the CEMP and REAC and secured via R6 and R7 in the dDCO, will adequately mitigate air quality effects during construction in terms of AQS.
- 8.2.33. The Applicant has made a commitment to implementing 'standard mitigation' from AQ Technical Guidance 2016. This is secured in R7 2(a)(viii) - Air Quality Management Plan which will be subject to consultation and approval by TDC. The ExA concludes that this commitment will ensure that air quality in Thanet AQMA will not be negatively impacted on by the Proposed Development.
- 8.2.34. The ExA concludes that the mitigation measures in the REAC and secured via R7 in the dDCO, will adequately mitigate air quality effects during operation.

- 8.2.35. The ExA conclude that, with the various safeguards proposed, the Proposed Development would not lead to new breaches of AQS even in the absence of additional mitigation.
- 8.2.36. The ExA agrees with the conclusions of the addendum to the ES, produced in the light of changing transport effects that human health effects are not significant in EIA terms [[REP6-016](#)]. The ExA concludes that the control of air emissions effects would be achieved through the dDCO via:
- R6 – CEMP and REAC; and
 - R7 – OEMP and REAC.
- 8.2.37. The Environment Agency in their SoCG state [[REP4-005](#)]:
- “3.1.4 The overarching outlining of mitigation measures in document 2.5 Register of Environmental Actions and Commitments and as required by Requirement 7(2)(d) of the DCO are welcomed by the Environment Agency”.*
- 8.2.38. Accordingly, the ExA takes the view that the SoS can be satisfied that air quality considerations (including matters related to dust and odour) are not a matter that should attract significant weight in the decision as to whether to make the DCO or not.
- 8.2.39. The ExA’s conclusions in this matter are broadly mirrored by PHE who note in their agreed SoCG with the Applicant [[REP5-017](#)]:
- “PHE notes that the quantitative exposure response health assessment for changes in air quality applies higher risk ratios than typically applied in the UK, offering a conservative assessment, protective of health. On this basis the parties agree that potential health outcomes from changes in air quality have been addressed.”*
- 8.2.40. The ExA notes the Applicant has produced a Section 106 UU in favour of TDC which includes monthly and annual financial contributions for monitoring [[AS-584](#)].
- 8.2.41. Following the ExA’s amendments of the dDCO related to the control of air emissions and appropriate mitigation endorsed by the Environment Agency, PHE and TDC, and given the evidence presented, the Proposed Development generally accords with the ANPS, NPPF paragraphs 170 and 181 and policy in the LP with respect to Kent International Airport (EC2) and Local Air Quality Monitoring (EP5). The ExA concludes that the Proposed Development as provided for in the rdDCO will mitigate and minimise air quality effects adequately.
- 8.2.42. The ExA concludes that, on balance, there are no air quality matters which would weigh against the granting of development consent.
- 8.2.43. Given this, **the ExA concludes that the impacts on air quality of the Proposed Development are neutral when considering the case for development consent being given.**

Biodiversity

- 8.2.44. The ExA concluded that an adequate assessment of biodiversity has been achieved in particular with regard to bat species despite the incomplete nature of field-based surveys.
- 8.2.45. The ExA has concluded that the bird surveys methodology and the bird strike survey are adequate for the purposes of the biodiversity assessment.
- 8.2.46. The ExA has concluded that R8 and R12 will be adequate to mitigate impacts on reptiles.
- 8.2.47. The ExA has concluded that the assessment of botanical interest, brown hare, invertebrates and the creation of the BA is adequately addressed and that further survey and mitigation is secured via R8 and R12.
- 8.2.48. The ExA has concluded that significant effects on SSSI bird species would be avoided because the Applicant's proposals to mitigate the harmful operational aspects of the Proposed Development secured via R7 – OEMP and REAC will ensure the conservation of the Sandwich Bay to Hacklinge Marshes SSSI biodiversity and will meet the aims of the ANPS.
- 8.2.49. The ExA has concluded that the WHMP (which is secured via R7(2)(b)(v) in the dDCO) would, and subsequently be adequate for the safe dispersal of birds and other wildlife from the runway.
- 8.2.50. The ExA has concluded that the impacts from the construction and operation of the drainage outfall will be adequately controlled via R8, R12 and R13 in the dDCO.
- 8.2.51. The ExA is satisfied that Natural England's, KCC's and KWT's concerns regarding effects on biodiversity and the adequacy of mitigation have been dealt with by the Applicant through the following dDCO Requirements:
- R6 - CEMP;
 - R7 – OEMP and REAC;
 - R8 – Ecological mitigation (which includes the biodiversity offsetting metric with a gain of 10 units. Natural England has endorsed this);
 - R9 – NMP;
 - R12 – Protected species; and
 - R13 – Surface and foul water drainage.
- 8.2.52. The ExA has concluded that the proposals for net gain and habitat creation compensate for biodiversity impacts resulting from development of the airport site in accordance with the ANPS requirement to cause no significant harm.
- 8.2.53. The ExA has concluded that the Section 106 UU will contribute adequately to the mitigation of bird disturbance of species in Pegwell Bay.

- 8.2.54. The ExA concludes, in concurrence with Natural England, that the baseline surveys and habitat creation proposals are dealt with adequately in EIA terms. The ExA notes Natural England's contentment with the assessment despite incomplete surveys.
- 8.2.55. However, the ExA would advise the SoS to note that incomplete site surveys and their implications have occupied a large amount of examination time and that it is only due to the particular circumstances regarding access that such an approach has been deemed acceptable in this instance.
- 8.2.56. The ExA concludes that the proposed development is unlikely to result in significant harm to any nationally designated site or to any protected species. Further, R12, the CEMP and REAC include measures to identify and control any impacts on protected species that may emerge before construction starts or during the construction period.
- 8.2.57. The ExA notes the Applicant has produced a Section 106 UU in favour of TDC submitted on the last day of the Examination, which includes financial contributions for projects looking at disturbance species affected by the Proposed Development's operations [[AS-584](#)].
- 8.2.58. Given the evidence presented, the ExA considers that biodiversity and nature conservation issues have been adequately assessed, and that the requirements of the NPPF are met.
- 8.2.59. Our overall conclusion is that the construction and operation of the Proposed Development would avoid significant harm to biodiversity in accordance with the ANPS and NPPF. In the ExA's view the Applicant has set out the likely effects on nationally and locally designated sites and has taken the opportunity to conserve and enhance biodiversity via R8 with a net gain of 10 biodiversity units. Mitigation measures would be an integral part of the Proposed Development and would be appropriately secured through the dDCO and related documentation certified under Article 41.
- 8.2.60. The ExA concludes that the Proposed Development as provided for in the rDCO will mitigate and minimise effects on biodiversity adequately.
- 8.2.61. The ExA concludes that, on balance, there are no matters relating to biodiversity which would weigh against the granting of development consent.
- 8.2.62. Given this, **the ExA concludes that the impacts on biodiversity of the Proposed Development are neutral when considering the case for development consent being given.**

Climate change

- 8.2.63. The ExA has had regard to the LIR produced by TDC [[REP3-010](#)] in reaching its conclusions on climate change and adaptation.

- 8.2.64. The ExA is satisfied that the mitigation measures secured in the DCO will address IP concerns regarding climate change effects via the following Requirements:
- R4 – Detailed design;
 - R6 - CEMP (incorporating CMAP);
 - R7 – OEMP (and REAC incorporating CCAS);
 - R8 – Ecological mitigation;
 - R10 - Landscape; and
 - R13 – Surface and foul water drainage.
- 8.2.65. The ExA notes that emissions of GHG from international aviation do not currently count as emissions from sources in the UK for the purposes of carbon targets and budgeting, except as provided by Regulations made by the SoS.
- 8.2.66. However, the CoCC is advising that the planning assumption for international aviation should be to achieve net-zero emissions by 2050. In their emerging advice to the UK Government¹⁴⁹, they advise that this should be reflected in the UK's forthcoming Aviation Strategy. This would mean reducing actual emissions in the aviation sector. The CoCC advises that the Government should assess its airport capacity strategy in this context.
- 8.2.67. Specifically for the Proposed Development, it will need to be demonstrated to make economic sense ie establish a need case, in a net-zero world and the transition towards it. Chapter 5 of this report on need concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports.
- 8.2.68. The ExA concludes that the Applicant's assessment of climate change and GHG emissions calculations in the light of the revised TA is adequate.
- 8.2.69. The ExA concludes that the Applicant has adequately addressed UKCP calculations and has provided a CCAS secured via R4 and R7 in the dDCO.
- 8.2.70. The ExA concludes that the Applicant has considered adequately the 'Net Zero' requirement in its assessment. The ExA has examined Net Zero and is satisfied that it has taken into consideration the subsequent amendment to CCA08 dated 26 June 2019.
- 8.2.71. The CEMP and REAC include measures to identify and control any climate change effects that may emerge before construction starts or during the construction period.
- 8.2.72. Given the evidence presented, the ExA considers that climate change issues have been adequately assessed, and that the requirements of the ANPS, NPPF and 2017 EIA Regulations are met. The ExA's overall

¹⁴⁹ Available at: <https://www.theccc.org.uk/wp-content/uploads/2019/09/Letter-from-Lord-Deben-to-Grant-Shapps-IAS.pdf>

conclusion is that the construction and operation of the Proposed Development would avoid significant climate change effects in accordance with the ANPS and NPPF. Mitigation measures would be an integral part of the Proposed Development's adaptation to climate change and would be appropriately secured through the dDCO and related documentation certified under Article 41.

8.2.73. The ExA concludes that, on balance, there are no matters relating to the specific impacts of the Proposed Development on climate change which would weigh against the granting of development consent.

8.2.74. However, more widely, the ExA concludes that, given the direction of emerging policy that the Proposed Development's contribution of 730.1 KtCO₂ per annum which forms, according to the Applicant, 1.9% of the total UK aviation carbon target of 37.5 Mt CO₂ for 2050, from aviation emissions will have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets.

8.2.75. Given this, **the ExA concludes that the impacts on climate change of the Proposed Development weigh moderately against the case for development consent being given.**

Ground conditions

8.2.76. The ExA considers that ground conditions issues have been adequately assessed, and that the requirements of the ANPS, NPPF and the LP are met.

8.2.77. The construction and operation of the Proposed Development would avoid significant effects on ground conditions taking into account the ANPS and NPPF. Mitigation measures would be an integral part of the Proposed Development and would be appropriately secured through the dDCO and related documentation certified under Article 41 (eg CEMP, REAC and OEMP).

8.2.78. The ExA concludes that, on balance, there are no matters relating to ground conditions which would weigh against the granting of development consent.

Waste management

8.2.79. A SWMP will form part of the CEMP and OEMP. The SWMP will be prepared for use during the construction phase, which will set out the requirements for storage of site-won materials on site to ensure that the environment is protected.

8.2.80. All wastes generated as part of the operational phase will be handled and stored under appropriate waste management legislation, and substances handled during operational period would be managed under an appropriate spill response and site-specific OEMP (R7).

- 8.2.81. Given the evidence presented, the ExA considers that the issue of waste management has been addressed adequately and meets the requirements of the ANPS and NPPF.
- 8.2.82. Given this, **the ExA that the impacts on ground conditions of the Proposed Development are neutral when considering the case for development consent being given.**

Archaeology and the historic environment

- 8.2.83. The Heritage Assets and Public Benefit paper [[REP3-187](#), Appendix HE.1.2] states that less than substantial harm would be caused by the Proposed Development to three Scheduled Monuments, 10 Listed Buildings and two Conservation Areas, and the Applicant acknowledges [[REP6-012](#)] that considerable importance and weight should be given to any harm to designated heritage assets caused by the construction or operation of the proposed development, referring to the Barnwell case.
- 8.2.84. The ExA agrees with the above assessment; that the Proposed Development would cause less than substantial harm to 15 heritage assets. Furthermore, it considers that the Proposed Development would also cause limited harm to the character of the Conservation Areas in St Nicholas at Wade and Ramsgate due to the visual effects of aircraft. The proposal would be contrary in this respect to policy SP34 of the eLP.
- 8.2.85. There is no visual effect of aircraft on the two Conservation Areas at present, and the reopening of the airport would alter this. St Nicholas at Wade Conservation Area is a largely tranquil, rural Conservation Area. The reopening of the airport would see aircraft approaching Manston Airport over the village, roughly following the line of the High Street from west to east, marking a change to the rural character of the village. Furthermore, the proposed preferential runway proposals, likely to be in effect during the early years of operation, would direct more planes to approach Manston over the village (in order to lessen noise effects on Ramsgate). To receptors in the village planes would be seen above and have an adverse effect on the character and the appearance of the Conservation Area. Such harm would be at the lower end of less than substantial harm; nevertheless, harm would still occur.
- 8.2.86. Videos and photographs were produced in evidence of the previous effect of aircraft transiting over Ramsgate Royal Harbour [[REP3-283](#), NNF09 ref Photos and Map, [REP4-087](#), [REP4-090](#)]. Aircraft would be clearly visible to residents and visitors to the town, and clear views would be experienced above the openness of the Royal Harbour. While the ExA agrees that, in line with the ANM, this would not have a harmful effect in noise terms on the Conservation Area, there would be a visual effect. The juxtaposition of aircraft in the sky set against the Royal Harbour would have a harmful effect. As with St Nicholas at Wade such harm would be at the lower end of less than substantial, but harm would still occur. Some harm may also occur to the aims of the Ramsgate HAZ.

- 8.2.87. The provisions set in the final WSI [[REP9-008](#)] are generally agreed with KCC and are agreed with Historic England. The provisions would allow for the preservation of any significant archaeological remains found which would be achieved through the development of the Masterplan and detailed design. With the WSI in place, the ExA does not consider that harm would be caused by the Proposed Development in terms of archaeology. As such, the Proposed Development would comply with policies HE11 and H12 of the LP, and policy HE01 of the eLP.
- 8.2.88. The proposal would have the effect of removing two non-designated heritage assets; that of the T2 Hangar and the WWII Dispersal Bay. The Applicant considers that the loss could be appropriately mitigated by recording of the structures meaning residual harm would be less than substantial. The revised WSI notes that further survey and assessment of these structures would take place prior to development, and Historic England guidance effectively agrees that Manston is not among the most historically significant key military sites.
- 8.2.89. Based on the evidence provided and the changed nature of the T2 Hangar and the partial nature of the WWII Dispersal Bay, the ExA agree that further survey and assessment and the reporting of such works would be satisfactory measures to partially mitigate against harm caused by their proposed demolition.
- 8.2.90. The less than substantial harm caused by their demolition weighs against the Proposed Development and the Proposed Development would be contrary to policy HE03 of the eLP.
- 8.2.91. The Infrastructure Planning (Decisions) Regulations 2010 state that when deciding an application which affects a Listed Building or its setting, a Conservation Area, or which is likely to affect a Scheduled Monument or its setting, the decision-maker must have regard to the desirability of preserving the Listed Building or its setting or any features of special architectural or historic interest which it possesses, to the desirability of preserving or enhancing the character or appearance of the Conservation Area, or to the desirability of preserving the Scheduled Monument or its setting.
- 8.2.92. The ExA considers that the Proposed Development would cause less than substantial harm to three Scheduled Monuments, ten Listed Buildings and four Conservation Areas by adversely affecting the setting of the Listed Buildings and the Scheduled Monuments and by neither preserving nor enhancing the character or appearance of the stated Conservation Areas.
- 8.2.93. The ExA gives considerable importance and weight to such harm. Harm would also be caused by the demolition of the T2 Hangar and WWII Dispersal Bay, and to the aims of the HAZ. This assessment, aside from the demolition of the non-designated heritage assets on site is based upon the ES and the Applicant's forecasts.

- 8.2.94. The Applicant has asserted [[REP11-014](#)] that if such forecasts were not to be achieved then lesser harm would be caused to the identified heritage assets, but examination has not taken place of 'tipping points' by either the Applicant or the ExA.
- 8.2.95. The NPS states that when considering the impact of a Proposed Development on the significance of a designated heritage asset, the SoS will give great weight to the asset's conservation, and that given that heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 8.2.96. Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss. Where the Proposed Development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 8.2.97. Public benefits of the Proposed Development are summarised in the Applicant's Heritage Assets and Public Benefit paper [[REP3-187](#), Appendix HE.1.2]. These include heritage benefits (via the reuse of the airport and maintenance of historic character); GA benefits; benefits in terms of need for airport capacity; transport; employment; economic growth and regeneration benefits; education and training; leisure and tourism; social / community; environmental improvements; and health and wellbeing. Aside from heritage benefits, which the ExA has considered above to be neutral, the other stated benefits are considered in the relevant sections of this chapter.
- 8.2.98. Chapter 5 concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports, and the section of Chapter 6 that deals with traffic and transport concludes that the Proposed Development will result in some significant adverse effects and that the ExA is unable to find that the Proposed Development appropriately promotes sustainable modes of transport. Minimal public benefits therefore arise from the Proposed Development from these issues. The section in Chapter 6 dealing with socio-economics states that the ExA considers that the Proposed Development would generate a socio-economic benefit to Thanet and East Kent, but such benefits are substantially lower than that forecast by the applicant, also noting that such benefits are also dependent on the need for the Proposed Development; without the need and the forecasts based on this need, socio-economic benefits (aside from the education, training and skills commitments) would reduce further. Chapters relating to environmental issues do not consider that the Proposed Development would generate public benefits.
- 8.2.99. In essence therefore the harm caused by the Proposed Development to heritage assets should be weighed against the socio-economic benefits of

the Proposed Development. The ExA has considered this matter carefully and concludes that such public benefits would outweigh the harm caused by the Proposed Development to heritage assets, to which the ExA has ascribed considerable weight.

- 8.2.100. In coming to this view the ExA note that the socio-economic benefits of the Proposed Development would reduce were the need to be not as forecast by the Applicant but acknowledge in this respect that were such need to be reduced then harm caused to heritage assets would also be reduced (aside from the harm identified to the non-designated heritage assets on the development site).
- 8.2.101. The ExA also note that the results of this balancing exercise result purely from weighing the public benefits of the Proposed Development against any heritage harm. Such a balancing exercise does not take into account harm that may be caused by the Proposed Development to other planning matters.
- 8.2.102. Furthermore, given the conclusions of Chapter 5 that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports, and noting that heritage assets are irreplaceable, the ExA is also of the view that clear and convincing justification for the harm that the Proposed Development would cause to heritage assets has not been demonstrated by the Proposed Development.
- 8.2.103. Given this, **the ExA concludes that the impacts on heritage assets of the Proposed Development weigh moderately against the case for development consent being given.**

Landscape, design and visual impact

- 8.2.104. The ExA considers that the nature of the site as an existing but unused airport means that the site already impacts, and forms part of the existing landscape character of the area and contributes to degraded views.
- 8.2.105. The ExA considers that the character of the Proposed Development site is already somewhat degraded in nature due to the presence of the existing non-operating airport development. In light of the scale and massing of the full operational development, the ExA considers that there is still likely to be a negative effect on landscape character, although this, to some extent balanced by the placement of buildings within the Proposed Development and the inclusion of landscape mitigation measures and the proposed placement.
- 8.2.106. The ExA is of the view that whilst harm to visual receptors would result from the proposed development, that harm would not be substantial, taking into account the current degraded nature of the existing airport site.
- 8.2.107. The ExA considers that, with the recommended amendment to R4 and the additions to R7 and Schedule 10, adequate control by the LPA would

be in place to ensure that the approach to lighting in the Proposed Development, as set out in the ES and subsequent documents, is followed.

- 8.2.108. The ExA concludes that the visual impact of overflying aircraft will result in a negative impact, particularly in later years of operation when the peak ATMs are achieved, that is capable of only limited mitigation.
- 8.2.109. In terms of limits of deviation, the ExA concludes and recommends that Article 6(1) and 6(2) should be included as amended in the rdDCO and that this will allow sufficient control.
- 8.2.110. Turning to mitigation, the ExA considers that the dDCO provisions provide an appropriate basis to mitigate the landscape and visual impacts of the Proposed Development in consultation with the LPA.
- 8.2.111. The ExA concludes that the recommended amendment to R10 and the addition to Schedule 10 would allow adequate control by the LPA to seek to ensure that the approach to the landscaping of the Proposed Development, as set out in the draft landscaping plan, is secured.
- 8.2.112. In terms of phasing, the ExA concludes that, whilst the rdDCO does not control the phasing and development to maturity of planting, R10 serves to provide the LPA with the power and responsibility to ensure that planting is phased in relation to the implementation of the Proposed Development to maximise the screening and enhancement potential of that planting and to ensure that species are chosen which will serve those functions at the earliest possible time.
- 8.2.113. In terms of trees, the ExA concludes that the recommended amendments to R10 provide an adequate mechanism to ensure that any felling and lopping works are agreed with TDC and secures the provision of a landscaping scheme that is acceptable to TDC in advance of the start of construction of the Proposed Development.
- 8.2.114. The ExA concludes that the provisions of Article 13, R4, R7 and R10 are sufficient to enable the LPA and the street authority to ensure that the provisions in the ES for vegetative screening associated with the PRowS will be achieved.
- 8.2.115. The ExA considers that the design approach to the Proposed Development, particularly in terms of its built development, has made limited efforts to maximise the potential for a quality of design that reflects the potentially dynamic nature of this land use, its wider context and historic identity and which, importantly, signifies that the Proposed Development is, indeed, nationally significant.
- 8.2.116. However, the ExA recognises that the design of the Proposed Development has potential to evolve and that the proposals that have been examined do not, and cannot at this stage, form the final architectural approach. R4 – Detailed design of the dDCO partially addresses this matter, securing that the design of specific works must be approved by the LPA, the dDCO now provides scope for that authority to

secure a high standard of design in keeping both with its own policies and national guidance.

- 8.2.117. Overall, the ExA concludes that whilst the Proposed Development would have an adverse effect on receptors and on landscape character - balanced by the degraded nature of the site - and adverse effect on the setting of and views into the Proposed Development, including at night, the significance of these would be lessened by the proposed planting schemes and masterplanning.
- 8.2.118. Further, whilst a more aspirational design could have been promoted in the application documents, R4 goes some way to address this matter and requires the design of specific works to be approved by the LPA and this provides scope for that authority to secure a high standard of design.
- 8.2.119. The ExA considers that the Applicant has designed the Proposed Development to minimise lighting impacts. The ExA concludes that the amendment to R4 and the additions to R7 and Schedule 10 would allow adequate control by the LPA to seek to ensure that the approach to lighting in the Proposed Development as set out in the ES and subsequent documents is adhered to and conforms, *inter alia*, to eLP Policy SE08.
- 8.2.120. Given this, **the ExA concludes that the impacts on landscape and visual impact of the Proposed Development are neutral when considering the case for development consent being given.**

Noise and vibration

- 8.2.121. The ExA considered the appropriate noise contour to represent the noise insulation policy threshold and concluded that this should be 60dB, LAeq based on emerging policy. Whilst this will avoid exceedance of SOAEL, aviation will give rise to adverse effects not currently experienced by the local communities in Thanet.
- 8.2.122. The ExA considered the potential impact of construction noise on residents including during the night-time period and concluded that the mitigation measures set out in the CEMP and REAC that are described as best practicable means and are discharged by TDC provide the appropriate means of controlling construction noise.
- 8.2.123. The ExA considered the proposal for uncapped ATMs to be consented in the Applicant's original dDCO [[APP-006](#)] and concluded that R21, which provides an ATM limit was required to ensure that the dDCO would reflect the worst-case assessment presented in the ES.
- 8.2.124. The ExA considered the potential impact of night flights. Recognising that night flights were a main source of concern for communities that would be affected by aviation noise and taking into consideration the policy commitments regarding night noise in the ANPS, the ExA proposed R21 to restrict scheduled flights between 23:00 and 06:00 and R9 which restricts noisier aircraft between 06:00 to 07:00. The ExA concludes that these measures would help to largely avoid night flight noise, although

the possibility that emergency flights and flights for humanitarian purposes may still occur in the night-time period means that the potential for night noise flight impacts cannot be entirely excluded.

- 8.2.125. The ExA considered the application of noise QCs to control noise impacts. R9 proposed by the ExA and accepted by the Applicant, sets a QC for aircraft in the 06:00 to 07:00 period and restricts noisier aircraft with QC 4, 8 or 16. The ExA concludes that this measure mitigates noise in the late part of the night-time quota period.
- 8.2.126. The ExA considered the use of a prospective contour to limit annual noise emissions. The contour area and relevant noise contours are secured in R9 was proposed by the ExA and accepted by the Applicant. The ExA concluded that the contour area cap represents a reasonable approach to mitigate and minimise the population exposed to aircraft noise above the day and night-time LOAEL.
- 8.2.127. The ExA considered the relevance of the ACP process to noise controls. The ExA concluded that material changes in flight paths and the introduction of new or materially different significant effects introduced by the ACP process could require the Applicant to apply for a material change. The ExA concluded that the ACP process had no weight in making its conclusion and recommendation.
- 8.2.128. The ExA considered the implication of alternative flight operations for mitigating noise, in particular runway preferences. The ExA concluded that runway preferences did not contribute any mitigation for noise effects because it would be part of the ACP process.
- 8.2.129. The ExA considered whether it was appropriate to model aviation noise with INM. The ExA concluded that INM was an appropriate modelling tool.
- 8.2.130. The ExA considered potential uncertainty in the modelling of noise impacts. The ExA concluded that uncertainty in the modelling outputs had been assessed but could give rise to additional noise effects on schools.
- 8.2.131. The ExA considered alternative noise contours produced by Five10Twelve and NNF and concluded that differences in modelling outputs were due to differences in modelling assumptions. The ExA concluded that it was appropriate to draw conclusions on the Applicant's, rather than alternative, noise contours.
- 8.2.132. The ExA recognises that, in commissioning these alternative contours, Five10Twelve and NNF contributed greatly to the quality and focus of the discussions on this issue and to the robustness of the Examination.
- 8.2.133. The ExA considered the impact of road traffic modelling and the cumulative effect of road traffic with aviation noise. The ExA considered that road traffic and cumulative noise had been adequately assessed and is adequately mitigated via Requirements secured in the dDCO.

- 8.2.134. The ExA considered impacts on residential caravans. The ExA concluded that although the NMP had been updated to consider noise insulation of caravans, there remained potential that noise mitigation might not be possible and that SOAEL could be exceeded for up to residential caravan owners at Smugglers Leap.
- 8.2.135. The ExA considered whether the Applicant was required to provide noise insulation in respect of Manston Green properties. The ExA concluded that the responsibility for noise insulation is set out in Cogent's existing permission for Manston Green.
- 8.2.136. The ExA considered the impact of the Proposed Development on schools and the thresholds for noise insulation. The ExA concluded that with the restriction of passenger ATMs during the period 09:00 to 12:00 and with additional committed funds in the Section 106 UU, significant adverse noise effects would be avoided for schools.
- 8.2.137. The ExA considered proposals for noise monitoring and concludes that R23, proposed by the ExA and accepted by the Applicant, provides an effective control for monitoring, auditing and reporting aircraft noise and mitigating noise effects of the Proposed Development.
- 8.2.138. The ExA considered the role of the Community Consultative Committee and concluded that this would ensure timely delivery of the Applicant's noise mitigation commitments.
- 8.2.139. The ExA considered the potential health effects of noise on local communities. The ExA concludes that noise insulation and ventilation measures will mitigate and minimise noise effects for residents in closest proximity to the airport subject to the more significant noise impacts and will result in a minimisation of potential health impacts.
- 8.2.140. The ExA considered the potential health effects of noise on local on caravan parks and is unable to conclude that noise insulation and ventilation measures for caravans will mitigate and minimise noise effects. Therefore, the ExA cannot rule out the possibility of potential health effects on caravan occupants.
- 8.2.141. The ExA considered the implications of noise impacts from a Human Rights perspective.
- 8.2.142. The ExA concludes that the Applicant has been unable to demonstrate sufficient need for its proposals, additional to (or different from) the need which is met by the provision of existing airports, socio-economic benefits of the development are overstated, the benefits are further reduced with the residual noise impacts.
- 8.2.143. The ExA concludes that the proposed interference with the Human Rights of individuals is not justified in the public interest and the degree of interference would not be proportionate.
- 8.2.144. In respect of the PSED, the ExA concludes that the Applicant will not be discriminatory in terms of noise effects from the Proposed Development

because of the measures secured in the dDCO which will mitigate and minimise noise effects.

8.2.145. The NPSE states at paragraph 1.7 that:

"Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life."*

8.2.146. These requirements are mirrored in the ANPS.

8.2.147. The ExAs overall assessment of the NPSE aims is that with regard to the three aims in NPSE in paragraph 1.7:

- The ExA concludes and recommends that it has only been able to reach this overall conclusion following the proposed introduction by the ExA of the restrictions and other mitigation measures described above and stresses that should the SoS make the DCO but not include the new Requirements set out in this section, then the ExA's conclusion and recommendation would not stand.
- The ExA concludes that the Proposed Development does on balance meet the first aim of the NPSE to avoid significant adverse impacts on health and quality of life from noise for residential and schools receptors, however the ExA considers that uncertainty in the assessment ie certainty regarding the efficacy of mitigation for up to 40 residential caravan owners means that all significant effects are not avoided. If this is the case the Applicant will consider relocation. But relocation has likely significant effects on health and quality of life, therefore in the ExA's opinion it fails to satisfy the first aim of the NPSE.
- The ExA concludes that on balance the Proposed Development can be said to meet the second aim of mitigating and minimising adverse impacts on health and quality of life from noise.
- The ExA notes that the third aim is to be achieved 'where possible' and consider that the Proposed Development in introducing a new airport cannot be concluded to improve health and quality of life from a noise perspective. However, the ExA notes that this aim is only to be applied where possible, therefore the ExA agrees that the Applicant has demonstrated that it has addressed this third aim of the NPSE.

8.2.148. The ExA notes the Applicant has produced a UU which includes annual financial contributions for monitoring and for school insulation and ventilation mitigation [[AS-584](#)].

8.2.149. Following the ExA's amendments to the dDCO [[PD-018](#)] related to the control of noise and appropriate mitigation, and given the evidence presented, the Proposed Development generally accords with paragraph

1.7 of NPSE, paragraph 5.68 of the ANPS, NPPF paragraphs 170 and 180, Noise PPG 001-012 and policy in the LP with respect to Kent International Airport (EC2).

- 8.2.150. Given this, **the ExA concludes that the impacts of noise and vibration resulting from of the Proposed Development weigh moderately against the case for development consent being given.**

Operations

Runway usage

- 8.2.151. On the basis of the technical evidence provided to the Examination it is reasonable to assume, as the Applicant states [[REP4-022](#)], that the only operational measure to reduce noise impacts of the proposal would be the use of the preferred runway and that this would only be feasible around 2/3 of the time, when the movement rate is five movements or less per hour. Once traffic levels were above this level, or wind speed was too high or weather conditions too wet (1/3 of the time) then aircraft would revert to taking off and landing into the headwind; that is predominantly landing over Ramsgate and taking off towards the west.
- 8.2.152. This aspect of the Proposed Development complies with Policy EC2(4) of the LP, in that the application has assessed the effectiveness of operational measures to mitigate noise impacts of the proposals.
- 8.2.153. The ExA notes the understandable concerns of some IPs concerning the risks of accidents associated with the operations of the Proposed Development. The CAA works to ensure that the aviation industry meets the highest safety standards and would apply this through the Aerodrome Certification process, which is ongoing and audited through operation. The ACP would also take into account matters of safety. The APF notes that air transport is one of the safest forms of travel and states that the UK is a world leader in aviation safety, and that maintaining and improving that record remains of primary importance to the UK.
- 8.2.154. The ExA concludes and recommends that evidence submitted by the Applicant demonstrates that an inset threshold on the runway or the use of steeper glideslopes would not be feasible for the Proposed Development.

Scale and capacity

- 8.2.155. There is a wide disparity between the Applicant's proposed 19 Code E stands and York Aviation's calculation of nine stands with an additional one for resilience, and the difference of nine stands represents a substantial area of land. Based on evidence regarding MARS and operations at EMA it appears unlikely that 19 stands would be needed for the forecast levels of traffic. While appreciating that it may be unclear if MARS would work at the airport without knowing traffic levels and that initially it may prove difficult, once the airport was of a sufficient size

traffic levels would become a lot more established and known the airport operators, allowing MARS to be used, providing efficiencies.

- 8.2.156. Therefore, while the ExA does not comment specifically on the exact number of stands which may be required to meet the forecasts, from the evidence provided the ExA concludes that 19 Code E stands would represent a substantial overprovision. This is considered further in Chapter 9 on CA, below.
- 8.2.157. With regards to the size of cargo warehouses, while there are sizable variations between the numbers produced by the applicant and York Aviation, the ExA notes that there is limited categorical evidence over the size of facilities at EMA provided. There are also difficulties with the comparison due to the different mix of freight types at EMA compared with the Proposed Development and due to considerations of road-based freight.
- 8.2.158. When considering the ratio produced by the Applicant in related to the IATA guidance the ExA concludes that the size of the proposed warehousing is justifiable. In coming to this view the ExA note the levels of automation which may be possible but also note that this may not be entirely possible for general freight at an early stage.

Northern Grass Area

- 8.2.159. The Applicant frequently made the point that the proposed uses provided for the NGA are illustrative but are a best estimate of what kind of uses may be required close to the airport site. In a similar vein therefore, it is difficult for the ExA to come to a comprehensive view on whether the scale and capacity of the proposed uses is realistic. Certainly, some of the uses proposed, such as the public transport vehicle depot, travel and information centre, two MRO operator office suites and parts reception and a computer service supplier appear to be oversized or uses more suited to an airside location or location straddling the two areas such as airside equipment / maintenance or integrator uses.
- 8.2.160. In this respect the ExA note the limited space available around the airport itself in an airside location. However, the reduction of space for airside cargo stands could assist in this regard, but equally this could restrict future operations somewhat.
- 8.2.161. Overall when considering the proposed uses and noting the illustrative nature of the proposed development for the NGA the ExA concludes that insufficient justification has been provided for the entirety of the NGA development in terms of required space for scale and capacity and its relationship to the airport. This is considered further in Chapter 9 on CA and Chapter 10 on the dDCO, below.

Aerodrome Certificate

- 8.2.162. Immediately prior to the closure of the Examination the Applicant acquired much of the land required for the Proposed Development. Given this, and the timeline produced in evidence of preparatory work being

complete around the end of 2020 and a 6 to 12 period then for the CAA to issue a certificate, the ExA considers that it appears likely that an Aerodrome Certificate could be in place between the middle to end of 2021. In coming to this conclusion, the ExA is focussing on the process and not pre-judging any possible outcome of the aerodrome certification process.

Airspace Change Process

- 8.2.163. Based on the evidence provided the ExA see no reason to disagree with the evidence of the Applicant that the ACP could be complete by March 2022, and that such a programme would not conflict with the wider FASI(S) proposal for air traffic route structures in the southern part of the UK. In coming to this conclusion, the ExA is focussing on the process and not pre-judging any possible outcome of the ACP.

Public Safety Zones

- 8.2.164. The letter produced in evidence from the CAA [[REP7-014](#), Appendix OP.2.7] states that as a matter of policy the DfT applies PSZs at aerodromes that have more than 1,500 movements a month and which are likely in due course to exceed 2,500 movements. When this is combined with the information in the Circular that PSZs are based upon risk contours modelled looking fifteen years ahead it is fairly clear that based on the forecasts supplied by the Applicant, PSZs would need to be put in place around the 4th or 5th year of operation of the Proposed Development.
- 8.2.165. Whilst noting that the ES addendum considered the worst-case scenario based on other airports (London Stansted), it is reasonably clear to the ExA that the 1:100,000 risk contour would cover a sizable area of Ramsgate to the east of the runway, potentially including much of the Nethercourt Estate and further east towards the heart of the town, the Circular notes that there is a general presumption against new or replacement development, or changes of use of existing buildings, within PSZs, and no new or replacement houses, mobile homes, caravan sites or other residential buildings should be permitted, nor should new or replacement non-residential development be permitted.
- 8.2.166. This would have a significant effect on development proposals under the 1:100,000 risk contour, having as TDC state, significant implications for planning policy, with potentially two housing sites in the eLP as well as theoretically a significant number of windfall sites provided for in the plan. Any effect on such development would have a knock-on effect on the regeneration and positive socio-economic effects of such proposed housing.
- 8.2.167. In coming to this conclusion, the ExA has had regard to the letter from the SoSHCLG to TDC in January 2019 stating his concerns about the low level of housing supply and delivery in Thanet [[REP2-016](#)].
- 8.2.168. The ExA concludes that while the PSZ would be produced by the CAA and implemented by TDC, it would occur as a direct result of the Proposed

Development, and its negative effects weigh against the Proposed Development. While regulations may alter over time, the Circular dates from 2010 and PSZs have been in place for a number of years; therefore in considering this issue the ExA has not based its conclusions on the argument that by the time a PSZ is needed regulations may have changed.

Safeguarding

- 8.2.169. Based on the evidence provided, including the SoCG with Vattenfall, the ExA does not conclude that safeguarding would present an impediment to the Proposed Development, and could be dealt with under the relevant CAA and TDC requirements if and when necessary.

High Resolution Direction Finder

- 8.2.170. The HRDF was the subject of much debate during the Examination and the Applicant and the MoD remained some way apart from agreement at the end of the Examination.
- 8.2.171. The position remains that the MoD maintains its objection to the DCO, considering that the proposals would have a significant and detrimental impact on the capability of safeguarded technical equipment located within the boundaries of the development, and no acceptable scheme detailing location, specification of equipment or technical mitigation has been submitted for the provision of what would be a replacement HRDF system.
- 8.2.172. The ExA concludes that while it is clear that the Applicant has dealt seriously with the issue, at the close of the Examination there is no guarantee that the HRDF can be moved, and as such it has to be considered as a significant risk to the Proposed Development.

Summary

- 8.2.173. The ExA considers that there remain doubts over the number of stands proposed and the level of development proposed for the NGA, as well as there being no guarantee that the HRDF can be moved.
- 8.2.174. The ExA also concludes that a PSZ would be required for the Proposed Development and that the negative effects of this weigh against the Proposed Development.
- 8.2.175. Other operational matters do not weigh against the Proposed Development.
- 8.2.176. Given this, **the ExA concludes that operational matters weigh moderately against the case for development consent being given.**

Socio-economics

Employment

- 8.2.177. The ExA considers based on the evidence provided, that a ratio lower than that used in the Azimuth Report [[APP-085](#)] (887 jobs per 1mppa or 100,000 tonnes of freight) should be applied to calculations of direct job figures. Removing the non-aviation jobs from EMA results in a ratio of some 718 jobs per 1mppa or 100,000 tonnes of freight and Prestwick figures from York Aviation uses a ratio of 650 jobs. Given the proposal's aim for MRO and ancillary businesses on the NGA which may not have the same market at Prestwick's location it would seem reasonable to the ExA to adopt the EMA aviation figure. Using such a ratio would result in direct jobs at the airport around 19% lower than forecast in the Azimuth Report.
- 8.2.178. With regards to indirect / induced job figures, the job creation numbers of the proposal as outlined in Table 4 of the Azimuth Report would be more likely to benefit the wider UK, as opposed to the wider Thames Estuary area. Numbers which would benefit this area or more locally (Thanet and East Kent) would be considerably less. It is not 'nitpicking' [[REP9-006](#), SE.4.4] to consider where such benefits might accrue if they result in areas away from where the socio-economic assessment seeks to benefit and ascribe such benefits to. With reference to the comments of TDC in its LIR, while it would appear to the ExA that, notwithstanding the ExA's conclusions above concerning direct jobs, the predicted indirect and induced jobs arising from the Proposed Development may be realistic, achievable and robustly assessed, this would be for the national level and not for Thanet, East Kent, or the wider Thames Estuary area.
- 8.2.179. The ExA considers that the catalytic job numbers calculation uses a crude multiplier. An assessment of individual business benefits and their implication for Thanet / East Kent / Kent would be more useful than a multiplier used by ICAO at a global level. The multiplier arrived at has, in the ExA's opinion, too many caveats to be more than broadly useful, and while it may provide some assessment of potential, without further study and consideration it is not possible to ascertain whether such benefits could be realised at the local level.
- 8.2.180. To summarise therefore, the ExA has significant doubts over the calculation of the direct, indirect / induced, and catalytic job numbers contained within the Azimuth Report. Such doubts arise from both the calculation of the individual figures themselves, and the fact that due to doubts over the direct job figures that the subsequent calculation of the indirect / induced and catalytic job figures derive from these initial direct job figures. The direct job levels are likely to be lower than those shown in the Azimuth Report, in turn leading to lower indirect / induced and catalytic jobs. Furthermore, the ratios used for the calculation of indirect / induced and catalytic are also in doubt and are poorly defined for the study area.
- 8.2.181. The displacement effects of the proposed development would inevitably mean the loss of some jobs elsewhere in the UK, both at a regional and national level. These have not been examined in the same way by the Applicant as the benefits from the Proposed Development have been considered (for indirect and induced, and catalytic jobs). Such an

assessment should have been carried out within the socio-economic assessment.

- 8.2.182. The calculation of airport operator jobs within the Azimuth Report [[APP-085](#)], based on the range of jobs they would be carrying out (including freight handling) and the example of EMA is justified, and the Applicant's approach to mechanisation and calculation of construction jobs is also justified; as are job figures for other direct jobs. It should be noted however that the job figures for the airport operator and other direct jobs are included within the overall conclusions regarding direct jobs above.
- 8.2.183. The Proposed Development would comply with Policy SP02 of the eLP in that the proposal would contribute to additional jobs in Thanet, although as discussed above, the ExA do not consider that the jobs created would be to the same extent as forecast by the Applicant.

Tourism

- 8.2.184. The ExA concludes that while the Proposed Development may bring further tourists to the wider area, the amenity impacts from the construction and operation of the Proposed Development would adversely affect the tourism industry in Ramsgate. Examples of other UK coastal airports did not provide examples of airports with runways which were so closely located and orientated towards a coastal resort such as would be the case with the Proposed Development. Estimates of overnight stays (initially of nearly 1,000 visitors per night) that would be brought in by the Proposed Development are over-ambitious and were later qualified during the Examination.
- 8.2.185. The ExA is unconvinced that the Proposed Development would attract significant numbers of older passengers and considers that the overall tourism benefits of the Proposed Development have been overstated.
- 8.2.186. The argument that the airport may bring tourism benefits to other parts of Thanet and East Kent and that this in some way mitigates any adverse effect on Ramsgate is likely to be of little comfort to the residents and tourist business holders of Ramsgate. However, given the above, overall the Proposed Development would comply with Policy SP02 of the eLP in that it would increase the attraction of tourists to the area.

Education, training and skills

- 8.2.187. The ExA considers that the project has the potential to have a significant positive impact in terms of education, training and skills for Thanet and the wider East Kent area due to the contribution secured by the Section 106 UU of an initial £250,000 and further 20 annual payments of £50,000 (a total undertaking of £1.25m) and ensure that the required education, employment and skills plan is properly enacted and implemented. A missed opportunity arises from the fact that the initial payment is not required until prior to ATMs occurring at the airport, meaning that provisions for local employment and training during construction may be missed.

Summary

- 8.2.188. Overall, the ExA considers that the socio-economic benefits of the Proposed Development have been overstated, and that the Proposed Development would have an adverse effect on tourism in Ramsgate. The education, training and skills commitments would benefit Thanet and East Kent. When taken together the ExA considers that the Proposed Development would still generate a socio-economic benefit to Thanet and East Kent, but such benefits are substantially lower than that forecast by the Applicant. Such benefits are also dependent on the need for the Proposed Development; without the need and the forecasts based on this need, socio-economic benefits (aside from the education, training and skills commitments) would reduce further.
- 8.2.189. Given this, **the ExA concludes that the socio-economic benefits of the Proposed Development weigh moderately in favour of the case for development consent being given.**

Statutory nuisance

- 8.2.190. The ExA is content that the Applicant has appropriately identified the scope of potential nuisance sources from the construction and operation of the Proposed Development. The ExA is also content that the Applicant has provided appropriate mitigation for foreseeable nuisance types and secured this in the DCO, via the requirements and references to the R6 - CEMP and R7 - OEMP. The ExA concludes that with the applied and secured mitigation, the risk of nuisance occurring will be negligible.
- 8.2.191. Article 38 of the rdDCO contains a defence to proceedings in respect of statutory nuisance of a type that is commonly provided for NSIPs. The ExA agrees that the necessary steps to reduce the risk of nuisance events have been taken and that this provision is not a buffer against the consequences of poor practice. It exists and is an appropriate provision against circumstances where unforeseen but unavoidable nuisance occurs.

Transport

Assessment

- 8.2.192. The ExA has found that when the original TA and revised TA are considered with the additional work (Technical Notes) undertaken by the Applicant during the Examination, overall, the assessment of impact has been robust. The ExA is of the view that there is a need to place restrictions on passenger flight departures and arrivals around the AM and PM Peak periods, to ensure that there is no impact on the highway network above what has been assessed by the Applicant in the ES.

Accessibility

- 8.2.193. The Proposed Development would make provision for 'Blue Badge' parking spaces close to the passenger terminal, as set out in the revised CPMS [REP8-017].

- 8.2.194. Further, the ExA considers that with the imposition of the ExA's recommended R7(4) there would be sufficient provision of bus services, which may allow older people and those with disabilities to access the airport by means other than a private motor vehicle.
- 8.2.195. Consequently, the ExA considers that the Proposed Development has made all reasonable attempts to ensure that the airport would be accessible for users with additional needs.
- 8.2.196. However, the ExA is unable to reach a firm conclusion with regard to whether the Proposed Development appropriately promotes sustainable modes of transport and recommends to the SoS that clarification is sought on several related matters.
- 8.2.197. Consequently, at the current time the ExA concludes that the Proposed Development conflicts with paragraphs 4.74 and 4.76 of the ANPS in terms of accessibility.

Strategic Road Network

- 8.2.198. The ExA is satisfied that the Proposed Development will not have any material adverse impacts on the SRN and no mitigation is required in this regard. Highways England withdrew its objection and KCC did not raise any outstanding objections on this point. In addition, the ExA considers the Proposed Development complies with the NPSNN.

Local Road Network

- 8.2.199. The ExA is content that the improvement schemes proposed by the Applicant at junctions 1, 2, 4, 6, 7, 10, 15, 16 and 17 are appropriate. The ExA has found that there is no need for any mitigation at junctions 8 and 25.
- 8.2.200. The ExA considers that there are doubts whether the improvement scheme at Junction 13 is deliverable and in the absence of the implementation of the Manston-Haine link road, the ExA considers that a major adverse significant effect and severe impact on Junction 13, cannot be ruled out. Whilst junctions 20 and 21 are proposed to be upgraded through the Manston Green development, the delivery of this cannot be guaranteed. The ExA therefore concludes that there is a risk of significant adverse effects or a severe impact.
- 8.2.201. In the absence of the delivery of the ICRIS, including the Manston-Haine link road, it has been found there would be some minor impacts on junctions 26 and 27. In a similar manner, there would be a worsening of highway safety at the Spitfire Way / Alland Grange junction due to its increased usage as a result of the Proposed Development.
- 8.2.202. The ExA considers that the proposed development would have a severe impact on the A256 / Ash Road / A257 junction that would not be mitigated as part of the development.

- 8.2.203. The ExA accepts that the provision of financial contributions to KCC is an appropriate mechanism to secure the junction improvement works and that the Section 106 UU [[AS-583](#)] secures this provision. However, the ExA is not satisfied that the amount or timing of the financial contributions has been adequately calculated. As a result, the full impact of the Proposed Development on the local highway network may not be mitigated and / or it could lead to short term severe impacts before necessary mitigation is required and delivered.
- 8.2.204. In terms of on-site works, the ExA has found that the cargo facility, NGA West, passenger terminal and NGA South and fuel farm accesses are all appropriate to serve the Proposed Development. The ExA has found several issues associated with Junction 12. The ExA considers that there would be major adverse – significant effects and severe impacts at this junction.
- 8.2.205. The ExA has considered the Applicant’s approach to the Manston-Haine link road thoroughly and consider it to represent a reasonable and pragmatic approach to contributing to its delivery, in accordance with the draft TTS and Policy SP47 of the eLP. The ExA considers this to be a matter of neutral weight.

Construction traffic

- 8.2.206. There would be no unacceptable impacts from construction traffic and the ExA is satisfied with the measures proposed in the CTMP and that these form an appropriate basis to agree a final version through R6 in the rdDCO.

Encouraging sustainable modes of transport

- 8.2.207. The ExA considers that the modal targets set out in the draft TP are appropriate and that the measures to achieve and monitor these in the draft TP offer a reasonable basis to inform the agreement of the final version.
- 8.2.208. Whilst the ExA is not content that the financial contribution of £150,000 for enhancing existing bus services is sufficient, it is accepted that it is too early to have meaningful discussions with local operators and KCC due to the uncertainties about bus services and therefore what can reasonably be achieved. Based on this, the ExA considers that an appropriate way forward would be to require the Applicant to agree a scheme of enhancement to existing local services and the provision of a shuttle bus(es), as secured in the ExA’s rdDCO at R7(4).
- 8.2.209. The ExA considers that the ASAS and CPMS form an appropriate basis to agree the final versions required by R7 of the ExA’s rdDCO. In terms of the Applicant’s proposed CPZ and associated financial contribution to TDC, the ExA has been unable to reach a robust view on this issue due to the very late submission of it in the Examination. The ExA recommends to the SoS that the views of TDC are sought before reaching a conclusion on this matter. However, at the current time the ExA considers this must weigh against the Proposed Development.

- 8.2.210. In a similar manner, the ExA was not able to fully examine the matter of improvements to the PRoW to Manston village to allow pedestrian access and the Applicant's position is somewhat unclear in this regard. The ExA recommends that the SoS seeks clarification from the Applicant and KCC if necessary, on these matters. However, at the current time it must weigh against the Proposed Development.
- 8.2.211. The ExA shares the concern of KCC that the issues associated with Junction 12 and the footpath pinch point could undermine the ability to achieve the mode share targets for cycling set out within the draft TP [[REP9-016](#)].
- 8.2.212. The ExA is unable to reach a firm conclusion with regard to whether the Proposed Development appropriately seeks to promote sustainable modes of transport. The ExA recommends clarification is sought from the relevant parties as set out above, before coming to a view on this matter. However, at the current time it must weigh against the Proposed Development.

Operation Stack / Brock

- 8.2.213. The ExA acknowledges that the effects of Brexit are still uncertain, but based on the evidence provided to the Examination, the ExA is content, as far as it can be, that Operation Stack / Brock and the provisions of The Town and Country Planning (Manston Airport) Special Development Order 2019 will not have a detrimental impact on the Proposed Development.

Public Rights of Way

- 8.2.214. The ExA concludes and recommends that the proposed closure of a short stretch of TR9 and the re-routing of a stretch of TR8 are both necessary and proportionate.
- 8.2.215. The ExA considers that the mitigation proposed in the form of the upgrading of stretches of TR8 and TR10 is potentially beneficial but, given the limited nature of the mitigation proposed and the uncertainty of the adequacy of the funding proposed for it, the ExA has not considered the mitigation in coming to the recommendation above.

Summary

- 8.2.216. In overall conclusion on traffic and transport, the ExA considers that the Proposed Development will result in some significant adverse effects and severe impacts on the LRN. This runs contrary to the ANPS, NPPF, PPG, policies EC2 and TR3 of the LP, Policy SP43 of the eLP and LTP4.
- 8.2.217. Further, the ExA finds that the Proposed Development does not appropriately promote sustainable modes of transport. Whilst the Proposed Development would help to deliver the link road, the ExA is of the view that this is a matter of neutral weight.

8.2.218. Given this, **the ExA concludes that matters related to traffic and transport weigh substantially against the case for development consent being given.**

Water resources

8.2.219. The ExA is satisfied that the Environment Agency, Natural England, KCC, TDC and Southern Water concerns regarding effects from the Proposed Development on water resources have been dealt with adequately by the Applicant via DCO Requirements:

- R6 - CEMP;
- R7 – OEMP and REAC;
- R11 – Contaminated land and groundwater;
- R13 – Surface and foul water drainage;
- R15 – Piling and other intrusive works; and
- R23 – Monitoring.

8.2.220. The CEMP and REAC includes measures to identify and control any water resources effects that may emerge before construction starts or during the construction period.

8.2.221. Given the evidence presented, the ExA concludes and recommends that water resources issues have been adequately assessed, and that the requirements of the ANPS and NPPF are met.

8.2.222. The ExA's overall conclusion is that the construction and operation of the Proposed Development would avoid significant effects on water resources in accordance with the ANPS (paragraphs 5.147 to 5.186) and NPPF (paragraphs 155 to 165).

8.2.223. The ExA concludes and recommends that mitigation measures would be an integral part of the Proposed Development and would be appropriately secured through the rdDCO and related documentation certified under Article 41 (eg CEMP, REAC and OEMP).

8.2.224. The ExA concludes that there are no water resources issues that would weigh against granting development consent.

Flood Risk

8.2.225. The ExA notes that site discharge in the construction phase will be collected on site and either discharged, following treatment, through the pipe to Pegwell Bay or removed from the site via tankers. The ExA concludes there will be no increase in surface water run-off from the site and therefore no anticipated increase in surface water flood risk on or off the site. The ExA concludes that any likely significant effects will be negligible.

8.2.226. During the operational phase, all site drainage will be similarly contained and discharged through the Pegwell Bay pipe. The system will be designed to mitigate onsite flood risk and offsite flood risk for any HH+ climate change event. The ExA notes that the site is in Flood Risk Zone 1

and therefore no sequential test is required. The ExA concludes there will be no increase in uncontrolled site run-off as a result of the increase in hardstanding. The ExA agrees with the FRA [APP-048] conclusion that all effects will be negligible.

- 8.2.227. Given this, **the ExA concludes that matters related to water resources are neutral in the case for development consent being given.**

Habitats Regulation Assessment

- 8.2.228. Drawing from the information provided in the application and all documentation received pertaining to the Examination as a whole, the ExA has summarised its understanding of HRA-relevant matters in the RIES [PD-019].
- 8.2.229. Following publication of the RIES and following ISH6, matters were identified by Natural England (in relation to impacts on turnstones that are features of the Thanet Coast and Sandwich Bay SPA and Ramsar) and the ExA (in relation to the air quality assessment to be relied on) that were subject to examination through ExQ4 [PD-020].
- 8.2.230. The Applicant responded to these matters in its representations at D9 [REP9-006, REP9-010] and D10 [REP10-002], as did other IPs and statutory consultees. The ExA was satisfied with the Applicant's response in relation to turnstones, the conclusions of which were agreed with Natural England [REP10-007]. Whilst Natural England's comments on the RIES [REP10-007] suggest that there are no outstanding matters of concern in relation to the Applicant's assessment of no AEOI, its comments in response to ExQ4 [REP9-025] identify that:
- "If the Applicant now wishes to rely on the original Transport Assessment which did not include a Manston-Haine link road, then Natural England's view is that the air quality assessment would have to be re-done. This is because the original air quality assessment contained numerous inaccuracies and did not contain an in combination assessment."*
- 8.2.231. The Applicant was provided an opportunity in the form of Ec.4.5 [PD-020] to provide certainty regarding the air quality assessment.
- 8.2.232. The Applicant stated [REP9-006] that:

"ii. The original air quality assessment, reached similar conclusions to those reported in the ES Addendum. It was not updated to take into account Natural England's comments as the revised TA and data associated with the Thanet Strategic Transport Model had, by then become the primary basis for assessment. Nonetheless, it may be necessary to make minor updates to the air quality assessment contained in the original ES to be certain that NE would be completely satisfied. Given the similarity of results between the two assessments, this would seem entirely unnecessary. As has been noted in other parts of the Applicant's submission, the original TA (and any results associated with

it) should be considered as a highly robust sensitivity test for issues such as this and not as a limitation to the assessment."

- 8.2.233. The ExA does not consider that the revised TA, which assumes an implemented Manston-Haine link road, can be considered to represent a robust sensitivity test for the Proposed Development in the absence of a secured link road. This is because the revised air quality assessment is based on unsecured transport assumptions. The ExA considers that although the changes in overall emissions are predicted to be limited, no updated air quality assessment, based on the original TA was provided to address the ExA or Natural England comments regarding the robustness of the original air quality assessment. Consequently, the Applicant has not demonstrated that the outcome to the assessment is beyond reasonable scientific doubt.
- 8.2.234. The ExA lacks comfort that a robust air quality screening and assessment underpins the habitats regulations assessment provided by the Applicant [[REP7a-014](#)].
- 8.2.235. Regulation 63(5) of The Conservation of Habitats and Species Regulations 2017 states that:
- "In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site".*
- 8.2.236. On the basis that the ExA is not in receipt of all of the relevant information and applying the precautionary principle the ExA does not consider that it is possible at this stage to conclude beyond reasonable scientific doubt that the project will not have an AEOI for the Swale SPA and Ramsar sites (which were screened out of assessment based on the updated air quality assessments provided during the Examination) and the Sandwich Bay SAC and the Thanet Coast and Sandwich Bay Ramsar site (which rely on the air quality assessments for their conclusion of no AEOI).
- 8.2.237. Regulation 64(1) of The Conservation of Habitats and Species Regulations 2017 states that:
- "If the competent authority is satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (2), may be of a social or economic nature), it may agree to the plan or project notwithstanding a negative assessment of the implications for the European site or the European offshore marine site (as the case may be)."*
- 8.2.238. The Applicant did not attempt to pursue any other argument available in terms of derogations.
- 8.2.239. In examining the application, the ExA has not:

- Been able to ascertain that the project will not adversely affect the integrity of the Swale SPA and Ramsar and the Sandwich Bay SAC and the Thanet Coast and Sandwich Bay Ramsar sites; or
- been presented with information to inform conclusions regarding alternative solutions or imperative reasons of overriding public interest either as part of the application material or during the Examination.

8.2.240. Therefore, following Regulation 63(5) of The Conservation of Habitats and Species Regulations 2017, **the ExA concludes that it is required to recommend refusal to the SoS as the competent authority for the decision as to whether to grant development consent.**

8.3. THE CASE FOR DEVELOPMENT CONSENT

8.3.1. The ExA has found that the Proposed Development will result in demonstrable benefits in terms of socio-economic matters. The ExA considers that only moderate weight should be afforded to such benefits for the reasons that have been set out above.

8.3.2. On the other hand, the ExA has found that:

- The Applicant's failure to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports, is important and relevant against the case for development consent being given;
- the impacts on climate change of the Proposed Development weigh moderately against the case for development consent being given;
- the impacts on heritage assets of the Proposed Development weigh moderately against the case for development consent being given;
- the impacts of noise and vibration resulting from of the Proposed Development weigh moderately against the case for development consent being given;
- operational matters weigh moderately against the case for development consent being given; and
- matters related to traffic and transport weigh substantially against the case for development consent being given.

8.3.3. The ExA has found that there would not be unacceptable impacts in terms of air quality; biodiversity; ground conditions; landscape, design and visual impact; and water resources.

8.3.4. The ExA considers that when these factors are weighed against each other, either individually or in combination, the identified impacts of the Proposed Development are not outweighed by the benefits.

8.3.5. Given this, **the ExA concludes that a case for development consent has not been demonstrated.**

8.3.6. Further, in relation to HRA, **the ExA concludes that it must recommend refusal to the SoS as the competent authority for the decision as to whether to grant development consent.**

9. COMPULSORY ACQUISITION AND RELATED MATTERS

9.1. INTRODUCTION

- 9.1.1. This chapter considers and makes recommendations on the request for the CA of land and / or of rights over land made in part 13 of the Application Form [[APP-002](#)].
- 9.1.2. As subsequent parts of this chapter show, the ExA considered it necessary to consider the issues surrounding the funding of the Proposed Development in detail. Given the importance of this issue, funding is considered at the start of this chapter before matters relating to statutory and other tests, human rights, individual plots and APs, Crown Land, Special Category Land and Statutory Undertakers (SU).

9.2. THE REQUEST FOR CA AND TP POWERS

- 9.2.1. The Application as submitted fulfilled the condition set out in s123(2) in that the application for the order included a request for CA of the land to be authorised.
- 9.2.2. On specific plots, the request was for TP of land.
- 9.2.3. The request was made in part 13 of the Application Form [[APP-002](#)] and the application was accompanied by a Statement of Reasons (SoR) [[APP-012](#)], a Funding Statement [[APP-013](#)] and a BoR [[APP-014](#)]. It was also accompanied by Land Plans [[APP-016](#)], Crown Land Plans [[APP-017](#)] and a Special Category Land Plan [[APP-019](#)].
- 9.2.4. During the course of the Examination, the Funding Statement was amended at D6 [[REP6-015](#)] and at D7a [[REP7a-006](#)]; the BoR was updated at D3 [[REP3-194](#)], D7a [[REP7a-023](#)] and on the final day of the Examination, on 9 July 2019 [[AS-581](#)]; and a Schedule of Changes to the BoR was submitted at D3 [[REP3-180](#)], at D7a [[REP7a-010](#)] and on the final day of the Examination, on 9 July 2019 [[AS-582](#)]. Revised Land Plans were submitted at D11 [[REP11-015](#)]¹⁵⁰.
- 9.2.5. In the Rule 6 letter published on 11 December [[PD-005](#)], the ExA required the Applicant to submit a CA Status Update Report at specific deadlines during the Examination. This document was submitted at D3 [[REP3-006](#)], D4 [[REP4-034](#)], D5 [[REP5-004](#)], D6 [[REP6-004](#)], D7a [[REP7a-004](#)], D8 [[REP8-008](#)], D10 [[REP10-006](#)], D11 [[REP11-004](#)] and on the final day of the Examination, on 9 July 2019 [[AS-585](#)].
- 9.2.6. In each instance, the most recent version of the relevant document is used unless otherwise stated.

¹⁵⁰ The ExA notes that the revised Land Plans [[REP11-015](#)] are wrongly dated as 5 July 2018 instead of 5 July 2019

9.3. THE PURPOSES FOR WHICH LAND IS REQUIRED

9.3.1. The overall purpose for which the powers are sought are set out in Section 8 of the SoR [[APP-012](#)] which states at paragraph 8.1 that:

"The need for the proposals is explained in the Azimuth Report submitted with the DCO application [[APP-085](#)]. For that purpose, it is necessary for the DCO to include a range of compulsory acquisition powers [...]. Due to the nature of the Proposed Development powers are sought to acquire outright the main airport site, the Northern Grass and the subsoil where the Pipeline is positioned. Powers are also sought to acquire part of the B2050 (Manston Road) to allow it to be realigned, although it will remain at least partly open to traffic at all times."

9.3.2. Section 3 of the SoR [[APP-012](#)] sets out a description of the Proposed Development and Appendix 1 of that document sets out details of the overall purpose related to individual plot numbers.

9.3.3. In addition to the purposes being related to specific Work Nos, additional purposes listed in Appendix 1 to the SoR [[APP-012](#)] include:

- Associated Development;
- emergency access to airfield;
- glide path safeguarding;
- maintaining integrity of the existing airport site and its boundary;
- operation and maintenance of the existing underground pipeline;
- overground access to existing pipeline manhole to inspect, operate and maintain existing pipeline; and
- overground access to existing underground pipeline manhole.

9.3.4. The issues related to glide path safeguarding, and the underground pipeline are considered below.

9.3.5. The issues related to associated development are examined in Chapter 10 on the dDCO, below.

9.4. LEGISLATIVE REQUIREMENTS

9.4.1. The power to compulsorily acquire land and / or rights over land is provided through sections in Chapter 1 of Part 7 of the PA2008.

9.4.2. In examining this request for CA, the ExA has had full regard to all the legislative and regulatory requirements relating to this request and to guidance issued on this subject. Specific guidance and legislation are quoted below as relevant.

9.5. EXAMINATION OF THE CA AND TP CASE

9.5.1. During the course of the Examination the ExA published five rounds of written questions which included questions of CA and on Funding. ExQ1 was published on 18 January 2019 [[PD-007](#)] and contained 43 questions on CA and 18 questions on funding. ExQ2 was published on 5 April 2019 [[PD-010b](#)] and contained 35 questions on CA and 26 questions on

funding. ExQ3 was published on 10 May 2019 [[PD-014](#)] and contained 32 questions on CA and 20 questions on funding. ExQ4 was published on 21 June 2019 [[PD-020](#)] and contained 25 questions on CA and 30 questions on funding. ExQ5 was published on 3 July 2019 [[PD-022](#)] and contained two questions on CA.

9.5.2. The ExA held two, all-day CAHs; on 20 March 2019 [[EV-011](#) and [EV-012](#), [EV-012a](#), [EV-012b](#) and [EV-012c](#)] and on 4 June 2019 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)].

9.5.3. The ExA conducted one USI on 8 January 2019 [[EV-004](#)] and one ASI on 19 March 2019 [[PD-008](#), [EV-003](#)] at which, amongst other locations, particular sites related to the request for CA, such as the Special Category Land at the Viking Ship area, the HRDF and the museums were visited.

9.6. STONE HILL PARK LTD AND KENT FACILITIES LTD

9.6.1. Before examining and making recommendations on both funding and the case for CA in subsequent sections of this chapter, the ExA considers it valuable to set out the position of SHP as this is referred to in a number of sections of this chapter of the report.

9.6.2. SHP was, until late on 9 July 2019, the major freeholder within the Order Lands.

9.6.3. It had a Category 1 interest in plots 015, 015a, 015b, 018, 026a, 027, 028, 036, 037, 039, 041a, 043, 045, 046, 047, 047a, 048a, 049, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 051c, 053, 053a, 053b, 054, 054a, 055, 056, 056a, 057, 058, 059, 068, 069, 070, 070a and 073, as 'owners or reputed owners' with Category 2 and 3 interest in a number of other plots as beneficiary of rights or beneficiary of presumed easement – the latter in respect of the pipeline.

9.6.4. The largest of these plots – 015 - covers the great majority of the proposed operational airport and is 2,262,837m² whilst plots 048a, 049, 049a, 049b, 050 (277,193 m²) 050a, 050b, 050c, 051a and 051b together make up the NGA proposed for Associated Development.

9.6.5. Throughout the Examination, SHP provided written and oral submissions clearly resisting the request to compulsorily acquire its land and rights.

9.6.6. At the start of the Examination, SHP's RR dated 8 October 2018 [[RR-1601](#)] stated at paragraph 1.2 that:

"SHP objects to the Application by RSP and wishes to take a full part in the examination, including Compulsory Acquisition Hearings."

9.6.7. During the course of the Examination, SHP submitted 49 representations including an RR of 688 pages including appendices and a WR of 549 pages including appendices.

- 9.6.8. SHP played a major role in the two CAHs and was represented at both of these and a request to directly question the Applicant under s94(4)(a) of the PA2008 was granted by the ExA at both of these hearings.
- 9.6.9. The Applicant's D12 submissions cover letter [[AS-522](#)] dated 9 July 2019 states that:
- "The Applicant has now completed the purchase of the airport from Stone Hill Park Ltd as of 7.30 this evening, who have undertaken to withdraw their representations as a result."*
- 9.6.10. The ExA notes that it was not the Applicant – RiverOak Strategic Partners Limited (RSP) – that had made and completed the purchase but a subsidiary company of the Applicant RiverOak MSE Ltd as stated in a letter from BDB Pitmans dated 2 July 2019 [[AS-280](#)] and a letter from SHP dated 5 July 2019 [[REP11-064](#)].
- 9.6.11. RiverOak MSE Ltd is shown in Appendix F.2.4 Part A of answers to ExQ2 [[REP6-014](#)] as being a subsidiary company to RSP (the Applicant).
- 9.6.12. The ExA notes in this respect that the Applicant's response to F.1.2 [[REP3-195](#)] stated that:
- "The Applicant, RiverOak Strategic Partners Limited, has three subsidiary companies: RiverOak Operations Limited, RiverOak AL Limited and RiverOak Fuels Limited."*
- 9.6.13. The ExA itself asked at F.2.6. [[PD-010b](#)] whether RiverOak MSE Limited should be added to the list of subsidiary companies.
- 9.6.14. The Applicant responded [[REP6-012](#)] in the affirmative stating that:
- "RiverOak MSE Limited is a newly incorporated company established to acquire the title to the airport site. It has been trading for less than a year."*
- 9.6.15. The Applicant's schedule of changes to BoR [[AS-582](#)] states in respect of the plots in which SHP previously owned that:
- "RiverOak MSE Ltd have been added as owners/proprietors of these rights following completion of an agreement dated 2 July 2019. Stone Hill Park Limited have been removed as they no longer have any interests within the development boundary."*
- 9.6.16. The ExA note however, that the letter from SHP dated 9 July 2019 [[AS-552](#)] states that:
- "Under the terms of the sale, part of the land has been leased back to SHP to enable SHP to continue providing the services under the parking services agreement between SHP and the Secretary of State for Transport until 31 December 2020."*

- 9.6.17. It may be assumed that the lease-back may apply to those plots over which the BoR indicates that the SoS has an interest in respect of Operation Stack / Brock (015, 015a, 026a, 027, 037, 039, 041a, 043, 043a, 046, 050a, 054, 055, 058, 068 and 069) with powers under The Town and Country Planning (Manston Airport) Special Development Order 2019¹⁵¹. However, no interest on behalf of SHP is shown for these plots. This may indicate that either the leaseback had not taken place before the close of the Examination or that this is an error.
- 9.6.18. On the matter of the timing of this decision, the Applicant's Overall Summary of Case [[REP11-014](#)] states at paragraph 7 that:
- "The Applicant was not in a position to discuss openly with the Examining Authority the private discussions that were ongoing behind the scenes with SHP over the very same period in which SHP were publicly and vigorously objecting to the application. [...] SHP has now reached agreement with the Applicant and has agreed to withdraw its objection to the scheme on the completion of the land transfer."*
- 9.6.19. On the final day of the Examination on 9 July 2019, SHP submitted a letter timed at 19:44 [[AS-552](#)] which stated that:
- "We write to confirm that SHP has today completed the sale of its freehold interests in land at Manston Airport to RiverOak MSE Ltd, a subsidiary of RiverOak Strategic Partners Limited (the "Applicant")."*
- and that:
- "On the basis the Applicant no longer requires compulsory acquisition powers over the freehold interests previously held by SHP, please accept this letter as a request from SHP to withdraw the representations it has made relating to the application for a development consent order under reference number TR020002."*
- 9.6.20. The request by SHP to withdraw its representations was made less than five hours before the Examination closed at 23:59 on 9 July 2019. On that basis, the ExA determined that it was received too late in the Examination for the ExA to properly consider the request or the implications for other IPs. SHP's representations therefore remain part of the Examination Library. This determination has been communicated to IPs via the s51 advice pages on the National Infrastructure Planning website¹⁵².
- 9.6.21. It is important to note that the ExA recognises that, in drafting its Recommendation Report, it must reflect the fact that SHP no longer

¹⁵¹ Available at: <http://www.legislation.gov.uk/uksi/2019/86/contents/made>

¹⁵² Available at: <https://infrastructure.planninginspectorate.gov.uk/projects/south-east/manston-airport/?ipcsection=advice>

objects to the application and that, implicitly, it no longer objects to the request for CA.

9.6.22. Given this and given the fact that SHP no longer has any interest in the land as confirmed by the Applicant's schedule of changes to the BoR and the that a company controlled by the Applicant is now the owner or **the ExA concludes that this Report is not required to consider the request for the CA of land and rights on plots 015, 015a, 015b, 018, 026a, 027, 028, 036, 037, 039, 041a, 043, 045, 046, 047, 047a, 048a, 049 049a 049b 050 050a 050b 050c 050d 050e 051b 051c 053 053a 053b 054 054a 055 056 056a 057 058 059 068 069 070 070a 073 insofar as they relate to the ownership or purported ownership of, or other interests in, these plots by SHP.**

9.6.23. The ExA notes, at the outset that there are 211 plots in all listed in the BoR. SHP had a Category 1 interest in 44 of these plots. All of those 44 plots are subject to other Category 1 or Category 2 interests, with all but four of these plots having other Category 1 interests. In addition, there are 102 plots in which SHP had a Category 2 interest with other APs having a Category 1 interest.

9.6.24. There are 65 plots in which SHP had no interests (001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013, 014, 016a, 016b, 018a, 018b, 018c, 019c, 022, 040, 040a, 040b, 042, 042a, 044, 045a, 045b, 060, 061, 062, 063, 064, 065, 066, 067, 082, 087, 089, 110, 112, 118, 119, 120, 129, 131, 132, 138, 140, 141, 148, 150, 151, 156, 157, 158 161, 177a, 177b, 185c, 185d, 187, 188 and 188a).

9.6.25. The acquisition of SHPs land and interests in land does not, therefore, obviate the need for the ExA to examine the request for CA or issues surrounding funding.

9.6.26. Related to this, Kent Facilities Ltd were listed in the BoR and in the CA Status Report as having interests in plots 001 002, 003, 004, 005, 006, 007, 008, 009, 011, 012, 015, 015a, 026a, 027, 028, 036, 037, 039, 041a, 043, 043a, 046, 047, 047a, 048a, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 051c, 053a, 053b, 054, 054a, 055, 057, 058, 059, 068, 069, 070 and 070a either as Beneficiary of rights of access and restrictive covenants contained in a Lease dated 13 April 2010, or as Lessees / Tenants and beneficiary in respect of restrictive covenants contained in a Lease dated 13 April 2010 or as Beneficiary in respect of legal charge dated 19 September 2014.

9.6.27. A letter from Kent Facilities Ltd dated [\[AS-437\]](#) 9 July 2019, the day of the close of the Examination, states that:

"Kent Facilities limited held legal charges over the freehold land owned by Stone Hill Park Limited at Manston Airport.

The legal charges were released as part of the sale of the SHP land to RiverOak which completed on 9 July 2019.

Accordingly, please accept this letter as a request from Kent Facilities Limited to withdraw the representations it has made..."

9.6.28. **The ExA concludes that this report is not required to consider the request for the CA rights on plots 001, 002, 003, 004, 005, 006, 007, 008, 009, 011, 012, 015, 015a, 026a, 027, 028, 036, 037, 039, 041a, 043, 043a, 046, 047, 047a, 048a, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 051c, 053a, 053b, 054, 054a, 055, 057, 058, 059, 068, 069, 070 and 070a insofar as they relate to interests in, these plots by Kent Facilities Ltd.**

9.6.29. As stated above with reference to SHP, the request by Kent Facilities Ltd to withdraw its representations was made less than five hours before the Examination closed at 23:59 on 9 July 2019. On that basis, the ExA determined that it was received too late in the Examination for the ExA to properly consider the request or the implications for other IPs. Kent Facilities Ltd's representations therefore remain part of the Examination Library. This determination has been communicated to IPs via the s51 advice pages on the National Infrastructure Planning website¹⁵³.

9.7. COMPELLING CASE IN THE PUBLIC INTEREST

9.7.1. S122(3)(1) of the PA2008 states that:

"An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that [...] there is a compelling case in the public interest for the land to be acquired compulsorily."

9.7.2. Paragraph 13 of the Department for Communities and Local Government's (DCLG) Guidance related to procedures for the CA of land¹⁵⁴ (the 2013 Guidance) states that:

"For this condition to be met, the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss."

9.7.3. The previous section of this chapter of the Recommendation Report sets out the position in respect of the sale of the major freeholder's land and

¹⁵³ Available at:

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

¹⁵⁴ Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf

interests to a subsidiary company of the Applicant on the day that the Examination closed.

9.7.4. In this context, the ExA notes that the Applicant's Overall Summary of Case [[REP11-014](#)] states at paragraph 27 that:

"The Examining Authority will no longer have to consider whether there is a compelling case in the public interest for the compulsory acquisition of the airport land or the Northern Grass."

9.7.5. The ExA considers this statement to be a misrepresentation or misunderstanding of the position.

9.7.6. As stated above, there are 211 plots in all listed in the BoR. SHP had a Category 1 interest in 44 of these plots. All of those 44 plots are subject to other Category 1 or Category 2 interests, with all but four of these plots having other Category 1 interests. In addition, there are 102 plots in which SHP had a Category 2 interest with other APs having a Category 1 interest. There are 65 plots in which SHP had no interests.

9.7.7. There is, therefore, still the need to consider whether there is a compelling case in the public interest for the land comprising these plots or the rights to be acquired compulsorily.

9.7.8. At the request of the ExA, the Applicant set out a summary of its need case at the start of CAH2.

9.7.9. By means of introduction and to make the ExA's position at that time clear, the ExA stated at item 10 of CAH2 that:

"The ExA has an outstanding interest over the adequacy of the evidence presented to demonstrate that there is a compelling case in the public interest for the required land to be compulsorily acquired. This includes the following matters:

- *The robustness of the evidence that there is existing pent up air freight demand caused by capacity constraints within the airport system of the south east of the England to the degree suggested by the applicant, including evidence concerning:*
- *That sufficient general freight demand exists to meet the forecasts produced by the applicant.*
- *That 'new integrators' would be realistically attracted to the proposed development given its location and surrounding infrastructure.*
- *That sufficient niche freight demand exists for the proposed development.*
- *That, even if the above matters were proven, the robustness and limited availability of financial viability information exists to convince the ExA that the proposed development would be able to attract such freight."*

9.7.10. In its summary of oral submissions put at CAH2 [[REP8-011](#)] the Applicant stated that its case was set out in the SoR [[APP-012](#)] under four principal headings:

"i. The Proposed Development would encourage future trade growth by helping to address the urgent need for additional airport capacity in the South-East of England (paragraphs 9.40-9.43)

ii. The Proposed Development will bring substantial socio-economic benefits both locally and nationally (paragraphs 9.44-9.51)

iii. Development of the site as an airport is the only viable use for it (paragraphs 9.52-9.55)

iv. The project would safeguard a valuable and significant national asset from being otherwise lost and provide UK with modern air cargo customs facilities".

9.7.11. The Applicant's summary of oral Submissions put at CAH2 [\[REP8-011\]](#) also summarised further points made in support of the compelling case that:

"1. There is a growing realisation, at Government level, of the importance of the air freight sector to the UK economy

See that in the Green Paper published in December 2018: Aviation 2050 'The Future of UK Aviation' Consultation - see paragraphs 4.45-4.50 (including footnote 99 from the Steer Report) – section on 'Supporting Freight' and the importance of freight to jobs and the economy

2. Aviation provides significant economic and social benefits to the UK

It is an industry that contributes at least £22 billion to our economy, supports half a million jobs, serves 284 million passengers and transports over 2m tonnes of freight per year

3. Air freight is becoming increasingly significant to the UK economy

Record quantities of freight were handled by UK airports in 2017, highlighting the growing importance of aviation to the transport of freight

The changing nature of the goods and services we trade means that air freight is becoming increasingly significant to the economy, transporting high tech products, medicines and just-in-time deliveries.

The aviation sector can boost the wider economy by providing more opportunities for trade through air freight

4. Brexit

The importance of aviation to the UK economy, and in particular the UK's hub status, has only increased with the decision to leave the EU. As the UK develops its new trading relationships with the rest of the world, it will be essential that increased airport capacity is delivered, in particular to support long-haul routes to and from the UK, especially to emerging and developing countries

5. There will be economic implications if capacity constraints are not addressed with knock on effects in lost trade, foreign investment and tourism."

- 9.7.12. The ExA stated in CA.1.9 [[PD-007](#)] that all parties should note that the ExA will have regard to any answers provided to other questions including those on the need and socio-economic impact in assisting it to address this statutory requirement.
- 9.7.13. It followed this approach during the Examination and this chapter of the report draws on other chapters and, in particular, Chapter 5 on need and that section of Chapter 6 that deals with socio-economic effects.
- 9.7.14. Chapter 5 of this report on need has the overall conclusion that:
"...concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports"
- 9.7.15. That section of Chapter 6 that deals with socio-economic effects concludes that:
"The ExA considers that the socio-economic benefits of the proposed development have been overstated, and that the proposed development would have an adverse effect on tourism in Ramsgate. The education, training and skills commitments would benefit Thanet and East Kent. When taken together the ExA considers that the proposed development would still generate a socio-economic benefit to Thanet and East Kent, but such benefits are substantially lower than that forecast by the applicant. Such benefits are also dependent on the need for the proposed development; without the need and the forecasts based on this need, socio-economic benefits (aside from the education, training and skills commitments) would reduce further. The socio-economic benefits of the proposed development weigh in favour of the scheme."
- 9.7.16. In considering the evidence as a whole in this report, **the ExA concludes that the overall need for the Proposed Development is only partially established and the ExA has not found such a level of need that would meet the criteria of there being a compelling case in the public interest for the land to be acquired compulsorily**; and that, therefore,
- 9.7.17. **the ExA is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily and does not recommend that the requests for CA be granted.**
- 9.7.18. In coming to this conclusion, the ExA has considered whether this conclusion would render the Proposed Development unimplementable should the SoS conclude that the Order should be made.
- 9.7.19. In doing so, the ExA has taken into account that a table in the Applicant's Overall Summary of Case [[REP11-014](#)] (see below) shows that the Applicant has acquired some 95% of the freehold interests in the land, voluntarily.

- 9.7.20. The ExA has also considered the Applicant's statement at paragraph 9.19 of the SoR [[APP-012](#)] that it will continue to seek to acquire all land and rights it needs by voluntary agreement, subject to the DCO being made.
- 9.7.21. The ExA has also considered the fact that, for example, as shown below in this chapter, KCC has offered the Applicant an alternative option to CA.
- 9.7.22. For these reasons, the ExA concludes that the lack of a compelling case in the public interest for the land to be acquired compulsorily does not, in itself, render the Proposed Development unimplementable.
- 9.7.23. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land be granted.
- 9.7.24. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has considered the position in relation to funding and to individual plots and APs as if the ExA had come an alternate view and concluded that there is sufficient need for the development.
- 9.7.25. Nevertheless, this overall recommendation must be borne in mind and remains valid when considering the ExA's conclusions and recommendations in respect of particular categories of land and individual APs and plots.

9.8. FUNDING

- 9.8.1. Paragraph 9 of the 2013 Guidance states that:

"[The Applicant] should [...] be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available. Otherwise, it will be difficult to show conclusively that the compulsory acquisition of land meets the two conditions in section 122."

- 9.8.2. Paragraph 17 of the 2013 Guidance states that:

"Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required. It may be that the project is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the applicant should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made."

- 9.8.3. Paragraph 18 of the 2013 Guidance states that:

"The timing of the availability of the funding is also likely to be a relevant factor. [...]. Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of."

- 9.8.4. Regulation 5(2)(h) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 states that:

"The application must be accompanied by, [...] if the proposed order would authorise the compulsory acquisition of land or an interest in land or right over land, a statement of reasons and a statement to indicate how an order that contains the authorisation of compulsory acquisition is proposed to be funded."

- 9.8.5. The s51 advice following issue of the decision to accept the application for examination dated 14 August 2018 [[PD-002](#)] identified the Funding Statement [[APP-013](#)] as being a potential substantial risk stating that:

"...the Inspectorate considers that the Funding Statement poses substantial risk to the examination of the application. In respect of this, the Applicant is advised to be fully conversant with statute and guidance contained in The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land."

and that

"The issues raised in advice provided by the Inspectorate at the Pre-application stage, in consideration of draft iterations of the Funding Statement provided by the Applicant for review, has only partially been satisfied."

- 9.8.6. This advice [[PD-002](#)] then went on to list a number of areas in which the Funding Statement was lacking, ranging from the need for further evidence that adequate funds will be available to enable the CA of land and rights within the relevant time period to the need for further information in respect of RSP's accounts, shareholders, investors and proof of assets and from further details of the funders who have already expressed interest and others that are likely to come forward to further details of how the costs set out in the Funding Statement have been estimated.
- 9.8.7. This concern by the Planning Inspectorate was reflected in the rigour with which the ExA examined funding during the course of the Examination and the approaches taken to that Examination.
- 9.8.8. In addition, the ExA had regard to the fact that this application is made by a commercial undertaking rather than by a public or state funded body or SU. As the Applicant's response to F.1.15 [[REP3-195](#)], reflecting paragraph 21 of the Funding Statement [[APP-013](#)] states:

"...the costs of implementing and constructing the Manston DCO project plus the costs of acquiring necessary rights over the land is not dependent on any public funding, Government subsidy or guarantee, or any access to borrowing or grants from UK or European funds.

- 9.8.9. This issue of funding was examined in three rounds of written questions and through parts of two full-day CAHs held on 20 March 2019 [[EV-011](#) and [EV-012](#), [EV-012a](#), [EV-012b](#) and [EV-012c](#)] and on 4 June 2019 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)].
- 9.8.10. ExQ1 [[PD-007](#)] contained 18 questions on funding issues, ExQ2 [[PD-010b](#)] contained 26, ExQ3 [[PD-014](#)] contained 20 and ExQ4 [[PD-020](#)] contained 30 questions.
- 9.8.11. During the course of the Examination, the Applicant submitted a revised Funding Statement at D6, on 3 May 2019 [[REP6-015](#)], and submitted a number of pieces of further information including a copy of the Joint Venture Agreement, the business plan and the Capital Expenditure Plan. This further information is covered in more detail in subsequent paragraphs of this section.
- 9.8.12. The ExA notes that the examination of this important issue was given an additional challenge by the apparent difficulty faced by the Applicant in providing the information requested by the ExA within the deadlines requested by the ExA and within the deadlines that the Applicant had set itself.
- 9.8.13. The ExA also notes that the Applicant did not agree that the level of detail requested by the ExA was appropriate on every occasion. At the outset of the Examination it stated in response to F.1.4 [[REP3-195](#)] that:
- "The clear implication from the statute is that where compulsory acquisition forms part of the DCO, the applicant must include a statement explaining how that acquisition will be funded. The statutory requirement must be given priority over the non statutory guidance which appears [...] to go further than the statutory requirements and require a funding statement to cover not only the costs of the acquisition but the resource implications of the project as a whole.*
- In fact, the guidance does not contain an absolute requirement to establish the funding available to cover total project costs, but rather seeks "as much information as is possible" about the "resource implications" of implementing the project, recognising that the information that it is possible to provide may vary across different projects."*
- 9.8.14. In the Applicant's response to CA.3.1 [[REP7a-002](#)] it stated that:
- "While the availability of funding for compulsory acquisition is a matter for the ExA to consider, the source of that funding is not a matter that falls for consideration in this land-use planning forum."*

and in the Applicant's response to F.3.2 [[REP7a-002](#)] it suggested that the ExA may be:

"...trespassing beyond its own land-use planning remit."

9.8.15. As the ExA made clear at item 4 in CAH2 held on 4 June 2019 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)] it does not recognise this characterisation of the process in which it is engaged as being a land-use planning forum. At that hearing the ExA contended that if its remit was solely focussed on land use, then it would not be discussing issues such a CA or, for example, the application of HRA1998.

9.8.16. The Applicant also raised the issue of commercial confidentiality. In response to F.2.3 the Applicant states [[REP6-012](#)] that:

"A balance must be struck between providing sufficient information to the Examining Authority to enable it properly to consider the application and report to the Secretary of State whilst at the same time protecting the commercial interests of investors."

9.8.17. In order to seek to resolve this perceived difficulty, the Applicant offered at D6 in response to F.2.3 [[REP6-012](#)] that:

"If the Examining Authority has any residual concerns as to the funding position following Deadline 6, the Applicant suggests that it provides the Examining Authority with an unredacted statement, identifying the individuals who have invested and are committed to further investment, together with a version where such confidential information is redacted. The Examining Authority then takes the former into account and publishes the latter."

9.8.18. This offer followed an e-mail from the Applicant's solicitors dated 5 April 2019 [[AS-072](#)] outlining the same approach.

9.8.19. The ExA responded to this offer in a letter dated 3 May 2019 [[PD-012](#)] which stated that:

"The Planning Inspectorate does redact submissions in certain circumstances. This is done, for example, to protect the identity of a minor, to seek to avoid identity fraud and to avoid placing personal contact or other details in the public domain."

The Planning Inspectorate will apply its practice on redaction to any submission made to it. It will consider the need for and merits of redaction of submissions made on a case by case basis."

The redaction of submissions must be seen in the context of the fundamental values of the Planning Inspectorate which are its commitment to openness, transparency and impartiality in the conduct of its business."

Given this, the Planning Inspectorate cannot commit in advance to redacting specific information as requested by any party."

For this reason, the ExA in this case cannot agree to examine evidence sent to it on the basis that the unredacted version of that evidence will not be published.”

9.8.20. Alternatively, the Applicant suggested in response to F.2.3 [[REP6-012](#)] that:

“If [the ExA] does not wish to take information into account that is not openly available then it leaves the issue to the Secretary of State to decide (e.g. in the form of a recommendation to grant the DCO subject to the Secretary of State being satisfied as to the availability of funding).”

9.8.21. In its written summary of oral submissions put at CAH2 [[REP8-011](#)], the Applicant stated that:

“[It] is not willing to reveal the names of any investors in the scheme without reassurance that those details will not appear on a public record. [...] The Applicant has however:

Provided evidence that £13.1m has been deposited in its solicitors’ client account;

Reduced the period for exercising such powers of compulsory acquisition from the usual 5 years from making of the Order, to 1 year from making of the Order or expiry of any challenge period or final determination of any such challenge;

Provided evidence that the funders of the project are obliged to fund £15m for land compensation and blight through a Joint Venture Agreement;

Brought the Applicant’s main owner onshore in an attempt to allay concerns as to its overseas status;

Provided a letter from PwC attesting that £30m is available now; and

Offered to provide the ExA with details of the investors on the understanding that only a redacted form would be published.”

9.8.22. The issue of funding gave rise to considerable interest and to a large number of representations from IPs. These too are referred to in subsequent paragraphs where relevant.

9.8.23. The examination of funding was a complex and detailed process with a number of aspects of the examination overlapping. However, partly for ease of structuring the report on this issue, the ExA has identified seven main issues for the purpose of this Recommendation Report:

- The availability of funds from RSP and its allied companies.
- The availability of funds from other funders - The Joint Venture Agreement.
- The availability of funds from other funders – Capital Costs.
- The costings employed.
- The adequacy of Article 9 in the dDCO.

- The business case and model.
- The timing of the execution of the CA powers in relation to funding.

9.8.24. These are considered in turn, below.

The availability of funds from RiverOak Strategic Partners Limited and its allied companies

9.8.25. Throughout the Examination, the Applicant stated the amount that it had already spent on the process and cited this as a signifier of the commitment shown by the Applicant to the Proposed Development.

9.8.26. For example, the Applicant's written summary of oral submissions put at CAH1 [[REP5-011](#)] submitted on 29 March 2019 stated at paragraph 3.15 that:

"The Applicant has now spent £14.5m on the project..."

9.8.27. Previously, in response to F.2.21 [[REP6-012](#)], it stated:

"The Applicant has spent £12.8 million on the process to date"

9.8.28. This is confirmed in a letter from the Applicant's accountants included at Appendix F.2.21 Part B in the response to ExQ2 [[REP6-014](#)] which states that:

"...we have confirmed that to date Riveroak Operations Limited has committed and expensed funds of £12.8m in the pursuance of the Riveroak group of companies' project in relation to Manston airport in Kent."

and in its response to question F.2.22 [[REP6-012](#)], the Applicant states that:

"It is highly unlikely that RSP and its capital partners would walk away from the very significant financial and time commitment they have invested in this project to date."

9.8.29. The Applicant's response to F.2.21 [[REP6-012](#)] goes on to identify the additional expenditure to date of £2.418 million on the acquisition of the Jentex site. This is shown in a completion statement provided at Appendix F.2.7 [[REP6-014](#)].

9.8.30. Despite the advice given in the s51 letter dated 14 August 2018 [[PD-002](#)] that further information in respect of RSP's accounts shareholders, investors and proof of assets is very likely to be requested by the appointed ExA, the Funding Statement [[APP-013](#)] did not contain any accounts or other details of RSP.

9.8.31. In the absence of any definitive information in the Funding Statement [[APP-013](#)] on the level and availability of funds held by the Applicant, the ExA considered it necessary to examine the structure of the Applicant, RSP, both in terms of its ownership and in terms of its subsidiary companies and to seek to ascertain its assets.

9.8.32. On the ownership, the Funding Statement as submitted with application [[APP-013](#)] stated at paragraph 11 that:

"RiverOak is the applicant for the DCO for the project. The applicant is a company registered in England (Company No. 10269461). 10% of its shares are held by RiverOak Manston Ltd and 90% by M.I.O Investments Ltd."

and at paragraph 12 that:

"M.I.O Investments Limited ("MIO") is a Belize registered company whose ultimate beneficial owners are resident in Switzerland and the United Kingdom. MIO is managed and administered by Helix Fiduciary AG ("Helix"), a Swiss registered and regulated fiduciary company on behalf of the beneficial owners. Helix also manages and controls all the investors' funds that provide the funding for the Manston DCO. MIO has access to committed and unencumbered funds to ensure the completion of the DCO as detailed in the summary below paragraph 27 of this statement (totalling £13,600,000, but in fact £15 million has been committed)."

9.8.33. The Funding Statement as submitted with the Application [[APP-013](#)] did contain copies of two letters at Annexes 2 and 3. The first from Helix Fiduciary AG (Helix) dated 12 July 2018 stated that:

"Helix can confirm that we are the trustees and administrators of a number of structures for which each of the clients we have unencumbered liquid assets that exceed what is the estimated expenditure to complete the Manston DCO airport project."

9.8.34. The second, from PwC dated 5 July 2018 stated that:

"We confirm that we have provided to Helix Fiduciary AG, Zurich and Bircham Dyson Bell, London a report of factual findings [...]. The report details two structures where the assets are held by two branches of the bank and said branches have reported [...] the net combined balances of cash and short term investments and equities and similar positions of the accounts in question at each branch of the bank exceed the currency equivalent of £15 million as of the reporting date of the respective branch." (19th and 28th June 2018).

9.8.35. The Applicant did not provide a copy of that report and the ExA did not consider that the non-specific information in the Helix or PwC letters provided sufficient evidence and reassurance that there is a reasonable prospect of the requisite funds for acquisition becoming available.

9.8.36. At the start of the second week of the Examination, on 18 January 2019, the Applicant indicated that a restructuring of the ownership of RSP was currently taking place. The Applicant's cover letter to the material requested in Annex F to the Rule 6 letter [[REP1-001](#)] (electronic page 26) stated that:

"During the statutory consultation on the proposed application in 2017 and 2018 and the open floor hearings on 10 and 11 January 2019, there has been concern from some interested parties as to the corporate structure and funding of Riveroak Strategic Partners Ltd (the Applicant). In particular, concern has been expressed that 90% of shares in the Applicant company were owned by a Belize registered company whose ultimate beneficial owners are resident in Switzerland as well as the United Kingdom. This was said to give rise to an absence of transparency.

The Applicant has recognised that the lack of transparency in relation to the Belize entity in particular has given rise to a number of questions. As a consequence, a restructuring of the ownership of RSP is currently taking place with a view to simplifying its ownership. The intention is that RSP's parent company will be registered in the UK with full transparency as to its directors and shareholders. The restructuring is currently in process and is subject to commercial confidentiality but it is anticipated that it will be complete and that further details can be put into the public domain by Deadline 3 (8 February)."

9.8.37. The information on the restructuring was not provided at D3 as anticipated by the Applicant and was not, therefore, available at CAH1 held on 20 March 2019.

9.8.38. It was not made available to the Examination until D5 on 26 March 2019 – nearly half way through the statutory Examination period - at which the Applicant's written summary of oral case put at CAH1 [[REP5-010](#)] stated at paragraphs 3.2 and 3.3 that:

"The Applicant's intention is that RiverOak Manston Limited, a UK registered company, would be its sole owner.

The directors of the Applicant are Tony Freudmann, Gerald Huesler, Niall Lawlor, Nick Rothwell, Rico Seitz and George Yerrall. The Applicant was incorporated in August 2016, and Calder & Co acted as the Applicant's auditors. The shareholders of MIO Investments are the project's investors. Although the investors wished to remain confidential, their loans to MIO Investments had been subject to due diligence and approval by HMRC under the Business Investment Relief scheme and declared in their tax returns."

9.8.39. In its response to F.3.2 [[REP7a-002](#)] the Applicant states that:

"Mr Rothwell, who gave evidence at the March hearing on compulsory acquisition, and Mr Seitz are both significant funders of the Project. There are four additional funders, three of whom are referred to in correspondence from Helix Fiduciary AG appended at page 219 to the summary of the Applicant's case at the Compulsory Acquisition Hearing [[REP5-011](#)]. The fourth is Gerhard Huesler. M.I.O Investments Limited is a pass-through entity through which funds from those investors are invested into the Project."

9.8.40. The ExA queried at CAH2 held on 4 June 2019 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)] whether this meant that, despite the

reorganisation, this meant that M.I.O Investments Limited (MIO) were still a key enterprise in the funding for the Proposed Development.

9.8.41. The Applicant's written summary of oral submission put at CAH1 [[REP5-011](#)] states at paragraph 3.3 that:

"The shareholders of MIO Investments are the project's investors."

9.8.42. The ExA had already informed the CAH1 held on 20 March 2019 that, according to information in the public domain held by Companies House, RiverOak Manston Limited is a dormant company. As at the last confirmation statement dated 18 July 2018, it had a share capital of £4 and filed accounts made up to 31 July 2017, showed that it had no cash in hand or at the bank.

9.8.43. The filed accounts for RiverOak Manston Limited were provided by the Applicant at Appendix F.2.4 [[REP6-014](#)] which pointed out that, as this is an investment holding company rather than a trading company these accounts do not have a profit and loss statement.

9.8.44. With reference to any companies wholly or partly owned by the Applicant, in its question F.1.2 [[PD-007](#)] the ExA required the Applicant to provide full details, including audited accounts, for any companies, bodies or undertaking wholly or partly owned by RSP.

9.8.45. The Applicant's response to F.1.2 [[REP3-195](#)] states that RSP has three subsidiary companies: RiverOak Operations Limited, RiverOak AL Limited and RiverOak Fuels Limited. It provided a financial statement for RiverOak Operations Limited but stated that the other subsidiaries did not have audited accounts.

9.8.46. As a consequence of this response the ExA determined that using only information in the public domain that unaudited accounts were available for the subsidiaries named.

9.8.47. As at the time of CAH1 on 20 March 2019, the assets shown in the then published accounts of these firms were as follows:

- RSP: Accounts made up to 31 July 2017, showed that it had a share capital of £1 with no cash in hand or at the bank.
- RiverOak Operations Limited: Net liabilities of £3,769,941 as at 31 August 2017.
- RiverOak AL Limited: Incorporated on 8 July 2016 with a share allocation with a total aggregate nominal value of £1 with RSP as the sole shareholder. Filed accounts for the period ended 31 July 2017 showed net current liabilities of £46,379.
- Riveroaks Fuels Limited: Incorporated on 24 August 2018 with a share allocation with a total aggregate nominal value of £1 with RSP as the sole shareholder.

9.8.48. In addition to the companies listed in the Applicant's response to F.1.2 [[REP3-195](#)], the ExA, through undertaking its own due diligence using information that is publicly available through Companies House,

established the existence of one other subsidiary company and, following information contained in an RR from Jane Lee-Hopkinson dated 11 September 2018 [[RR-0742](#)], one company holding funds on behalf of the Applicant.

9.8.49. First, according to information in the public domain held at Companies House, the Certificate of Incorporation dated 10 December 2018 for RiverOak MSE Limited, shows RSP as the sole shareholder of 1 £1.00 share and as the relevant legal entity.

9.8.50. Second, information in the public domain, held at Companies House, shows that Note 10 to the Financial Statements for Freudmann Tipple International Limited for the period ended 30 March 2018 states that:

"During the year, the company held funds in trust for RiverOak Operations Limited, a company of which Mr A Freudmann is a director. At the balance sheet date, the company held £588,906 (2017: £187,324)."

9.8.51. The Applicant's response to F.2.8 [[REP6-014](#)] states that:

"The relationship between the Applicant and Freudmann Tipple International Ltd relates to the provision of banking services. [...] the Applicant has the exclusive use of the bank account of FTI Limited [...]. Funds are drawn down from the investors and then expended on costs associated with the project. As at 30th March 2019 the balance was £250,904.07. These funds are held to cover costs associated with the project."

9.8.52. The information in the preceding paragraphs drawn by the ExA from the public domain was put before CAH1 held on 20 March 2019.

9.8.53. The ExA considers it important and relevant to seek to establish the network of companies related to the Applicant, noting that it was RiverOak Fuels Limited and not the Applicant that purchased the fuel farm; that it was RiverOak Fuels Limited and not the Applicant that gave the Section 106 UUs in favour of TDC [[AS-584](#)] and KCC [[AS-583](#)] at the close of the Examination and that it was RiverOak MSE Limited, a company not disclosed by the Applicant in its response to F.1.2 [[REP3-195](#)] and not the Applicant that, as of the final day of the Examination, is the owner / proprietor of the plots formerly owned by SHP [[AS-582](#)].

9.8.54. The structure of the interrelated companies was provided by the Applicant in Appendix F.2.4 Part A in response to ExQ2 [[REP6-014](#)].

9.8.55. Following a request by the ExA at CAH2 held on 4 June 2019 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)], the Applicant provided in Appendix CAH2 – 9 of its summary of oral submissions put at CAH2 [[REP8-011](#)] Interim accounts to end of May 2019 for RSP, RiverOak Fuels Limited, RiverOak Manston Limited, RiverOak AL Limited, RiverOak Operations Limited, RiverOak MSE Limited and RiverOak Investments (UK) Limited at Appendix CAH2 - 9.

9.8.56. In summary, these showed:

- RiverOak Strategic Partners Limited: Unaudited financial statements for the period ended 31 May 2019, showed that it had net current assets of £13,099,997 with creditors falling due after more than one year of £13,100,000, a share capital of £1 with net assets of £1;
- RiverOak AL Limited: Unaudited financial statements for the period ended 31 May 2019, showed that it had net liabilities of £111,177;
- RiverOak Fuels Limited: Unaudited financial statements for the period ended 31 May 2019, showed that it had fixed assets of £2,416,500 and net liabilities of £277,588;
- RiverOak Manston Limited: Unaudited financial statements for the period ended 31 May 2019, showed that it had net assets of £4;
- RiverOak MSE Limited: Unaudited financial statements for the period ended 31 May 2019, showed that it had net assets of £1;
- RiverOak Operations Limited: Unaudited financial statements for the period ended 31 May 2019, showed that it had fixed assets of £800,000 and net liabilities of £12,840,533; and
- RiverOak Investments (UK) Limited: Unaudited financial statements for the period ended 31 May 2019, showed that it had net assets of £1000.

9.8.57. Given this it was clear to the ExA that, six weeks before the close of the Examination, the Applicant and the network of companies subsidiary to, or associated with, it did not themselves have sufficient funds at that time, to have fulfilled the requirements in Article 9 – Guarantee in respect of payment of compensation etc.

9.8.58. The ExA continued to seek evidence of the assets held by the Applicant and its funders. For example, the Applicant's written summary of oral submission put at CAH1 [[REP5-011](#)] states at paragraph 3.15 that:

"[the] funders continue to have a further £30m set aside to include its costs until the grant of the DCO and to pay for land acquisition and noise mitigation costs."

9.8.59. The Applicant provided a redacted copy of a Joint Venture Agreement at Appendix 4 to the Applicant's written summary of oral submission put at CAH1 [[REP5-011](#)].

9.8.60. The ExA note that this Agreement has appended a Loan Note Instrument constituting up to £15,000,000 interest-free non-convertible loan stock 2025.

9.8.61. In F.2.22 [[PD-010b](#)] the ExA asked where the other £15m may be found.

9.8.62. In response [[REP6-014](#)] the Applicant refereed back to the PwC letter submitted with the application (Appendix 3 of [APP-103](#)) which, the Applicant states:

"...confirms the existence of two separate bank accounts, each with in excess of £15 million in unencumbered funds. Those bank accounts are held by investors in MIO Investments and now in RiverOak Investments

(UK) Limited. The Joint Venture Agreement commits £15 million to funding the project that being the combined cost of compulsory acquisition and costs associated with the noise mitigation plan. There are further funds available when required albeit not specifically committed to the project."

- 9.8.63. In its question F.3.3 [[PD-014](#)] the ExA pointed out that that 60% of the shares in RiverOak Investments (UK) Limited are held by HLX Nominees Ltd a company with an address in the British Virgin Islands.
- 9.8.64. In its response to F.3.3 [[REP7a-002](#)] the Applicant stated that:
- "For the avoidance of doubt, HLX Nominees Limited is a BVI registered company, but is managed and administered out of Switzerland. As it is owned by Helix and performs a role within legal structures for Helix Fiduciary AG it also falls under the review of the regulator in Switzerland."*
- 9.8.65. Evidence submitted by Five10Twelve [[REP7a-030](#)] stated that Helix is not under supervision by FINMA (Swiss Financial Market Supervisory Authority) and is not a member of the Swiss Association of Trust Companies.
- 9.8.66. In response, the Applicant provided a letter from Helix at Appendix CAH2 – 10 of its written summary of oral submissions put at CAH2 [[REP8-011](#)] which stated that:
- "Since inception, Helix has chosen to be regulated by the following fully FINMA-recognised SRO: Financial Services Standards Association VQF (see <https://www.vqf.ch/en/>)."*
- 9.8.67. In respect of the availability of funds from RSP and its allied companies and taking into account the evidence above, the ExA recognises that the funding model employed is that the Applicant relies on investment from parties other than the Applicant or the companies which it controls.
- 9.8.68. The Applicant's response to F.1.1. [[REP3-195](#)] states that:
- "The Applicant is a Special Purpose Entity whose only function is to receive money from its investors and use that money to pay fees in support of the DCO process."*
- 9.8.69. Given the number of different companies and their holdings outlined by the Applicant or revealed by the ExA undertaking due diligence, this is not an immediately transparent system of funding and **the ExA concludes that there is insufficient evidence that the Applicant itself holds adequate funds to indicate how an order that contains the authorisation of CA is proposed to be funded** and that, therefore, it is necessary to examine the availability of these funds from other funders.

The availability of funds from other funders - Joint Venture Agreement

- 9.8.70. The Funding Statement [[APP- 013](#)] states in paragraph 19 that:
- "Through its joint venture agreement, RiverOak is able to draw down these two categories of funding (£7.5m land acquisition and £5.6m noise mitigation measures) when required."*
- 9.8.71. The ExA requested a copy of this Agreement in F.1.3 issued on 18 January 2019. The Applicant responded on 15 February 2019 [[REP3-195](#)] that:
- "Due to the restructuring mentioned in the cover letter submitted at Deadline 1 (TR020002/D1/Cover), which is still in progress, there is no longer a Joint Venture agreement."*
- 9.8.72. The Applicant's written summary of oral submission put at CAH1 [[REP5-010](#)], dated 29 March 2019, provided a redacted copy of the Joint Venture Agreement at Appendix 4. The ExA notes that, despite stating on 15 February 2019 that there is no longer a Joint Venture Agreement, the Agreement provided is dated 15 December 2016 and is subject to a Deed of Variation to the Joint Venture Agreement dated 29 March 2019.
- 9.8.73. The Agreement and Deed of Variation provided are both between MIO, RSP, RiverOak Manston Limited and RiverOak Operations Limited.
- 9.8.74. In addition, the documentation in Appendix 4 contains a signed Loan Note Instrument constituting up to £15,000,000 interest-free non-convertible loan stock 2026 signed by Directors of MIO, RSP and also dated 29 March 2019.
- 9.8.75. This provides for the issuing and redemption of loan notes up to £15,000,000.
- 9.8.76. Taking into account the evidence above, **the ExA concludes and recommends that the Joint Venture Agreement and Deed of Variation do provide a degree of reassurance that a mechanism exists to provide the Applicant funding up to £15m.**
- 9.8.77. This loan facility is in excess of the requirement in Article 9 that specifies a sum of £13.1m.
- The availability of funds from other funders – Capital Costs*
- 9.8.78. In examining this aspect of funding, the ExA had regard to the 2013 Guidance quoted above that:
- "[The Funding] statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required."*
- 9.8.79. This section of the report focusses on the resource implications on implementing the project.

- 9.8.80. The Funding Statement submitted with the application [[APP-013](#)] stated in paragraph 23 that:
- "To meet the capital costs of construction, RiverOak will select one or more funders from amongst those who have already expressed interest and others that are likely to come forward, to secure the best deal for constructing and operating the project."*
- 9.8.81. In the course of the Examination, the ExA sought to establish more clearly that there is a reasonable prospect of the requisite funds for constructing and operating the project becoming available by seeking some proof of the assets of the funders who had expressed interest. On occasion, this necessitated the ExA seeking to ascertain the identity of such potential funders as a precursor to seeking to establish the nature, scale and availability of funds for the Proposed Development.
- 9.8.82. The Applicant's response to ExQ1 did not provide the identity of any of these funders but described them in broad and non-specific terms [[REP3-195](#), response to F.1.4].
- 9.8.83. The Applicant's written summary of oral submissions put at CAH1 [[REP5-010](#)] stated at paragraph 3.3 that:
- "The shareholders of MIO Investments are the project's investors. Although the investors wished to remain confidential, their loans to MIO Investments had been subject to due diligence and approval by HMRC under the Business Investment Relief scheme and declared in their tax returns."*
- 9.8.84. This "approval" by HMRC was examined through CAH2 on 4 June 2019 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)] and through [[PD-010b](#) F.2.15, F.2.16 and F.2.17].
- 9.8.85. A letter from Foot Anstey LLP, the tax advisers to the individuals – described as "X, Y and Z" – provided at Appendix F.2.15 - 17 in the Applicant's appendices in response to ExQ2 [[REP6-014](#)] explains that:
- "...the loans have been made by the individuals to MIO Investments which is a non-UK company"*.
- 9.8.86. The Applicant provided redacted copies of three letters, each dated 1 December 2016, from Business Investment Relief, HMRC (reference numbers 0498, 0499 and 0500) in its written summary of oral submissions put at CAH1 [[REP5-011](#)].
- 9.8.87. Each of these letters' states that:
- "I remind you that, as the person claiming relief, you are wholly responsible for the accuracy of the information supplied to HMRC. This opinion is based solely on the information you provided and will not apply in any circumstances beyond those described by you."*

9.8.88. The letter from Foot Anstey LLP provided at Appendix F.2.15 - 17 in the Applicant's appendices to answers to ExQ2 [[REP6-014](#)] states that this is standard wording in such letters.

9.8.89. Further, each of these letters' states that:

"Although we have provided this assurance please be aware that we do have reservations about the above company's likely trading position. As such we expect you and your agent to keep the position under review and to expect that HMRC will do likewise. With that in mind it would be helpful if, for the two years after the claim is made, a "white notes" entry is made on your tax return to summarise the position as this may help avoid us having to open formal enquiries."

9.8.90. The letter from Foot Anstey LLP provided at Appendix F.2.15 - 17 to the Applicant's response to ExQ2 [[REP6-014](#)] states that this is standard wording in such letters suggests that this refers to RiverOak MSE Limited which is a new company and that it is fully intended that RiverOak MSE Limited will trade within 5 years, as required.

9.8.91. In its response to F.3.2 [[REP7a-002](#)] the Applicant states that:

"The sources of funding for this Project will be, and indeed have already been, scrutinised by HMRC and the ExA must rely on that body carrying out appropriate checks."

9.8.92. However, taking into account the evidence above, **the ExA concludes and recommends that due diligence and approval carried out by HMRC under the Business Investment Relief scheme is not carried out for the purposes of examining the funding for an NSIP and does not employ the same criteria and tests set out in statute and in guidance; and that due diligence and approval carried out by HMRC under the Business Investment Relief scheme is relevant to the Examination but is not an important consideration in supporting or otherwise the ExA's recommendations.**

9.8.93. The ExA notes in addition that one of the firms evidenced by the Applicant as a potential funder (see below) is a registered fund in the Cayman Islands and it is not clear to the ExA whether this firm has been subject to the same HMRC due diligence.

9.8.94. Appendix 1 to of the Applicant's summary of oral submissions put at CAH2 [[REP8-011](#)] contains a letter from Niall Molloy, Director and Principal, Aldgate Developments dated 10 June 2019 to the Applicant stating that Aldgate Developments:

"...intends to bring [...] the £250m to fund the projected first phase of CAPEX works" and that "It is our intention to allow Rubicon Capital Advisors ... to undertake this fundraise to supplement Aldgate Development's own investment capital. Rubicon have already discussed the project with a range of leading infrastructure funds."

9.8.95. In F.4.6 [[PD-020](#)] the ExA asked the Applicant to:

"Confirm or otherwise whether this letter constitutes an undertaking to fund "the initial phase of the project, which will bring the airport back into use, estimated to cost about £186 million" (paragraph 17 of the revised Funding Statement [REP7a-006]".

9.8.96. In response to question F.4.6 [[REP9-006](#)] the Applicant states that:

"...no project will have secured full funding to cover project costs until there is certainty as to the decision on whether to grant the DCO. However the funder has been engaged on the project for two years at this point and is fully committed to bringing forward the funding.

9.8.97. Appendix F.4.6 of the Applicant's response to ExQ4 [[REP9-010](#)] contained letters of interest from China Silver Asset Management Ltd (Cayman) and Amova GmbH / Unitechnik Systems GmbH.

9.8.98. The letter from China Silver Asset Management Ltd (Cayman) states that:

"CS Asia opportunities master fund a registered fund in the Cayman Islands and an FSS registered fund in South Korea with this in mind our global macro fund investment strategy subject to final due diligence regarding the development consent order currently underway and RSP by voluntary or compulsory acquisition in securing the freehold of the airport site we are willing to commit upwards of US dollars one five zero million to the infrastructure development requirements proposed under the RSP scheme of works."

9.8.99. The letter from Amova GmbH / Unitechnik Systems GmbH does not propose a level of funding but states that:

"As a turnkey supplier ACUNIS is commenced (sic) to working with RSP to supply and install the most sophisticated air freight handling equipment at Manston."

9.8.100. In coming to an overall conclusion on funding, the ExA has had regard, amongst other things, to paragraph 17 of the 2013 Guidance which states that:

"It may be that [...] the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the applicant should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made."

9.8.101. The ExA consider that the letters provided by the Applicant and the range of other information, which not giving a high degree of clarity or certainty do provide an indication of the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.

- 9.8.102. Taking into account the 2013 Guidance and the evidence provided, **the ExA concludes that there is an indication of how any potential shortfalls are intended to be met.**

The costings employed

- 9.8.103. The costings used in the Funding Statement and in other submissions by the Applicant were examined in three respects – first the costings used in justifying the sum contained in Article 9 which is considered in a sub-section below; second, the overall estimated cost of the Proposed Development; and third, the allowance made for blight is considered.

Costs of implementation

- 9.8.104. With reference to the overall cost, the Funding Statement as submitted with Application [[APP-013](#)] stated that:

"RiverOak has taken expert advice from RPS on the cost estimate for the project that is the subject of the application. The initial phase of the project, which will bring the airport back into use, is estimated to cost about £100 million. The cost of developing the remaining phases of the project over a 15-year period is estimated to be an additional £200 million, i.e. a total of £300 million."

- 9.8.105. In F.1.6, the ExA requested further information on the assumptions and more detailed costings behind this overall figure. The Applicant provided its Capital Expenditure budget of £306m at Appendix F.1.6 to its response to ExQ1 [[REP3-187](#)].

- 9.8.106. The ExA notes that the Capital Expenditure budget was not provided as part of the Funding Statement and was provided following a request by the ExA in F.1.5.

- 9.8.107. The Capital Expenditure budget provides a partial list of quantities but does not show the assumptions or algorithms used to convert these to costs. It does show the overall Capital Expenditure, including a 10% contingency, broken down by four phases and in its response to F.1.6 [[REP3-195](#)], the Applicant states that:

"...it should be noted that following a more detailed analysis the level of expenditure to bring the airport back into use is a greater share of the £300m than stated in the funding statement, i.e. £186m rather than £100m."

- 9.8.108. The reason for this was stated in the Applicant's written summary of its case at CAH1 [[REP5-011](#)] as being:

"...because of a greater proportion of the works such as ground levelling are considered to be needed for phase 1 before the airport could reopen."

- 9.8.109. The ExA did not receive evidence to counter this basis for assessment.

9.8.110. More generally, the Applicant stated in paragraph 3.13 of the Applicant's written summary of oral submissions put at CAH1 [[REP5-030](#)] that:

"The revised Funding Statement would reflect the current best estimate of capital expenditure which was £306m. This amount had been determined by a collective effort of the Applicant's consultant team, many of whom had extensive airport experience. Until the detailed design stage, it would not be possible provide a precise valuation."

9.8.111. Taking into account the evidence above, **the ExA concludes and recommends that, whilst the Capital Expenditure budget does not provide a fully worked and transparent estimate of the Capital Costs of bringing the airport back into use, it does provide a sufficient overall figure against which the ExA could examine the funding of the implementation of the scheme.**

Blight

9.8.112. With reference to blight, paragraph 18 of the 2013 Guidance states that:

"Applicants should be able to demonstrate that [...] the resource implications of a possible acquisition resulting from a blight notice have been taken account of."

9.8.113. The Funding Statement [[APP-013](#)] states in paragraph 20 that:

"Statutory blight is triggered once an application for a DCO has been made, pursuant to paragraph 24(c) of Schedule 13 to the Town and Country Planning Act 1990. The three categories of land to which this applies are small businesses, owner-occupiers and agricultural units. CBRE advise that there is no land subject to compulsory acquisition under this application in any of these categories. Nevertheless, RiverOak is has set aside funding for potential blight claims out of an abundance of caution and have drawn down £500,000 from their investors at the time of making the application in case any claims are successfully made."

9.8.114. The ExA did not receive evidence to counter this basis for assessment.

9.8.115. In its response to F.4.1 [[REP9-006](#)] that Applicant states that:

*"The figure for blight of £500k is part of the figure for compulsory acquisition of £7.5m - if the Applicant receives a claim for blight, it acquires land it was always going to acquire, but earlier than it was intending to. The £500k is therefore not an additional sum and the total is £11.85m. There is thus a greater than 10% contingency (£11.85m * 110% = £13.035m)."*

9.8.116. Taking into account the evidence above, **the ExA concludes and recommends that the allowance for blight contained within the figure contained in Article 9 is adequate.**

The Adequacy of Article 9

9.8.117. The Applicant's dDCO as submitted with the application [[APP-006](#)] contained Article 9 - Guarantees in respect of payment of compensation, etc. which stated that:

*"(1) The authorised development must not be commenced, and the undertaker must not exercise the powers in articles 19 to 33, until—
(a) subject to paragraph (3), security of £7.5 million has been provided in respect of the liabilities of the undertaker to pay compensation under this Order; and
(b) the Secretary of State has approved the security in writing.
(2) The security referred to in paragraph (1) may include, without limitation, any one or more of the following—
(a) the deposit of a cash sum;
(b) a payment into court;
(c) an escrow account;
(d) a bond provided by a financial institution;
(e) an insurance policy;
(f) a guarantee by a person of a sufficient financial standing (other than the undertaker)."*

9.8.118. This Article was examined both in respect of the adequacy of the sum stated in Article 9(1)(a) and also in respect of whether other methods should be offered to secure that sum in Article 9(2).

9.8.119. The adequacy of Article 9 is important in one particular respect. The Applicant's response to F.3.1 [[REP7a-002](#)] states that:

"To the extent that the ExA has any residual concerns that the Applicant does not have sufficient funds to compensate for the land subject to compulsory acquisition, those concerns should be entirely allayed by the restriction in Article 9 of the draft DCO.

Article 9 prevents the Applicant from commencing the development or from exercising any powers of compulsory acquisition until it has provided security of £13.1 million, which has been approved in writing by the Secretary of State. That sum is sufficient to cover all liabilities for compensation arising out of compulsory acquisition as well as costs of noise mitigation (including relocation). If the Applicant is not able to satisfy the Secretary of State that such funds are available and secured, then it will not be able to commence the authorised development or acquire any land by compulsory acquisition."

9.8.120. The Applicant's written summary of its case put at CAH2 [[REP8-016](#)] stated that the Applicant:

"...pointed out that the giving of security for compulsory purchase compensation in the form of article 9 in the current dDCO was very much the exception, rather than the rule for DCOs. Most DCOs have been made without the inclusion of any such form of 'guarantee' as to the availability of funds. The Applicant has gone well beyond that is normally required in this case and has drafted article 9 based on the limited precedent that exists. The range of mechanisms that might provide security in article 9 is entirely appropriate and has been used in those limits other DCOs"

- 9.8.121. The ExA requested in F.1.8 [[PD-007](#)] the more detailed costings behind the figure of £7.5 million but in its response [[REP3-195](#)] the Applicant stated that:
- "...for reasons of commercial confidentiality and sensitivity the Applicant considers it inappropriate to provide a breakdown of different elements as they may be assigned to individual land holdings."*
- 9.8.122. Given this, the estimations used for the land valuation from which the figure of £7.5m was derived were examined through F.1.8 and at the CAHs held on 20 March 2019 [Agenda Item 5(b) [EV-011](#), [EV-012](#), [EV-012a](#), [EV-012b](#) and [EV-012c](#)] and on 4 June 2019 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)].
- 9.8.123. However, as set out in the subsection of this report, above, the Applicant's DL12 cover letter [[AS-522](#)] dated 9 July 2019 states that:
- "The Applicant has now completed the purchase of the airport from Stone Hill Park Ltd..."*
- 9.8.124. As figures provided by the Applicant in its Overall Summary of Case [[REP11-014](#)] show that, in terms of area, the ownership of land by SHP constituted some 95% of the freehold ownership of land within the Order Lands.
- 9.8.125. Given this, the ExA does not consider it necessary or useful to set out the detail of the examination relating to the estimates of valuation of this land.
- 9.8.126. However, the discussions on this issue did demonstrate a variety of possible valuations for the land and a variety of interpretations of the bases on which a valuation can and should be made for the purposes of CA, including the statement at paragraph 3.6 of the Applicant's written summary of its case put at CAH1 [[REP5-011](#)] that:
- "The Applicant stated that it was possible that a change in Thanet District Council's policy on use of the Order land would impact the valuation assessment within the property cost estimate."*
- 9.8.127. The ExA note that the Applicant's DL12 cover letter [[AS-522](#)] submitted on the final day of the Examination covered a range of issues but did not seek to amend the figure stated in Article 9(1)(a) as a consequence of the purchase of land from SHP.
- 9.8.128. Taking into account the evidence above, **the ExA concludes and recommends that**, given some uncertainty associated with this figure as it relates to land values and compensation, given that no alternative figure has been submitted and erring on the side of caution **the £7.5m element of the figure in Article 9 should not be reduced in any final DCO.**
- 9.8.129. The ExA examined what other costs are included in the sum secured by Article 9. First, the ExA notes that, in its response to F.1.13 [[REP3-195](#)],

the Applicant confirmed that the sum of £0.5m allocated for blight was included in, and not additional to, the sum of £7.5m contained in the first version of Article 9 (see below).

- 9.8.130. Further, in its response to F.1.18 [REP3-195], the Applicant also confirmed any the sum associated with provisions under which parties may be entitled to compensation – for example as listed in the SoR [APP-012] at paragraphs 5.9.1, 5.9.2, 5.9.6, 5.9.7, 5.9.9 - was included in the sum of £7.5m as well.
- 9.8.131. The ExA also examined whether this figure should include other elements of compensation and costs.
- 9.8.132. In F.1.8 [PD-007] the ExA noted that paragraph 18 of the Funding Statement [APP-013] shows the following costs in relation to the NMP:
*"Implementation of insulation policy and Part I claims: £4m (up to 1000 properties at £4000 each); and
Implementation of relocation policy: £1.6m (up to eight properties)."*
- 9.8.133. The ExA noted that this totals £5.6m and asked for more detailed costings and for the Applicant to show where the availability of this sum is subject to any form of guarantee in the dDCO.
- 9.8.134. The Applicant justified this costing [REP3-195, F.1.9] with reference to noise insulation assistance schemes at other airports in the UK and stated that Part 1 Land Compensation Act 1973 claims have been calculated based on an estimate that such claims are typically in the region of 1% of value, and a generous assumption has been made of an average value of £400,000 per dwelling.
- 9.8.135. The ExA did not receive evidence to counter this basis for assessment.
- 9.8.136. These figures were amended in the revised NMP submitted on 8 March 2019 [REP4-023] and the Applicant's written summary of oral submissions put at CAH1 [REP5-011] stated at paragraphs 3.19 and 3.20 that:
*"The revised Noise Mitigation Plan offers up to £10,000 for sound insulation at what is now estimated to be 225 properties, i.e. a total of £2,250,000, below the originally assumed figure of £4,000,000 for £4,000 for each of 1000 properties.
For the eight properties entitled to relocation, they would receive unaffected market value uplifted by 2.5% plus £5,000, giving a total estimate of £3,200,000. The properties would be re-sold or let for half of that figure, so £1,600,000 has been included in the funding statement."*
- 9.8.137. The Applicant accepted that Article 9 as then drafted did not include noise mitigation payments and, in the introduction to a revised dDCO submitted at D3 [REP3-186] the Applicant stated that:

"The Applicant has increased the quantum of security to be provided prior to commencement of development under article 9(1) to £13.1m. This covers the Applicant's commitments for:

- compulsory acquisition;*
- implementation of insulation policy;*
- part 1 claims; and*
- implementation of relocation policy."*

9.8.138. The Applicant revised this subsection in the revised dDCO submitted at D3 [[REP3-186](#)] to read:

"9.-(1) The authorised development must not be commenced, and the undertaker must not exercise the powers in articles 19 to 33, until—

(a) subject to paragraph (3), security of £13.1 million has been provided in respect of the liabilities of the undertaker to pay compensation, noise insulation costs and relocation costs under this Order;"

9.8.139. The insertion of the figure of £13.1m in the Applicant's dDCO resulted from F.1.13 [[PD-007](#)] in which the ExA notes that Article 9 in the application dDCO [[APP-006](#)] proposed guarantees in respect to £7.5m whereas figures in the Funding Statement [[APP-013](#)] showed the estimated potential combined cost of CA, the NMP and blight to be £13.6m.

9.8.140. The Applicant's responded that:

"The £7.5m sum guaranteed in Article 9 of the dDCO related to the cost of compulsory acquisition (including blight). The revised version of the dDCO being submitted for Deadline 3 [TR020002/D3/2.1] has increased this figure to £13.1m to include the additional cost of implementing the Noise Mitigation Plan proposals. The sum of £13.6m referred to in the question appears to have added £500,000 for blight when that sum was already included in the £7.5m and should be a total of £13.1m."

9.8.141. The final version of the dDCO submitted by the Applicant [[REP7a-017](#)] was amended to clarify the purposes for the sum is secured and reads:

Guarantees in respect of payment of compensation, etc.

9.-(1) The authorised development must not be commenced, and the undertaker must not exercise the powers in articles 19 to 33, until—

(a) subject to paragraph (3), security of £13.1 million has been provided in respect of the liabilities of the undertaker—

- (i) to pay compensation to landowners in connection with the acquisition of their land or of rights over their land by the Applicant exercising its powers under Part 5 of this Order; and,*
- (ii) to pay noise insulation costs and relocation costs as required by Requirement 9 of Schedule 2 to this Order;*

9.8.142. The ExA agrees with these additions which were reflected in its second dDCO [[PD-018](#)] issued on 14 June 2019.

9.8.143. Having regard to all the above evidence, **the ExA concludes and recommends that**, given the need to seek to ensure that the sum

specified in Article 9 is adequate to cover the potential costs related to CA, implementation of insulation policy, Part 1 claims; and implementation of relocation policy, and notwithstanding that the sum required for noise insulation may have been reduced, **the overall sum of £13.1m should not be changed in any final DCO** to allow sufficient headroom for any contingencies.

9.8.144. The ExA also examined the nature of the security to be provided in Article 9.

9.8.145. The Applicant's written summary of oral submissions put at CAH1 [[REP5-010](#)] stated at paragraph 3.22 that:

"The Applicant has added 'parent company guarantee' to the options in Article 9 of the dDCO and expects either that or a guarantee from a person of sufficient financial standing will be the option chosen."

9.8.146. The final version of the dDCO submitted by the Applicant [[REP7a-017](#)] was amended to:

Guarantees in respect of payment of compensation, etc.

9.—(1) The authorised development must not be commenced, and the undertaker must not exercise the powers in articles 19 to 33, until—

(b) the Secretary of State has approved the security in writing.

(2) The security referred to in paragraph (1) may include, without limitation, any one or more of the following—

(a) the deposit of a cash sum;

(b) a payment into court;

(c) an escrow account;

(d) a bond provided by a financial institution;

(e) an insurance policy;

(f) a guarantee by a parent company of the undertaker;

(g) a guarantee by a person of a sufficient financial standing (other than the undertaker).

(3) The Secretary of State is to have no liability to pay compensation in respect of the compulsory acquisition of land or otherwise under this Order.

9.8.147. In DCO.2.17 the ExA questioned the Applicant as to who is the parent company in terms of this Article.

9.8.148. The Applicant responded [[REP6-012](#)] that:

"The undertaker, i.e. the Applicant, does not have a single parent company, but is 90% owned by RiverOak Investments (UK) Ltd and 10% owned by RiverOak Manston Ltd."

9.8.149. **Given this the ExA concludes and recommends that Article 9(2)(f) be amended to read:**

"(f) a guarantee by a parent company or companies of the undertaker"

and have included this in the rdDCO appended to this report at Appendix D.

9.8.150. The chapter of this report that deals with the dDCO, Chapter 10 below, discusses the identity of the Discharging Authority for Requirements. In the case of Article 9, the ExA is content that the Discharging Authority should remain the SoS subject to the SoS agreeing to accept that role.

9.8.151. Having regard to all the above evidence, the ExA **concludes and recommends that, subject to the amendment above, the wording for Article 9 contained in the Applicant's final dDCO [REP7a-017] should be included unchanged in any final DCO** and has included it in the rdDCO appended to this Report at Appendix D.

The business case and model

9.8.152. The Funding Statement as submitted with the application [APP-013] stated that:

"RiverOak has assessed the commercial viability of the project in the light of this information and is confident that the project will be commercially viable."

9.8.153. The ExA requested a copy of any business case and / or plan which forms any part of the basis for estimating the net cost of implementing the project [F.1.5, PD-007] and this was provided at Appendix F.1.5 [REP3-187] to the Applicant's responses to ExQ1.

9.8.154. In its response to F.2.26 [REP6-012], the Applicant stated that:

"The first Business Plan referred to in paragraph 9.2 (of the joint Venture Agreement at Appendix 4 to Applicant's Written Summary of Case put Orally Compulsory Acquisition Hearing and associated appendices [REP5-index number to be allocated]) is a commercially sensitive internal document which informed the investors' decision to fund the DCO process. The business model provided to the ExA is derived from the Business Plan but is an edited version of that document for reasons of commercial confidentiality."

9.8.155. The Applicant's written summary of oral submissions put at CAH1 [REP5-011] stated at paragraph 8.2 that:

"A summary of the business plan has been provided to the Examining Authority. Plainly the Applicant has a more detailed analysis but it is subject to commercial confidentiality. In short, the Applicant is not willing to reveal to potential customers or competitors the precise charges or revenues it anticipates because that would adversely affect its negotiations in future."

9.8.156. The Applicant goes on to make a wider point at paragraph 8.3 that:

"...the ExA should be satisfied that there is sufficient certainty that the development will take place because the Applicant has shown it has

sufficient funds and because the Joint Venture obliges the owners of those funds to spend them on the project; but in any event, it is not a requirement that the decision-maker be satisfied that the development will take place before authorising compulsory acquisition.”

- 9.8.157. The ExA continued to pursue issues of funding but recognised the need for a necessary degree of confidentiality in respect of, for example, charges to be made for services.

The timing of the execution of the CA powers

- 9.8.158. The Applicant proposed a change to Article 21 in the dDCO submitted at D6 [[REP6-018](#)] to read that:

“(1) After the end of the period of 1 year beginning on the day on which this Order is made—

(a) no notice to treat is to be served under Part 1 of the 1965 Act; and

(b) no declaration is to be executed under section 4 of the 1981 Act as applied by article 26 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).”

- 9.8.159. This amendment was itself amended and this is discussed in Chapter 10, below, which deals with the DCO.
- 9.8.160. This has the effect of bringing the time period for executing the CA process from five years, as is more widespread in NSIP cases, to one year.
- 9.8.161. The ExA considers that this amendment does serve to provide a greater degree of certainty that CA will take place in an expeditious way and will provide more certainty for APs.

9.9. OTHER STATUTORY TESTS

- 9.9.1. Section 122(1) and (2) of the PA2008 states that:

- v. “An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the land—*
- vi. (a) is required for the development to which the development consent relates,*
- vii. (b) is required to facilitate or is incidental to that development, or*
- viii. (c) is replacement land which is to be given in exchange for the order land under section 131 or 132.”*

- 9.9.2. In the case of the request for CA for the proposed Manston Airport development, s122(2)(c), dealing with replacement land, does not apply.

- 9.9.3. The ExA examined the tests in s122(2)(a) and s122(2)(b), as set out above, mainly through a consideration of the proposals relating to Associated Development.

- 9.9.4. This issue is covered in detail in Chapter 10 on the dDCO. This concludes that all the works listed in Schedule 1 of the rdDCO appended to this report are required for the development to which the development consent relates or are required to facilitate or are incidental to that development with the possible exception of Works Nos. 15, 16, 17 and 32.
- 9.9.5. In the case of Works Nos. 15, 16, 17 and 32, in Chapter 10, below, on the dDCO **the ExA concludes that these works are only required to facilitate or are incidental to that development if their use is restricted by the application of specific provisions in the rdDCO that have been recommended by the ExA and are set out in that chapter.**

9.10. NON-STATUTORY CRITERIA

- 9.10.1. The 2013 Guidance sets out a number of considerations that the ExA has taken into account in examining the request for CA. These are summarised as relating to:
- Reasonable alternatives to CA;
 - the use of the land which it is proposed to acquire; and
 - risks and impediments.
- 9.10.2. These are considered in turn, below.
- Reasonable alternatives to CA***
- 9.10.3. The 2013 Guidance states at paragraph 8 that:
- "The applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored."*
- 9.10.4. First, the ExA considered the scope for modifications to the scheme. Paragraph 9.9 on of the SoR [[APP-012](#)] considered the issue of modifications both in terms of alternatives to the site and modifications to the scheme.
- 9.10.5. On the former, the SoR concludes at 9.14 that:
- "...all alternative sites are either too small to support the operation that is planned, are already developed as passenger-focused facilities, or have no existing infrastructure or history of operating as an airport."*
- 9.10.6. The ExA recognises that the existence of a formerly operating airport in this part of South East England of this size and potential capabilities provides a site that cannot be matched by another, alternative site, and therefore, **the ExA concludes that the opportunity to modify the scheme by focussing on another site is not open to the Applicant in this particular situation.**

9.10.7. On the latter issue of modifications to the scheme, Section 2.4 of Chapter 2 of the ES [[APP-033](#)] sets out what considerations have been taken for on-site alternatives for individual elements and components of the Proposed Development as part of the master planning process. This states that:

"Although constrained by the existing site layout including the position of the runway, taxiways and airport buildings, a number of alternative layouts, designs and configurations were considered for the air freight and cargo facilities. Nonetheless, one of the guiding principles throughout the evolution of the design has been to minimise disruption to existing hardstanding areas in order to ensure protection of the lord of the manor water source beneath the site. This principle further constrains the viable options for alternative site layouts, particularly in terms of airside components of development."

[...]

"Additional measures included looking at the number of aircraft stands, apron design, taxiway layout and configuration, and size, location and layout of the associated freight handling and parking facilities. [...] these were constrained by the need to provide sufficient capacity to meet the demands of the airfreight forecast and to allow for the safe and efficient operation of the airport, [...]."

9.10.8. The Design and Access Statement (Part 2) [[APP-082](#)] repeats this at 3.02.

9.10.9. Whilst noting that the descriptions of the process of defining alternative layouts does not specifically refer to the consideration of the reduction of land take or imposition on interests in land, the ExA recognise the constraints imposed by a proposal for a cargo airport in terms of the distribution of the elements of such an airport within its boundary in relation to the existing fixed infrastructure, notably the runway.

9.10.10. The possible exception to this is the Proposed Development of commercial airport related facilities on the area known as the NGA and this is covered above and later on in this chapter and, in more detail in Chapter 10, below.

9.10.11. In addition, the ExA does consider some individual elements such as the number of stands and the size of the car park, below in this chapter.

9.10.12. **The ExA concludes that the opportunity to modify the Proposed Development through amendments to layout has been explored in relation to this application but that, given the particular type of development, the opportunities for doing so may be limited.**

9.10.13. Given this, the ExA examined this part of the 2013 Guidance mainly with reference to the reasonable alternative of acquiring the land and / or rights over land by voluntary agreement rather than compulsorily having regard to the advice contained at paragraph 25 of the 2013 Guidance that:

“Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail.”

- 9.10.14. The position with regard to the major landowner, SHP, and to Kent Facilities Ltd is recorded in Section 8.6, above.
- 9.10.15. The ExA notes that the Applicant's Overall Summary of Case [[REP11-014](#)] states at paragraph 7 that:
- “The Examining Authority will be aware that it is not uncommon for parties to publically object to DCO schemes with the ultimate aim of securing the best possible deal with the applicant.”*
- 9.10.16. The ExA notes this approach to playing out an aspect of seeking to acquire land by negotiation in the public arena in respect to the time and resources expended by IPs in supporting the examination of this party's objection to CA.
- 9.10.17. The final version of the CA Status Report dated the day of the close of the Examination [[AS-585](#)] shows that voluntary acquisition has also been concluded with Anthony Jenkins Fuel Oil Limited (plots 071, 072, 072a, 077); Anthony Norman Jenkins (plots 071, 072, 072a, 077); Jacqueline Jenkins (plots 071, 072, 072a); Nicola Anne Jenkins-Graham (plots 071, 072, 072a); Tina Jacqueline Cardy-Jenkins (plots 071, 072, 072a, 077) in respect to the proposed fuel farm; and agreement has been reached with the 1948 Group over plot 045; with David Steed (plots 063 and 065) *“for a fixed term”*; and with Lester Archer Hovenden and Vera Ellen Hovenden (plot 179) (*“agreement reached - option to be completed shortly”*).
- 9.10.18. The Applicant has shown the position in relation to the requests for outright CA of the freehold of land owned by APs in a table in its Overall Summary of Case [[REP11-014](#)].

Owner	Original area when the application was made (m ²)	Status	Remaining area at the end of the examination (m ²)
Stone Hill Park	2,927,158	Acquired by agreement	
Jentex	21,166	Acquired by agreement	
Mr Spanton	10,915	Still outstanding	10,915
Museum	9,210	No longer being acquired	
Kent CC	3,911	Still outstanding	3,911
Mr Chamberlain	2,447	Small quantity still being acquired	196
Total	2,974,807		15,022

- 9.10.19. The ExA recognise that, in terms of land ownership, this means that agreement has been reached in relation to requests for outright CA for some 95% of the land within the Order Lands.

9.10.20. However, the final version of the CA Status Report dated the day of the close of the Examination [[AS-585](#)] also shows that agreement had been reached with only nine of the 170 APs listed in that report.

9.10.21. The ExA examined the issue of the Applicant's success or otherwise in acquiring land and / or rights by agreement including in CAH2 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)].

9.10.22. At that hearing, the ExA referred to, as an example, the response from Savills acting on behalf of The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge to CA.3.20 and CA.3.21:

"...the letter of 1 March once again referred to the Applicant wanting to acquire rights by voluntary agreement and suggesting that they looked forward to hearing from the College. However, this was simply repeating what had been said in previous correspondence and no further clarity or guidance was provided. Therefore, once again there was no point in the College incurring further costs in telling the Applicant what they already knew.

[...] the Applicant's letters made no attempt to address the points of concern they were simply repetitious attempts to persuade the landowner to negotiate a voluntary acquisition by the Applicant. Therefore, the College are unable to take a view on this matter."

9.10.23. The Applicant's summary of oral submissions put at CAH2 [[REP8-011](#)] stated at paragraph 7.6 that:

"...St John's College, Cambridge had previously informed the Applicant that it would not negotiate with the Applicant until the Order has been made. The College has now agreed to engage following a request that the Applicant agree to meet their legal/surveyor fees in doing so, which the Applicant has agreed. The Applicant is waiting for further information from the College in respect of its legal/surveyor fees and is collating the information the College is seeking".

9.10.24. Another example is provided in an e-mail chain submitted to the ExA by KCC on the final day of the Examination [[AS-435](#)]. This showed that Bruton Knowles LLP on behalf of KCC, contacted the Applicant on 30 April 2019 asking for a fee undertaking. Despite Bruton Knowles following this up, BDB Pitmans, on behalf of the Applicant stated on 13 June 2019 that it was still taking instructions the request for an undertaking.

9.10.25. Despite not receiving any such undertaking, KCC responded with substantive issues on 18 June 2019 but BDB Pitmans did not respond to this until 26 June 2019; nine working days before the close of the Examination.

9.10.26. A wider example is provided by the fact that, in respect to those owners, or suspected owners of rights associated with the pipeline and outfall, the final CA Status Report [[AS-585](#)] shows that none of the relevant APs

have reached agreement on voluntary acquisition of rights with Applicant.

- 9.10.27. The Applicant's summary of oral submissions put at CAH2 [[REP8-011](#)] stated at paragraphs 7.1 and 7.2 that:

"Since the third revised Compulsory Acquisition Status Report (Deadline 5), the Applicant has written to all 81 pipeline owners and provided them with draft voluntary agreements, offered a financial incentive (£250 in total, £100 payable on grant of option and £150 payable on transfer), and offered to cover reasonable legal fees (of up to £500 inclusive of VAT).

The Applicant has received responses from 19 pipeline owners since it has made such offers and remains committed to entering into voluntary agreements where possible."

and stated that:

"... the level of engagement from landowners may be reflective of the limited impact of the Applicant's compulsory acquisition powers."

- 9.10.28. The ExA recognises that the Applicant can seek to engage but cannot require a response to be made.

- 9.10.29. Taking into account these examples and other evidence received on this issue, including the fact that the Applicant did acquire the freehold of the great majority of the area within the Order Lands voluntarily, the ExA consider that it is apparent that the Applicant is seeking to acquire land and / or rights voluntarily but it is less apparent that it was always undertaking this activity with a demonstrable sense of timeliness and focused engagement

- 9.10.30. The ExA considers that the Applicant has not been pursuing alternatives to CA as seriously as it could and should have done.

- 9.10.31. The ExA recognises that such attributes do not form part of the criteria in guidance and, therefore, **the ExA concludes that the Applicant is able to demonstrate in general that all reasonable alternatives to CA (including modifications to the scheme) have been explored.**

- 9.10.32. However, in examining the request for CA in respect of individual APs, below, in specific cases, the ExA cannot recommend to the SoS that the Applicant has sought to acquire land by negotiation to the extent that Guidance may suggest that it should have done.

The use of the land which it is proposed to acquire

- 9.10.33. The 2013 Guidance states at paragraph 9 that:

"The applicant must have a clear idea of how they intend to use the land which it is proposed to acquire."

9.10.34. This criterion in guidance was examined in terms of the Applicant's stated intention to secure that only land which is required and in respect of particular components and areas of the Proposed Development.

9.10.35. Paragraph 9.19 of the SoR [[APP-012](#)] states that:

"In common with other projects, detailed design may avoid acquisition of some of the land that is within the scope of compulsory acquisition powers in the application; only land that is required for the development will be acquired."

9.10.36. The ExA asked the Applicant in CA.1.2 [[PD-007](#)] to show where the dDCO [[APP-006](#)] secures this.

9.10.37. The Applicant's overall position in respect to this is stated in its response to CA.1.2 [[REP3-195](#)]:

"Article 19 of the dDCO which authorises the acquisition of land by compulsory purchase, grants the powers to the Applicant to only acquire such of that land as is required for the project. These powers are intended to ensure sufficient flexibility in the detailed design of the project. The dDCO generally includes full land acquisition powers. However, in any individual case, the exercise of these powers will operate on the basis that the Applicant will acquire no greater amount of land than appears to it to be reasonably required following detailed design. If it is practicable to acquire a smaller area of land without compromising the Applicant's ability to secure the effective construction and operation of the project, and it becomes clear following detailed design that some of the land is not required, such land will be outside the scope of compulsory acquisition powers and will not be acquired."

and in CA.1.8

"Paragraph 8.38 of the Statement of Reasons correctly states that some flexibility is required in the final design of the Proposed Development. However, this does not indicate that there is doubt over whether certain areas of land are required. The Masterplan [[APP-079](#)] illustrates the likely location of all the elements of the Proposed Development that would be authorised under the DCO. More importantly, the Works Plans [[APP-018](#)] show the limits within which each of the Schedule 1 works must be located. Article 6(1)(a) does provide some flexibility as to where each work is located within its Works limits. This does not give rise to any doubt over whether parts of that zone will be required, only about the exact location and design that the Work will take within each zone."

9.10.38. The ExA notes that Article 19 of the rdDCO at Appendix D states that:

"The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it."

and considers that this wording provides statutory assurance that the Applicant may not acquire more land than is required.

- 9.10.39. Having had regard to the evidence above, **the ExA concludes that in general, Article 19 serves to secure that only land that is required may be acquired compulsorily.**
- 9.10.40. Having concluded generally on this issue, the ExA focusses on three specific elements of the Proposed Development to establish that, in these cases, the Applicant has a clear idea of how it intends to use the land which it is proposed to acquire. These were:
- Work Nos. 15,16,17 and 32;
 - the car park; and
 - Code E aircraft stands.
- 9.10.41. Work Nos. 15, 16, 17 and 32 are considered further below in this chapter and in more detail under Associated Development in Chapter 10 on the dDCO.
- 9.10.42. In respect of the car parking, that section of Chapter 6 concludes that, whilst the concerns of KCC are acknowledged, the ExA accepts the Applicant's explanation that there are many unknowns that warrant the provision of a large oversupply of on-site parking. The ExA is content that the exact level and cost of parking can be suitably agreed through the final CPMS that must be agreed by R7 of the rdDCO, to ensure that the objectives of the FTP are not jeopardised.
- 9.10.43. In terms of the request for CA, therefore, the ExA accepts that, whilst there may be some overprovision in car parking provision for the Proposed Development as currently planned, the ExA would not wish to restrict the necessary flexibility for this element of the Proposed Development by recommending the refusal of the request for CA over the relevant plots.
- 9.10.44. On the Code E aircraft stands, that part of Chapter 6 which deals with Operations concludes that there is a wide disparity between the Applicant's proposed 19 Code E stands and York Aviation's calculation of nine stands with an additional one for resilience, and the difference of nine stands represents a substantial area of land. Based on evidence regarding MARS and operations at EMA it appears unlikely that 19 stands would be needed for the forecast levels of traffic. While appreciating that it may be unclear if MARS would work at the airport without knowing traffic levels and that initially it may prove difficult, once the airport was of a sufficient size traffic levels would become a lot more established and known to the airport operators, allowing MARS to be used, providing efficiencies. From the evidence provided the ExA concludes that 19 Code E stands would represent a substantial overprovision.
- 9.10.45. However, as that part of Chapter 6 which deals with Operations concludes the ExA does not comment specifically on the exact number of stands which may be required to meet the forecasts.
- 9.10.46. In terms of the request for CA, therefore, the ExA accepts that, whilst there appears to be overprovision in the number of Code E aircraft stands as currently planned, the ExA would not wish to restrict the

necessary flexibility for the airside element of the Proposed Development nor stymie the commercial evolution of the airport by recommending the refusal of the request for CA over the relevant plots.

- 9.10.47. Therefore, **the ExA concludes and recommends that, in relation to specific elements of the Proposed Development, Article 19 serves to secure that only land that is required may be acquired compulsorily.**

Risks and impediments

- 9.10.48. The 2013 Guidance states at paragraph 19 that:

"...applicants will need to be able to demonstrate that [...] any potential risks or impediments to implementation of the scheme have been properly managed..."

and that:

"...applicants will need to be able to demonstrate that [...] they have taken account of any other physical and legal matters pertaining to the application, including the programming of any necessary infrastructure accommodation works and the need to obtain any operational and other consents which may apply to the type of development for which they seek development consent."

- 9.10.49. During the course of the Examination the ExA considered a number of possible impediments to the Proposed Development including the processes involved in, for example, obtaining CAA licences and engagement with the ACP and issues such as the need to obtain a Bats Licence.
- 9.10.50. In such cases, the ExA concludes that any potential risks or impediments to implementation of the scheme have been properly managed.
- 9.10.51. The ExA has also examined in detail, the issues surrounding the HRDF with this being addressed in particular in that section of Chapter 6 which deals with operations, and in Chapter 10, below, dealing with the dDCO.
- 9.10.52. The sequence of events set out in Chapter 6 would seem to the ExA to indicate a lack of awareness by the Applicant of the importance and implications of this issue at the outset of the Examination.
- 9.10.53. However, in terms of the 2013 Guidance the Applicant has been able to demonstrate that it has taken account of any other physical and legal matters pertaining to the application and, at least during the Examination and resulting in the proposed Requirement set out in Chapter 10, have sought to manage this potential impediment.
- 9.10.54. The **ExA concludes that any potential risks or impediments to implementation of the scheme have been properly managed.**

9.11. HUMAN RIGHTS AND THE PUBLIC SECTOR EQUALITIES DUTY

- 9.11.1. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land.
- 9.11.2. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has considered the position in relation to Human Rights and the PSED as if the ExA had come an alternate view and concluded that there is sufficient need for the development.
- 9.11.3. Chapter 3 of this report sets out the relevant provisions of the HRA1998 and, in particular, Article 8 and the First Protocol: Article 1 - Protection of property.
- 9.11.4. Paragraph 8 of the 2013 Guidance states that:

"The applicant will [...] need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate."

and paragraph 10 states that:

"The Secretary of State must ultimately be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention."

- 9.11.5. The ExA point out, first, that the request made by the Applicant for CA powers to acquire land and / or rights over land did not involve the acquisition of any dwellings.
- 9.11.6. However, even taking account of the voluntary acquisition of land by the Applicant from SHP, landowners will be deprived of property. Therefore, the ExA considers that the part of the First Protocol of Article 1 of the HRA1998 that states that no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law, is engaged in this case.
- 9.11.7. The ExA points out, second, that, in its response to N.2.2.24, the Applicant stated [[REP6-012](#)] that:

"As recognised by Powell and Rayner v UK (1990) 12 EHRR 355 and Hatton v UK (2003) 37 EHRR 28, noise from an airport has the potential to engage Article 8 of Schedule 1 to the Human Rights Act 1998, being interference of a type falling within the scope of Article 8."

and that:

"Aircraft noise is in certain circumstances capable of engaging Article 1 of the First Protocol to the Human Rights Act 1998."

9.11.8. The engagement of Article 8 and of Article 1 of the First Protocol in respect to noise is covered in that part of Chapter 6, above, that deals with noise.

9.11.9. The ExA examined issues related to human rights in F.1.14, CCA.4.11 and at agenda item 14 in CAH2 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)]

9.11.10. The SoR [[APP-012](#)] states at paragraphs 13.3 and 13.4 that:

"RiverOak is satisfied that, although Convention rights are likely to be engaged, the proposed development will not conflict with Convention rights and will be proportionate in that there is a compelling case in the public interest for the proposed development which outweighs the impact on individual rights. In this context, it is relevant that those affected will be entitled to compensation."

With regard to Article 1, First Protocol and Article 8, RiverOak has weighed any interference with these Convention rights as a result of including compulsory powers within the DCO with the potential public benefits if the DCO is made. First, RiverOak considers that there would be very significant public benefit arising from the grant of the DCO. That benefit can only be realised if the DCO includes the grant of powers of compulsory acquisition and temporary use. RiverOak has concluded that the significant public benefits outweigh the effects of the DCO upon persons who own property in the Order limits such that there would not be a disproportionate interference with their Article 8 and Article 1, First Protocol rights."

9.11.11. The ExA has had particular regard to subsection 2 of Article 8 and considers that the following aspects are particularly relevant in this instance:

"There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, [...] for the protection of health..."

9.11.12. In examining the Applicant's argument that there is a compelling case in the public interest for the Proposed Development which outweighs the impact on individual rights, which relates to both Article 1 and Article 8, the ExA first note that, in Chapter 5, above, the ExA concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports.

- 9.11.13. The ExA has further concluded that the socio-economic benefits of the Proposed Development – albeit overstated by the Applicant – are positive.
- 9.11.14. Overall, the ExA concludes, above, that it cannot be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily.
- 9.11.15. Taking all this into account, **the ExA cannot conclude that the purposes for which an order authorises the CA of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.**
- 9.11.16. The ExA examined the application of the HRA1998 in respect of compensation and the securing of such compensation through Article 19 in F.1.14 [[PD-007](#)].
- 9.11.17. The Applicant's Response to F.1.14 [[REP3-195](#)] states that:
- "In the final sentence of paragraph 13.4 [of the SoR] the Applicant states that "those affected by the exercise of compulsory acquisition or temporary use powers will be entitled to compensation and [the Applicant] has the resources to provide such compensation."*
- Article 9 obliges the undertaker to demonstrate the existence of those resources before commencement of the Proposed Development. The article provides that the Proposed Development cannot be commenced until security of £13.1m has been provided in respect of the liabilities of the undertaker to pay compensation under this Order and the Secretary of State has approved the security in writing. Article 9 therefore provides a commitment from the undertaker to back up the claim made in the final sentence of paragraph 13.4 of the Statement of Reasons. This forms part of the Applicant's justification that interference with European Convention rights secured by the Human Rights Act 1998 is justified and proportionate."*
- 9.11.18. **The ExA concludes that, in relation to the provisions of Human Rights legislation, Article 19 does provide sufficient assurance that, should the Order be made and the request for CA be granted, that those affected by this request will receive compensation.**
- 9.11.19. The ExA also focused on the position of two existing businesses within the proposed Order Lands and which were both subject to the request for CA during the Examination. In these cases, the ExA focuses on the provisions of Article 1 in the First Protocol of HRA1998.
- 9.11.20. The two businesses are Polar Helicopters (plots 015 and 039) and Avman Engineering (plot 015).
- 9.11.21. The ExA recognises the matters which are fully agreed between the parties as set out in two SoCGs between the Applicant and these two firms – both submitted on 15 February 2019 [[REP3-183](#)] Polar Helicopters

and [REP3-181](#) Avman Engineering]. Both SoCGs at paragraph 3.1.1 state:

"RiverOak has agreed with Polar Helicopters Limited/ Avman Engineering Limited that should the DCO be granted and implemented, RiverOak will find suitable premises on the application site for the relocation of Polar Helicopters Limited's/ Avman Engineering Limited's business, subject to such relocation being compatible with the proposed Development plans and powers as approved."

and, in the case of Polar Helicopters Ltd, at paragraph 3.1.4:

"Riveroak acknowledges that Polar Helicopters Limited requires access to a helistrip and training area as part of its business and will provide such access should the DCO be granted and implemented."

- 9.11.22. The Applicant's response to CA.3.24 [[REP7a-002](#)] confirms that any agreements between itself and these two commercial operations are not secured in the dDCO but that both leaseholders are content with the position as set out in their respective SoCG and do not seek further commitments from the Applicant on the face of the dDCO or elsewhere.
- 9.11.23. Neither Polar Helicopters or Avman Engineering made any other representations to the Examination apart from the SoCGs.
- 9.11.24. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the specific cases of Polar Helicopters or Avman Engineering, there is a compelling case in the public interest.
- 9.11.25. Therefore, **the ExA notes that , had it come to an alternate overall view that there was a sufficient need for the development, it would have recommended that, in the specific cases of Polar Helicopters and Avman Engineering, that, should the Order be made, the interference is for a legitimate purpose, that the need for the land for the project is necessary and proportionate and that the Applicant has proposed relocation proposals which the lease holders are content with.**
- 9.11.26. As stated in Chapter 1, above, during the Examination, on 1 July 2019 the ExA exercising due diligence, identified and informed a party, Helix AV, under s102A(4) of the PA2008 that it considered that that person might successfully make a request to become an IP [[PD-021](#)]. Helix AV responded on 3 July 2019 to confirm that it wished to be treated as an IP but did not provide any of the evidence requested by the ExA which would have established its status [[AS-586](#)].
- 9.11.27. The ExA asked the Applicant why this undertaking was not included in the BoR. The Applicant responded to CA.4.1 [[REP9-006](#)] by stating that:
- "This undertaking moved into a hangar (formerly occupied by TG Aviation) within the Order Limits in March 2019."*

- 9.11.28. The Applicant added Helix AV to the revised BoR submitted [[AS-581](#)] on the day the Examination closed as having a Category 1 interest in plot 15 as a tenant / occupier.
- 9.11.29. The ExA notes that this new AP was not identified by the Applicant and that the final CA Status Report shows one phone contact between the Applicant and Helix AV and a letter sent from WSP to Helix AV on 2 July 2019.
- 9.11.30. The ExA has had regard to the guidance set out in paragraph 25 of the 2013 Guidance that:
- “Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail.”*
- 9.11.31. The ExA considers that the Applicant could have been aware earlier than it did of the change of tenancy in this case and, having been informed of this by the ExA, could have taken more deliberative efforts to secure the CA of rights by agreement.
- 9.11.32. Therefore, **the ExA notes that , even if it had come to an alternate overall view that there was a sufficient need for the development it would have recommended that the request for CA in respect of Helix AV’s interest in plot 15 should not be granted.**

Public Sector Equalities Duty

- 9.11.33. The ExA has considered the duties placed upon it in relation to the request for CA.
- 9.11.34. The overall position in relation to the PSED is set out in Chapter 3 of this report, including indicating that, within those making representations to the Examination, there are those who share protected characteristics.
- 9.11.35. The ExA is not aware of any specific representations received from APs drawing the ExAs attention to persons sharing a particular protected characteristic.
- 9.11.36. As Chapter 3 of this report indicates, the ExA has sought to ensure that its responsibilities under the PSED have been exercised in the ways in which it has carried out the Examination and this applies equally to the Examination of CA.

9.12. PART 5 OF THE DRAFT DCO AND ARTICLE 40

- 9.12.1. This section of this chapter examines issues related to those Articles (9 and 19 to 33) with relate to the request for CA powers.

Article 19 – Compulsory acquisition of land

- 9.12.2. The Applicant's written summary of oral submissions put at CAH1 [[REP5-011](#)] stated at paragraph 10.1 that:

"The Applicant does not agree with SHP's proposals for inclusion in the dDCO, except that it would be prepared to adopt the equivalent to the Crichel Down rules in relation to SHP's interest."

9.12.3. In question DCO.2.49 [[PD-010b](#)], the ExA requested the Applicant to provide possible drafting for inclusion in the dDCO embedding the principles inherent in the Crichel Down rules.

9.12.4. The Applicant's response [[REP6-012](#)] was in the form of a suggested Article 19(3) and (4):

"The undertaker will treat the Crichel Down Rules as applying to land acquired by it under this article it as if it were a UK government department.

In this article 'Crichel Down Rules' means the rules contained in 'Guidance on Compulsory purchase process and the Crichel Down Rules' published by the Ministry of Housing, Communities and Local Government in February 2018 or any successor to such rules."

9.12.5. This was examined at ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)] and SHP's written summary of oral submissions [[REP8-030](#)] at paragraph 3.8 states that:

"This is a unique case, where one private entity is attempting to compulsorily acquire another party's land holding of 742 acres, and the landholding in question forms 92% of the Order Land. The principals of the Applicant have long coveted the land, having been involved in two previous attempts to secure compulsory acquisition powers, failing both times. The principals have no track record of successful airport development, have submitted zero information on their experience and track record to this examination, and SHP consider that the Applicant's primary objective is to secure a 742 acre land holding in Kent."

9.12.6. However, at paragraph 3.6 it stated that, at the hearing, it had:

"...explained its concerns that the application of the standard Crichel Downs Rules (as drafted for use by Government departments) would not be appropriate in the circumstances."

9.12.7. The Applicant's summary of oral submissions put at ISH8 [[REP8-016](#)] states that the Applicant had:

"...responded by reminding the Examination that the Crichel Down rules do not apply to the Applicant. The rules are of application to public bodies. SHP's position is that the Crichel Down rules are not appropriate. SHP's argument that another set of rules should be developed through this examination of a DCO is wholly inappropriate. The landowners will be paid the open market value of their land and if that includes some hope value for development then this will also be paid. Once compensation has been paid a landowner will have received 'equivalence' for its loss. There is no reason why that landowner (in this case a property developer) should then be first in line to purchase the land back, nor is there any

reason for that landowner to purchase the land back on the basis of some form of novel, enhanced Crichel Down rules as argued for by SHP."

and that the Applicant:

"...noted that SHP did not consider the offer to apply the Crichel down rules to be appropriate in this case and [it], therefore, withdrew the Applicant's offer to apply those rules on the basis that it had been rejected by SHP. The Secretary of State should, therefore, determine the application on the same basis as every other DCO, none of which has included any provision for the application of the Crichel Down rules."

9.12.8. The ExA noted that at the ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)], the Applicant withdrew its proposal to include sub-paragraphs to Article 19 which would have the effect of introducing a variation of the Crichel Down rules into the dDCO.

9.12.9. Notwithstanding this withdrawal, the ExA examined this concept in further questions having considered that it did raise relevant and important issues.

9.12.10. In its summary of oral submissions put at ISH8 [[REP8-034](#)] SHP suggested the following wording for sub-paragraph 3 onward of Article 19:

"(3) The undertaker, and its successors, must covenant with SHP only to use the SHP Land for the purposes of the Authorised Development and/or uses that do not extend beyond the type of development permitted by the Order. The undertaker must not dispose of any interest in the SHP Land unless the successor has entered into a direct covenant with the current owner of the SHP Land (which includes an obligation to require its successors to provide a similar covenant on any disposal).

(4) A restriction is to be registered on the title to the land stating that no dispositions of the SHP Land (or any part) can be registered without the successor entering into a direct covenant with SHP.

(5) The undertaker must offer back the SHP Land to the owner of the SHP Land at the price paid for the land where the Applicant has not commenced the Authorised Development prior to the expiration of 2 years beginning with the date that this Order comes into force;

(6) The undertaker must offer back the SHP Land to the owner of the SHP Land at the price paid for the land where the Applicant has not commenced operation of the Authorised Development (including the operation of commercial air transport movements) prior to the expiration of [6] years beginning with the date that this Order comes into force;

(7) Should the undertaker, or its successor, wish to dispose of any of the SHP Land where the Authorised Development set out in Schedule 1 has not yet commenced on the relevant land, the undertaker must first offer the land back to SHP at current market value. This provision does not apply to any disposals of land to statutory bodies required to facilitate the construction or operation of the Authorised Development."

Note: "SHP Land" to be defined within the DCO as the freehold land comprising Title Numbers K803975, K837264, K891199, K806190, K873633, K873634 and K743314."

- 9.12.11. In its response to DCO.4.12 [[REP9-006](#)], the Applicant stated that:
- "The Applicant strongly objects to this proposal. The Applicant is not a public body subject to the Crichel Down Rules and Stone Hill Park Limited accepted at the ISH into the DCO on 7 June 2019 that the Crichel Down Rules were not appropriate to the Manston proposals. Stone Hill Park Limited have instead proposed a number of additional principles which do not fall within the Crichel Down rules and significantly exceed what is expected of a public body under those rules. The Applicant does not accept the imposition of these arbitrary terms as their inclusion in the DCO would be unprecedented, inappropriate and disproportionate."*
- 9.12.12. **The ExA concludes and recommends that**, taking into account that the Applicant had withdrawn its offer in respect of the previously suggested wording; that, taking into account the sale of SHP's land holding to a company controlled by the Applicant on 9 July 2019, noted in Chapter 9, above, the SHP proposal referred specifically to its own holdings and that no other freeholder subject to a request for CA had requested such a provision, **the issue of any addition to the dDCO related to the Crichel Down rules should not be pursued** and has not included any such provision in the rdDCO appended at Appendix D in this report.
- 9.12.13. Finally, at ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA recommended that the words *"as described in the Book of Reference"* should be added to the end of Article 19(1).
- "19.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it."*
- 9.12.14. At ISH1 the Applicant pointed [[REP1-004](#)] to the fact that the definition of Order land given in Article 2 was:
- "Order land" means the land shown on the land plans which is within Order limits and described in the book of reference."*
- and argued, therefore, that the reference to the BoR was therefore already incorporated into Article 19(1) through that reference and the Applicant considered amending the article was unnecessary.
- 9.12.15. It stated in its response to DCO.2.26 [[REP6-012](#)], however, that:
- "...if the Examining Authority considers it necessary the Applicant has no objection to the inclusion of these words."*
- 9.12.16. Taking into account the Applicant's submission, **the ExA concludes and recommends that it would not add any further clarity to this sub-**

paragraph to add the words suggested and has not, therefore, amended A19(1) in the rdDCO appended to this report at Appendix D.

Article 21 - Time limit for exercise of authority to acquire land compulsorily

9.12.17. The Applicant stated in its revised dDCO submitted on 3 May 2019 [[REP6-018](#)] that:

"In response to concerns from the local community and landowners the Applicant has reduced the time limit for exercise of its compulsory acquisition powers from 5 years to 1 year from the date that the Order is made."

9.12.18. In the Applicant's summary of oral submissions put at ISH8 [[REP8-016](#)] and at ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)], the Applicant proposed that Article 21 should be further amended to make it clear that the 1 year period only starts to run from the expiry of the challenge period, or final determination of any challenge to the DCO. The reason for this, given by the Applicant is to avoid the situation where a legal challenge against the future grant of the DCO frustrates the project.

9.12.19. The Applicant suggested the following amendments:

"In article 21(1) substitute 'the start date' for 'end of the period of 1 calendar year beginning on the day on which the Order is made'

Add new article 21(3):

'For the purposes of this article 'the start date' means the later of:

(a) the end of the period of one calendar year beginning on the day after the period for legal challenge in s.118 of the Planning Act 2008 expires; or

(b) the final determination of any legal challenge under s.118 of the Planning Act."

9.12.20. Taking into account the fact that the Applicant has voluntarily offered to reduce the time limit stated in Article 21 from five years to one year and considering the rationality of the proposed further change, **the ExA concludes and recommends that these amendments be included in Article 21** and has included them in its rdDCO, appended to this report at Appendix D.

Article 22 – Compulsory acquisition of rights and restrictive covenants

9.12.21. Article 22 gives the Applicant, *inter alia*, the power to impose restrictive covenants.

- 9.12.22. Good Practice Point 9 in the Planning Inspectorate's AN15¹⁵⁵ states that applicants should provide justification which is specific to each of the areas of land over which the power is being sought, rather than generic reasons and include a clear indication of the sorts of restrictions which would be imposed and wherever possible the power should extend only to the particular type of Restrictive Covenant required.
- 9.12.23. The ExA first examined this at ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] and questioned the nature of, and justification for, the proposed right to impose Restrictive Covenants.
- 9.12.24. The Applicant responded [[REP1-004](#)] that:
- "...it was anticipated that restrictive covenants might be required in relation to the drainage pipeline. Acquisition of this pipeline would relate to subsoil only and access rights and so the Applicant anticipated needing to impose restrictive covenants to ensure that the pipeline was protected and access was retained."*
- and confirmed that the Applicant would consider providing draft wording for a generic Restrictive Covenant at D3. This was not provided.
- 9.12.25. The ExA notes that the proposed power to impose Restrictive Covenants contained in Article 22 potentially applies to the approach lights and to some plots related to the pipeline route – including the cycle way parallel to Sandwich Road.
- 9.12.26. In its response to DCO.2.28 [[REP6-012](#)] the Applicant states that:
- "While the Applicant currently believes that outright compulsory acquisition is necessary for all the land subject to that power in its application, it may find later once detailed design has been completed that the lesser imposition of a restrictive covenant may be possible."*
- The Applicant believes that to continue to include this power would allow lesser impositions on existing landowners to be imposed if it were possible to impose a restrictive covenant rather than acquiring the land outright. In the answer to CA.1.30 the Applicant gave the example of land around the pipeline running from the main site to Pegwell Bay; and in question CA.2.21 the Examining Authority suggests this could be done in relation to the glide path.*
- While the Applicant currently believes that outright compulsory acquisition is necessary for all the land subject to that power in its application, it may find later once detailed design has been completed that the lesser imposition of a restrictive covenant may be possible."*
- 9.12.27. The ExA found this explanation useful but considers that it did not include a clear indication of the sorts of restrictions which would be imposed and

¹⁵⁵ Available at: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf

wherever possible the power should extend only to the particular type of Restrictive Covenant required.

9.12.28. Without such detail, the ExA did not consider that it could establish whether the inclusion of this power was proportionate.

9.12.29. The ExA noted that the Applicant's response to DCO.2.28 [[REP6-012](#)] states that:

"If the Examining Authority and the Secretary of State are uncomfortable with that position, then the possibility of imposing restrictive covenants instead of outright acquisition could be removed, but to the Applicant this appears a welcome and proportionate example of flexibility."

9.12.30. Having regard to AN15, the ExA has concluded that the power to impose Restrictive Covenants should not be included in the DCO, should it be made.

9.12.31. Chapter 10 on the dDCO, below, states that the ExA concludes and recommends that consequential changes be made to Schedule 6 to remove references to Restrictive Covenants and has included these amendments in the rdDCO appended to this report at Appendix D.

Article 25 - Application of the Compulsory Purchase Act 1965

9.12.32. Related to proposed changes to Article 21 set out above, the ExA proposed in the ExA's second dDCO [[PD-018](#)] to substitute the word "one" for the word "five" in 24(1)(a)(ii) as a change consequent on the proposed change in the time limit embedded in Article 21.

9.12.33. In its comments on the ExA's dDCO [[REP9-002](#)], the Applicant stated that it agrees with this amendment.

9.12.34. Taking into account the Applicant's agreement with this consequential change, **the ExA concludes and recommends that this amendment be included in Article 25** and has included it in its rdDCO, appended to this report at Appendix D.

Article 26 - Application of the Compulsory Purchase (Vesting Declarations) Act 1981

9.12.35. The ExA notes that, following the consideration of this Article at ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)], the Applicant and SHP summarised their respective positions on this issue in their summaries of oral submissions put at ISH8 [[REP8-016](#) and [REP8-033](#)].

9.12.36. SHP's written summary of oral representations put at ISH8 [[REP8-033](#)] states at paragraph 4.18 that:

"The Applicant should not be able to rely on the powers in the Compulsory Purchase (Vesting Declarations) Act 1981, as amended by Article 26, in respect of SHP Land. These powers, where they would relate to any of SHP's freehold land, are wholly inappropriate for a number of reasons;

- *SHP's land comprises substantially all of the land interests required for the project - there is no project without SHP's land. The landowner is known, and the Applicant has already satisfied itself that SHP has title to the land ...*
- *Under the Vesting Act, the acquiring authority is only required to pay 90% of its own estimate of the compensation due. Whilst a "normal" acquiring authority could be expected to act fairly, it is clear from the Applicant's submissions to the examination (and equally, the information it has withheld from the examination), that there could be no confidence that the Applicant would not seek to abuse or take advantage of these powers.*
- *[...] the Applicant has recently sought to use the threat of the GVD power as leverage to influence SHP to accept a materially lower sale price than that which the Applicant had previously agreed to pay[...]."*

9.12.37. In paragraph 4.23 of its written summary of oral representations put at ISH8 [[REP8-033](#)] SHP:

"...proposed that the following new paragraph (1) would need to be included within Article 26 of the DCO the ExA is required to submit to the Secretary of State;

"(1) This Article 26 shall not apply to the SHP Land"

"SHP Land" is to be defined as the freehold land comprising Title Numbers K803975, K837264, K891199, K806190, K873633, K873634 and K743314"

9.12.38. As stated in its written summary of oral representations put at ISH8 [[REP8-016](#)] the representative of the Applicant stated that SHP's position may reflect a misunderstanding about the vesting declaration procedure:

"The use of the GVD procedure does not provide any opportunity to 'leverage' a reduction in sale price, as suggested by SHP. It simply provides a mechanism for implementing compulsory acquisition powers and has the effect of transferring title in the land on a given vesting date. The GVD procedure is available for nearly all compulsory acquisitions and is merely a different way of implementing acquisition powers. The application of the GVD procedure to this DCO is entirely conventional and does not create some additional 'right' for the Applicant. As stated above, it is just a procedural mechanism for implementing the compulsory acquisition powers under a DCO."

and the Applicant provided a note on the differences between General Vesting Declaration (GVD) and Notice To Treat (NTT) / Notice Of Entry Procedures at Appendix ISH8 - 56 of the appendices to its written summary [[REP8-016](#)].

9.12.39. In its response to DCO.4.14 [[REP9-006](#)], the Applicant stated that:

"As with surveying powers, there is no special reason why the GVD route of acquisition should not be available to the Applicant for all land interests. At the second Compulsory Acquisition Hearing it became apparent that SHP's case was that advance payment of compensation

would be different under the GVD route and the Notice to Treat (NTT) route, but this is incorrect."

- 9.12.40. **The ExA concludes and recommends that**, taking into account the sale of SHP's land holding to a company controlled by the Applicant on 9 July 2019, noted in Chapter 8, above, the SHP proposal referred specifically to its own holdings and that no other freeholder subject to a request for CA had requested such a provision, **the issue of any changes to the dDCO related to the GVD should not be pursued** and has not included any such provision in the rdDCO appended at Appendix D in this report.

Article 29 - Temporary use of land for carrying out the authorised development

- 9.12.41. For the reasons given in paragraphs 4.24 and 4.25 of its written summary of oral representations put at ISH8 [[REP8-033](#)], SHP have:

"proposed that the following new paragraph (1) would need to be included within Article 29 of the DCO the ExA are required to submit to the Secretary of State;

"(1) This Article 29 shall not apply to the SHP Land"

"SHP Land" is to be defined as the freehold land comprising Title Numbers K803975, K837264, K891199, K806190, K873633, K873634 and K743314."

- 9.12.42. In its response to DCO.4.15 [[REP9-006](#)] the Applicant stated that:

"The Applicant has a tight construction programme and will require possession of the order land as soon as possible. The powers under article 29 enable the Applicant to take temporary possession of the land at 14 days' notice as soon as the DCO is made (and approval under article 9(1)(b) has been received). This 14 day timeframe for possession is significantly faster than the time available for possession under either the General Vesting Declaration or Notice to Treat/Notice of Entry procedure (3 months minimum for each procedure). This will afford the Applicant a significant time saving and will assist in delivery of the project within the anticipated programme. Stone Hill Park Limited will be compensated under the Compensation Code for the period of temporary possession (as it will be for subsequent compulsory acquisition of its land)."

"Stone Hill Park has reported its concern that the Applicant will take temporary possession of its land and then delay the acquisition of the freehold. This concern is unfounded as any significant delay to acquisition is not possible given the reduction in the time limit for the exercise of compulsory acquisition under article 21 of the Order."

- 9.12.43. **The ExA concludes and recommends that**, taking into account the sale of SHP's land holding to a company controlled by the Applicant on 9 July 2019, noted in Chapter 8, above, the SHP proposal referred specifically to its own holdings and that no other freeholder subject to a

request for CA had requested such a provision, **the issue of any changes to the dDCO related to the temporary use of land should not be pursued** and has not included any such provision in the rdDCO appended at Appendix D in this report.

Article 31 – Statutory undertakers

9.12.44. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA reminded the Applicant and APs to note that, where a representation is made under s127 of the PA2008 and has not been withdrawn, the SoS will be unable to authorise Article 31 unless satisfied of specified matters in s127(5).

9.12.45. The issue of SUs is dealt with below.

Article 40 – Crown rights

9.12.46. Article 40 in the draft Development Consent Order as submitted [[APP-006](#)] stated that:

“(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee—

(a) to take, use, enter upon or in any manner interfere with any land or rights of any description—

(i) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;

(ii) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land;

(iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department”

9.12.47. At CAH1 [[EV-011](#) and [EV-012](#), [EV-012a](#), [EV-012b](#) and [EV-012c](#)], the ExA expressed its concern that, as drafted, this draft Article could be read to imply that such consent may be obtained subsequent to any consenting of the DCO.

9.12.48. The Applicant's written summary of its case at CAH1 [[REP5-011](#)] stated at paragraph 4.1 that:

“The Applicant agrees that Article 40 on Crown land should be revised and this is shown in the revised draft DCO” [[REP5-002](#)].

9.12.49. The Issue of Crown Land is dealt with below.

9.13. SUBMISSIONS FROM AFFECTED PERSONS

- 9.13.1. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land.
- 9.13.2. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has considered the position in relation to APs as if the ExA had come an alternate view and concluded that there is sufficient need for the development.
- 9.13.3. The final version of the CA Status Report dated the day of the close of the Examination [[AS-585](#)] indicated that submissions were made by the following APs:
- Robin Cross [[RR-1699](#)] (plot 045);
 - SoS for Defence [[RR-1617](#), [RR-1618](#)] (plots 014, 015, 015a, 016a, 017, 018, 018a, 018b, 019b, 020, 020a, 023, 024, 025, 026, 026a, 028, 036, 037, 038, 039, 040, 040a, 041, 041a, 042, 042a, 043, 043a, 044, 045, 045a, 045b, 046, 047, 047a, 048, 048a, 048b, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 053a, 053b, 054, 055, 058, 068, 069, 070, 070a, 102, 103, 114 and 114a);
 - KCC [[RR-0975](#), [REP3-137](#)] (plots 008, 119, 129, 151, 153, 157, 183, 010, 012, 013, 014, 015b, 016, 016a, 016c, 018, 019, 019a, 019c, 021, 022, 024, 042, 043a, 044, 045, 045a, 045b, 047a, 050a, 050d, 050e, 053, 053b, 054a, 056a, 070a, 072a, 073, 078, 094, 095, 097, 107, 111, 112, 113, 114a, 120, 124, 127, 128, 130, 131, 143, 144, 154, 155, 156, 158, 159, 167, 177a, 184, 185a, 185b, 185c, 185d, 185e, 187, 188 and 188a);
 - The Met Office [[RR-1168](#)] (plot 027);
 - Barry James Morris [[RR-0725](#)] (plot 097);
 - Network Rail Infrastructure [[RR-0544](#)] (113, 115, 116, 117, 118, 119 and 123);
 - The RAF Manston History Museum [[RR-1617](#)] (plot 047);
 - RAF Manston Spitfire & Hurricane Memorial Museum [[RR-1618](#)] (plots 45, 48 and 48b);
 - Jeremy Ian de Rose [[RR-0801](#)] (plots 045, 047, 047a, 048, 048a, 048b, 050, 050b, 050c, 050d, 050e, 051b, 053a and 053b);
 - Marcus J Russell [[RR-1084](#), [REP3-116](#)] (plot 045);
 - The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge [[RR-0348](#)] (plots 001, 002, 003, 004, 005, 006, 007, 008, 009, 011, 013);
 - David Steed [[RR-0421](#)] (plots 015, 0059, 060, 061, 062, 063, 064, 065, 066, 067, 068 and 069);
 - Southern Gas Networks [[RR-1833](#)] (plots 014, 167, 015, 016, 016c, 017, 019, 019a, 019b, 020, 020a, 022, 023, 026, 028, 036, 037, 038, 039, 043, 043a, 044, 045, 045b, 048, 048b, 050, 050d, 050e, 053b, 061, 062, 063, 078, 081, 082, 094, 095, 096, 097, 107, 111, 112, 113, 115, 116, 117, 118, 119, 124, 127, 128, 129, 151, 153 and 156);
 - TDC [[REP3-014](#)] (plots 113, 119, 120, 184, 185, 185a, 185b, 185c, 185d, 185e, 185f, 186, 187, 188 and 188a); and

- Robin Miles Willi [[RR-1705](#)] (plots 166, 167).
- 9.13.4. The final version of the CA Status Report dated the day of the close of the Examination [[AS-585](#)] also showed representations having been received from SHP [[RR-1601](#), [REP3-025](#)] and Kent Facilities Ltd [[RR-0730](#), [REP3-140](#)] (plots 002,003, 004, 005, 006, 007, 011).
- 9.13.5. These two former APs are considered earlier in this chapter, above.
- 9.13.6. The position of the museums is covered below.
- 9.13.7. The SoS for Defence and the Met Office are considered in the section of this chapter, below, which deals with Crown Land.
- 9.13.8. Network Rail Infrastructure and Southern Gas Networks are considered in the section of this chapter, below, which deals with SUs.
- 9.13.9. This section of the chapter deals with those APs, listed above, who have made representations and do not fall within the above categories.
- 9.13.10. Robin Cross has a Category 1 interest in Plot 045 in respect of subsoil up to half width of the highway in a representation [[RR-1699](#)] received on 14 September 2018 states that:
- "I live very near the closed airport in Manston Road and feel that it would be extremely positive and constructive to re-open the airport and totally agree with everything that river oak are proposing."*
- 9.13.11. **The ExA concludes that the representation from Robin Cross cannot be construed as an objection to CA.**
- 9.13.12. Barry James Morris has a Category 1 interest in plot 097 in respect of subsoil up to half width of the highway. In a representation [[RR-0725](#)] received on 24 September 2018 stated:
- "I support the development plan. The loss of Manston as an airport and its replacement by a housing development is not in the best interests of the County."*
- 9.13.13. **The ExA concludes that the representation from Barry James Morris cannot be construed as an objection to CA.**
- 9.13.14. David Steed in a representation [[RR-0421](#)] received on 21 September 2018 stated that Manston has the overwhelming support of the people of Thanet and did not appear to cover issues related to CA.
- 9.13.15. **The ExA concludes that the representation from David Steed cannot be construed as an objection to CA.**
- 9.13.16. Robin Miles Willi has a Category 1 interest as owner or reputed owner in respect of 113 sq m outfall pipe below garden 26, Mount Green Avenue (plot 166) and a Category 1 interest in subsoil up to half width of the highway (plot 167).

- 9.13.17. A representation [[RR-1705](#)] received on 15 September 2018 states that:
- "I am the owner of [Redacted] and affected by the potential compulsory acquisition orders..."*
- and raises a number of objections to the Proposed Development including stating that:
- "The current proposal was put forward by RiverOak Strategic Partners Ltd. Despite written requests to the company's lawyers, no information has been forthcoming about the financial resources of the project developer and the ultimate beneficiaries of the project."*
- 9.13.18. **The ExA concludes that the representation from Robin Miles Willi is construed as an objection to CA.**
- 9.13.19. The final CA Status Report [[AS-585](#)] shows, amongst other contacts an email dated 25 February 2018 stating that Mr Willi has no interest in engaging in any discussions with RSP due to his concerns.
- 9.13.20. This email was not submitted to the Examination and Mr Willi made no further submissions.
- 9.13.21. Plot 166 and plot 167 relate to the permanent acquisition of subsoil and the acquisition of permanent rights over land in respect to plots shown in insets A, B, C, D, E and F in the revised Land Plans [[REP11-015](#)]. These relate to the corridor of a pipeline leading to an outfall.
- 9.13.22. The ExA has considered carefully and seriously the fact that Mr Willi has objected to the request for the permanent acquisition of subsoil and the acquisition of permanent rights over land.
- 9.13.23. The ExA has also taken account of the statutory tests in relation to the grant of a request for CA and to the criteria set out in the 2013 Guidance and concluded that there is a compelling case in the public interest.
- 9.13.24. This chapter considers, below, the pipeline leading to the outfall overall and the ExA concludes that it is satisfied that the use of the corridor of a pipeline leading to an outfall for a legitimate purpose, and that it is necessary and proportionate.
- 9.13.25. The ExA has also considered the proportionality of the request for CA in relation to Mr Willi and taken into account that the request involves *"permanent acquisition of subsoil only"* and does not, unlike other plots related to this corridor, involve the creation of a right of overground access [[APP-012](#), Appendix 1].
- 9.13.26. Therefore, ExA considers that, had it come to an alternate overall view that there was a sufficient need for the development, the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate in respect of Mr Willi's interests in plots 166 and 167.

9.13.27. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the specific case of Mr Willi's interests in plots 166 and 167, there is a compelling case in the public interest.

9.13.28. Therefore, **the ExA notes that, had it come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in relation Robin Miles Willi (plots 166 and 167) be granted.**

The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge

9.13.29. The Master, Fellows and Scholars of the College of Saint John the Evangelist in the University of Cambridge (the College) have Category 1 interest as owner or reputed owner in plots 001, 002, 003, 004, 005, 006, 007, 008, 009, 011, 013.

9.13.30. The request for CA on these plots is for the acquisition of permanent rights over land in connection with Work No. 5, the approach lights and navigational aids at the western end of the Proposed Development.

9.13.31. The RR from the College submitted on 1 October 2018 [[RR-0348](#)] states that:

"At this stage there have been no details provided with regards to what new structures are required and what restrictions there will with regards to farming the land adjacent to these. As such the landowner is not able to take a view on whether or not this will be acceptable and whether they should submit representations to the examination."

9.13.32. The response from Savills acting on behalf of the College to CA.3.20 and CA.3.21 [[REP7a-042](#)] states that:

"...the Applicant's letters made no attempt to address the points of concern they were simply repetitious attempts to persuade the landowner to negotiate a voluntary acquisition by the Applicant. Therefore, the College are unable to take a view on this matter."

9.13.33. The Applicant's written summary of oral submissions put at CAH2 [[REP8-011](#)] stated at paragraph 7.6 that:

"...St John's College, Cambridge had previously informed the Applicant that it would not negotiate with the Applicant until the Order has been made. The College has now agreed to engage following a request that the Applicant agree to meet their legal/surveyor fees in doing so, which the Applicant has agreed. The Applicant is waiting for further information from the College in respect of its legal/surveyor fees and is collating the information the College is seeking".

9.13.34. The final CA Status Report [[AS-585](#)] shows the final contact between the Applicant and the College was on 5 June 2019 regarding a fee estimate.

- 9.13.35. The ExA consider that the purpose of the land over which rights are sought – approach lights and navigational aids is for a legitimate purpose, and that it is necessary and proportionate.
- 9.13.36. The ExA notes that the College has stated that it is unable to take a view on this matter.
- 9.13.37. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the case of St John’s College, Cambridge there is a compelling case in the public interest.
- 9.13.38. The ExA considers that, had it come to an alternate overall view that there was a sufficient need for the development, the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate in relation the interests of the College in respect of plots 001, 002, 003, 004, 005, 006, 007, 008, 009, 011, 013.
- 9.13.39. Therefore, **the ExA notes that, had it come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in relation the interests of St. John’s College, Cambridge in respect of plots 001, 002, 003, 004, 005, 006, 007, 008, 009, 011, 013 be granted.**

Kent County Council

- 9.13.40. KCC has Category 1 interest as owner or reputed owner in plots 119, 129, 151, 153, 157, 010, 012, 013, 014, 015b, 016, 016a, 016c, 018, 019, 019a, 019c, 021, 022, 024, 042, 043a, 044, 045, 045a, 045b, 047a, 050a, 050d, 050e, 053, 053b, 054a, 056a, 070a, 072a, 073, 078, 094, 095, 097, 107, 111, 112, 113, 114a, 120, 124, 127, 128, 130, 131, 155, 156, 158, 159, 167, 177a, 184, 185a, 185b, 185c, 185d, 188a.
- 9.13.41. KCC has Category 2 and 3 interest in plots 008, 183, 143, 144, 154, 185e, 187, 188 [[RR-0975](#), [REP3-137](#)].
- 9.13.42. KCC’s submission for D11 [[REP11-018](#)] states that:

"The County Council would like to make reference to its submission at Deadline 8 with respect to the Pipeline Plots.

KCC’s position is that there is no need for the applicant to permanently acquire the subsoil containing the existing pipeline or, seek rights at surface level, in respect of KCC freehold or Highways land.

The KCC freehold land identified by the applicant as being required to deliver and maintain the pipeline appears to be land that was transferred to KCC in order to deliver public highway. This land is likely to be required for ongoing maintenance of said highway. However, without a survey of the land identified, KCC is not in a position to ascertain the position with certainty. In the absence of a full survey, KCC continues to maintain an objection to this element of the applicant’s proposal in order to ensure the public highway is not adversely affected.

The applicant's aims could be achieved by making an application for a section 50 licence under the New Roads and Street Works Act 1991. The grant of such a licence would entitle them to execute works and to do so without obtaining consent from any owner of apparatus affected by the works or relevant authority.

The issue of a street works licence permits the licensee (subject to the procedures imposed on undertakers) to place, retain, inspect, maintain, adjust, repair, alter, renew or change the position of apparatus in a street and to execute those works required for, or incidental to, those acts. In particular the licensee is permitted to break open the street or any sewer, drain or tunnel under it or to tunnel or bore under the street.

A failure to reach agreement in respect of KCC freehold or Highways land should not result in a grant of powers of acquisition under the DCO, should a decision be made to grant it, as there appears to be a clear alternative means of bringing about the delivery and maintenance of the pipeline."

- 9.13.43. In an additional submission [[AS-435](#)], KCC copies an email from its representative to that of the Applicant dated the day of the close of the Examination which states that:

"Unfortunately, the lack of any surveys to seek to establish the potential impact on any KCC highways infrastructure, does not deal with the fundamental issue that my clients do not consider that your client has demonstrated that there is a need for them to acquire land and/or rights to the subsoil owned by KCC, other than that it would be more convenient or practical for your clients to have consistent legal rights across of the length of the pipeline.

It is for this reason that they are unable to give an in principle agreement to a voluntary transfer."

- 9.13.44. An email from KCC from its representative to that of the Applicant dated the day before the close of the Examination [[AS-436](#)] states that:

"We note that you state that your client seeks KCC voluntary agreement on the basis of practicality and the desire of your client to have consistent legal rights. It is quite clear that such a motivation does not meet the required statutory tests and guidance for compulsory acquisition.

For all of the above reasons and those previously stated, KCC does not agree to a voluntary transfer."

- 9.13.45. Both these emails are followed by the previous correspondence in which the parties consider the Applicability of a s50 licence under the New Roads and Street Works Act 1991 in this respect.

- 9.13.46. In an email dated the day on which the Examination closed [[AS-435](#)], the Applicant reiterated that it does not own the pipeline.

- 9.13.47. In considering this issue, the ExA has had regard to the statutory tests and the advice in the 2013 Guidance and, amongst other factors the guidance that the proposed interference with the rights of those with an interest in the land is proportionate.
- 9.13.48. The ExA has had regard to the consideration by KCC that the lack of any surveys to seek to establish the potential impact on any KCC highways infrastructure, does not deal with the fundamental issue that my clients do not consider that your client has demonstrated that there is a need for them to acquire land and / or rights to the subsoil owned by KCC.
- 9.13.49. Given this and the totality of evidence presented, the ExA consider that in respect of the interests of KCC that the ExA has not been able to establish that the proposed interference with the rights of those with an interest in the land is proportionate.
- 9.13.50. In coming to this conclusion, the ExA has had regard to KCC's statement that a failure to reach agreement in respect of KCC freehold or highways land should not result in a grant of powers of acquisition under the DCO, should a decision be made to grant it, as there appears to be a clear alternative means of bringing about the delivery and maintenance of the pipeline.
- 9.13.51. However, it has also had regard to the concerns by the Applicant that the potential alternative means - a s50 licence under the New Roads and Street Works Act 1991 - is not proven to the satisfaction of the Applicant to be viable in a situation where a body that is not in itself a SU does not own the infrastructure in question.
- 9.13.52. Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA related to KCC plots 008, 119, 129, 151, 153, 157, 183, 010, 012, 013, 014, 015b, 016, 016a, 016c, 018, 019, 019a, 019c, 021, 022, 024, 042, 043a, 044, 045, 045a, 045b, 047a, 050a, 050d, 050e, 053, 053b, 054a, 056a, 070a, 072a, 073, 078, 094, 095, 097, 107, 111, 112, 113, 114a, 120, 124, 127, 128, 130, 131, 143, 144, 154, 155, 156, 158, 159, 167, 177a, 184, 185a, 185b, 185c, 185d, 185e, 187, 188 and 188a should not be granted.**

Thanet District Council

- 9.13.53. The final revised BoR shows that TDC has a Category 1 interest as owner or reputed owner in plots 113, 119, (in respect of subsoil up to half width of highway) for plots 120, 184, and as occupier for plots 185, 185a, 185b, 185c, 185d, 185e, 185f, 186, 187, 188 and 188a.
- 9.13.54. All of these plots relate to the pipeline and outfall.
- 9.13.55. This chapter considers, below, the pipeline leading to the outfall overall and the ExA concludes that it is satisfied that the use of the corridor of a pipeline leading to an outfall for a legitimate purpose, and that it is necessary and proportionate.

9.13.56. TDC's LIR states at paragraph 3.3.1 that:

"It is acknowledged that the Applicant is seeking compulsory purchase powers for the acquisition of land and rights over land in order to construct, operate and maintain the proposed development. TDC has had regard to the Land Plans and Book of Reference submitted with the application. The applicant does not currently own the land which is subject to this application for a dDCO."

9.13.57. The agreed SoCG [[REP6-011](#)] between the Applicant and TDC does not mention the request for CA.

9.13.58. The position of TDC in respect of the Special Category Land is shown below in this chapter.

9.13.59. TDC's response to CA.1.43 [[REP3-018](#)] states that:

"Thanet District Council considers that the Special Category land at plots 185b, 185c, 185d, 185f will be no less advantages to either the Council or the public, given that it will remain as public open space/cycleway available for use by the public and for maintenance by the Council where appropriate."

9.13.60. The final CA Status Report shows the last contact between the Applicant and TDC on the wider CA request being on 18 April 2019.

9.13.61. The ExA has had regard to the guidance set out in paragraph 25 of the 2013 Guidance that:

"Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail."

9.13.62. The ExA considers that, given TDC's uncertainty over its position in relation to the plots over which the CA of rights had been requested, as evidenced in its LIR, cited above, the Applicant could have continued negotiations throughout the Examination period.

9.13.63. Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in relation to TDC's interest in plots 113, 119, 120, 184, 185, 185a, 185b, 185c, 185d, 185e, 185f, 186, 187, 188 and 188a should not be granted.**

9.14. ISSUES RELATED TO OTHER SPECIFIC REASONS AND PURPOSES FOR THE CA REQUEST

9.14.1. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land.

- 9.14.2. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has considered the position in relation to other specific reasons and purposes for the CA request as if the ExA had come an alternate view and concluded that there is sufficient need for the development.

Associated Development

- 9.14.3. The issue of Associated Development is covered in detail in Chapter 10, below, on the DCO.

Pipeline and outfall

- 9.14.4. The revised Land Plans show permanent acquisition of subsoil and the acquisition of permanent rights over land in respect to plots shown in insets A, B, C, D, E and F in the revised Land Plans [[REP11-015](#)]. These relate to the corridor of a pipeline leading to an outfall.
- 9.14.5. This corridor is covered by plots 078, 079, 080, 081, 082, 083, 084, 085, 086, 088, 090, 092, 094, 095, 096, 097, 098, 099, 100, 101, 102, 103, 104, 107, 108, 109, 110, 111, 112, 113, 114, 114a, 115, 116, 117, 118, 119, 120, 123, 124, 127, 128, 129, 130, 131, 132, 133, 134, 136, 138, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 185a, 185b, 185c, 185d, 185e, 185f, 186, 187, 188 and 188a.
- 9.14.6. The SoR [[APP-012](#)] sets out the position in relation to this pipeline in paragraphs 8.25 to 8.27:

"RiverOak is also proposing to acquire an underground pipeline which leads from the south-east corner of the airport site in a south-easterly direction towards an outfall located in Pegwell Bay. This was historically used for the discharge of treated water from the airport when it was open and is required for the Proposed Development to continue to discharge treated surface water run-off. [...] despite RiverOak's diligent inquiries, it has not been possible to ascertain the exact nature of rights or interests in land in respect of this pipeline.

In the absence of clarity as to the ownership of this piece of infrastructure and responsibility for its maintenance, there would be uncertainty for the use of the pipeline for the Proposed Development.

Therefore to harmonize the legal position and ensure the safe operation of the pipeline to serve the airport when reopened, RiverOak is proposing to permanently acquire the subsoil in which the pipeline is located, together with permanent rights of access to and from existing manholes and access points on the route. This would also have the additional benefit of removing the uncertainty as to the ownership and potential burden of maintenance of the pipeline for the owners of the land in which the pipeline is located."

- 9.14.7. The ExA notes, in addition that:

- A section of the corridor (plots 185b, 185c, 185d, 185f) constitutes Special Category Land (this is considered below in this chapter);
 - the corridor passes under the interests of Network Rail (plots 113, 115, 116, 117, 118, 119 and 123); and
 - 81 of the APs named in the BoR relate to interests in plots along the route of this pipeline.
- 9.14.8. The final version of the CA Status Report [[AS-585](#)] shows that none on the APs related to these plots had agreed any voluntary arrangements for the acquisition of the subsoil or for permanent rights of access to and from existing manholes and access points on the route.
- 9.14.9. The ExA has considered the engagement of APs with interests related to the pipeline above, in this chapter.
- 9.14.10. The ExA has had regard to the 2013 Guidance that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate and that the Applicant must have a clear idea of how they intend to use the land which it is proposed to acquire.
- 9.14.11. The ExA considers that the pipeline and outfall do form an integral part of the Proposed Development and did not receive any evidence challenging this. Therefore, apart from questioning whether the owner had been identified and questioning progress with negotiations with those with an interest in the relevant plots at CAH1 [[EV-011](#) and [EV-012](#), [EV-012a](#), [EV-012b](#) and [EV-012c](#)] and CAH2 [[EV-018](#) and [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)], it did not question the purpose for which CA of subsoil and / or rights is requested.
- 9.14.12. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the case of the corridor of a pipeline leading to an outfall, there is a compelling case in the public interest.
- 9.14.13. Therefore, **the ExA notes that, if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that it is satisfied that the use of the corridor of a pipeline leading to an outfall is for a legitimate purpose, and that it is necessary and proportionate.**

Glide path safeguarding

- 9.14.14. In CA.1.5 [[PD-007](#)], the ExA queried the meaning of 'glide path safeguarding' in [[APP-012](#), Appendix 1] in relation to plots 015b, 017, 020, 021, 022, 023, 024, 025.
- 9.14.15. The Applicant responded [[REP3-195](#)] that:
- "...to maintain the integrity of an aerodrome's operations and especially those with Instrument Flight Procedures (IFPs), aerodrome licensees will ensure that the Obstacle Limitation Surfaces (OLS) are safeguarded against any development that may impact upon their operation. The IFPs*

and OLS define 3-Dimensional slopes and glide paths which should be clear of physical obstruction and safeguarded."

- 9.14.16. The ExA has had regard to the 2013 Guidance that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate and that the Applicant must have a clear idea of how they intend to use the land which it is proposed to acquire.
- 9.14.17. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the case of the corridor of glide path safeguarding, there is a compelling case in the public interest.
- 9.14.18. Therefore, **the ExA notes that, if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that it is satisfied that this reason for the use of plots 015b, 017, 020, 021, 022, 023, 024, 025 for glide path safeguarding is necessary and proportionate.**

Manston-Haine link road

- 9.14.19. The request for the CA of land / and or rights over land in respect of Works Nos. 15, 16, 17 and 32 in particular is dealt with below in this chapter.
- 9.14.20. However, the ExA has also had regard to the fact that a possible safeguarding corridor for the proposed Manston-Haine link road traverses the NGA.
- 9.14.21. However, the Applicant's response to TR.2.1 [[REP6-013](#)] states that:
*"There are no changes necessary to the dDCO or revisions to the Work Plans as the Manston-Haine link road is not part of the DCO application, but is a scheme being brought forward by Kent County Council (KCC) Highways as part of the Inner Circuit Route Improvement Strategy (ICRIS) proposals included in the Thanet Transport Strategy.
The delivery of the link road will be undertaken by KCC and land requirements for its delivery will be negotiated between KCC and the Applicant separate to the DCO."*
- 9.14.22. Given this response, **the ExA concludes that the safeguarding corridor for the proposed Manston-Haine link road is not part of CA request and the need or otherwise to safeguard this link did not form part of the ExA's considerations in respect of CA.**

RAF Manston Spitfire & Hurricane Memorial Museum

- 9.14.23. RAF Manston Spitfire & Hurricane Memorial Museum has Category 1 interest as the owner (through its trustees) of plots 045 (in respect of subsoil up to half width of highway), 048 and 048b.
- 9.14.24. The ExA notes that the Applicant's response to CA.4.11 (i) to (iii) [[REP9-006](#)] states that:

"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."

- 9.14.25. The ExA notes that plots 048 and 048b are shown on the final version of the Land Plans [[REP11-015](#)] as being "No Compulsory Acquisition Powers Sought" and that plot 48 and 48b are described as "No Compulsory Acquisition Powers Sought" in the final BoR submitted on the day the Examination closed [[AS-581](#)].
- 9.14.26. The ExA notes that four trustees of the RAF Manston Spitfire & Hurricane Memorial Museum, Jeremy Ian de Rose, Marcus J Russell, Rosa Sear and Pete Wenman, remain named in the final BoR submitted on the day that the Examination closed in respect of plots 45 and as owners or reputed owners in respect of plots 048 and 048a.
- 9.14.27. Two of these named APs made representations to the Examination.
- 9.14.28. Jeremy Ian de Rose has a Category 1 interest in plots 045 (in respect of subsoil up to half width of highway), 048, and 048b, as trustee of the RAF Manston Spitfire & Hurricane Memorial Museum. In a representation received on 5 October 2018 [[RR-0801](#)] Mr de Rose supported the Proposed Development on socio-economic and air transport grounds.
- 9.14.29. The ExA considered that the representation from Jeremy de Rose cannot have been be construed as an objection to CA.
- 9.14.30. Marcus J Russell has a Category 1 interest in plots 045 (in respect of subsoil up to half width of highway), 048, and 048b, as trustee of the RAF Manston Spitfire & Hurricane Memorial Museum. His RR [[RR-1084](#)] supported the re-opening on Manston Airport on the grounds of bringing extra visitors to the museum and did not appear to cover issues related to CA and cannot be construed as an objection to the request for CA.
- 9.14.31. The ExA considered that the representation from Marcus J Russell cannot have been be construed as an objection to CA.

The RAF Manston History Museum

- 9.14.32. The RAF Manston History Museum has a Category 1 interest as a lessee or tenant and as an occupier in plot 047 (3976 square metres Museum, buildings, yard, hardstanding and access).
- 9.14.33. The ExA notes that plot 047 is shown on the final version of the Land Plans [[REP11-015](#)] as being "No Compulsory Acquisition Powers Sought" and that plot 047 is described as "No Compulsory Acquisition Powers Sought" in the final BoR submitted on the day the Examination closed [[AS-581](#)].
- 9.14.34. The ExA visited both these museums on its ASI and thank them for this interesting visit.

- 9.14.35. Both the RAF Manston Spitfire & Hurricane Memorial Museum and the RAF Manston History Museum made a number of representations to the Examination including giving evidence at OFHs and being diligent in responding to the ExA's questions.
- 9.14.36. Both museums had a signed SoCG with the Applicant (RAF Manston Spitfire & Hurricane Memorial Museum [[REP3-173](#)] and RAF Manston History Museum Association [[REP3-191](#)]).
- 9.14.37. The ExA notes that the Applicant's response to CA.4.11 (i) to (iii) [[REP9-006](#)] states that:
- "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 simply indicated that it will seek to accommodate the wishes of the museums in so far as it is possible to do so."*
- 9.14.38. In its response to CA.5.2 [[REP11-002](#)] the Applicant states that:
- "The Applicant can confirm that the statements of common ground with the Museums still apply as they continue to reflect the understanding between the parties. Removing the Museums' land from the scope of compulsory acquisition does not impact the Applicant's commitments in either SoCG, particularly its commitments to relocating the Museums."*
- 9.14.39. A final submission from the RAF Manston Spitfire & Hurricane Memorial Museum in response to CA.5.2 [[REP11-061](#)] states that:
- "The trust welcomes the fact that the freehold of the Spitfire Museum is not included in that sale. We still adhere to the principles outlined in the SoCG [[REP3-173](#)] between the RAF Manston Spitfire & Hurricane Memorial Museum and the applicant."*
- 9.14.40. A final submission from the RAF Manston History Museum in response to CA.5.2 [[REP11-060](#)] states that:
- "We at the RAF Manston History Museum ([REP3-191](#)) agree with the SoCG in relation to the RAF Manston History Museum still applies."*

9.15. FREEHOLD LAND

- 9.15.1. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land.
- 9.15.2. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has considered the position in relation to freehold land as if the ExA had come an alternate view and concluded that there is sufficient need for the development.

9.15.3. As shown in the table in the Applicant's Overall Summary of Case dated 5 July 2019 [REP11-014] as set out in this chapter, above, there remain three APs holding a freehold interest in land for which the CA of that freehold is requested.

9.15.4. The APs are:

- Mr Ian Chamberlain
- KCC; and
- Mr Edward Martin Spanton

9.15.5. These are considered in turn below.

Mr Ian Chamberlain

9.15.6. Ian Chamberlain is the owner or reputed owner of plot 018 ("*in respect of subsoil up to half width of highway*") and the owner or reputed owner and occupier of plots 040 and 040a.

9.15.7. The final Land Plans show plot 040 as being "*Permanent acquisition of Land*" (Article 19) and plot 040a as being "*Temporary possession of land*" (Article 29).

9.15.8. Plot 040 is 196 square metres hardstanding and yard (off Spitfire Way) and plot 040a is 299 square metres hardstanding and verge (Spitfire Way).

9.15.9. Mr Chamberlain is also the owner of plot 040b for which no compulsory powers are sought.

9.15.10. The revised Works Plans [REP3-197] show Work No.26 – Public highway works to junction of B2190 and B2050 related to these plots.

9.15.11. Ian Chamberlain has not submitted a RR or other submissions but the final version of the CA Status Report [AS-585] cites a 28 March 2018 email from Jon Dahms, representing Mr Chamberlain, to Elizabeth Paraskeva of the Applicant's solicitors, objecting to the amount of land the Proposed Development is seeking, and a 5 July 2019 email from Angus Walker of the Applicant's solicitor to Jon Dahms attaching a plan showing the amount of land required and offering to undertake not to take any more land.

9.15.12. This email exchange has not been placed before the Examination.

9.15.13. The ExA notes that the final version of the Land Plans submitted at D11 [REP11-015] shows plot 040 having a much reduced area and that the final version of the BoR submitted on 9 July 2019 [AS-581] shows the area of this plot as being 196 sq m instead of the 2447 sq m shown in the application version of the BoR [APP-014]. The Schedule of Changes to the BoR [AS-582] states that:

"[The] plot size [has been] amended to account for [the] area now excluded from compulsory acquisition powers."

- 9.15.14. The ExA has had regard to the 2013 Guidance that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate and that the Applicant must have a clear idea of how they intend to use the land which it is proposed to acquire
- 9.15.15. The ExA considers that, now that plot size of plot 040 has been reduced then the CA request is more proportionate and that, in relation to Work No. 26, the request is for a legitimate purpose, and that it is necessary and that the Applicant has a clear idea of how it intends to use the land which it is proposed to acquire.
- 9.15.16. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the case of Mr Chamberlain's interests in plots 040 and 040a, there is a compelling case in the public interest.
- 9.15.17. Therefore, **the ExA notes that, if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in relation to Mr Chamberlain's interests in plots 040 and 040a be granted.**

Kent County Council

- 9.15.18. KCC has been considered above in this chapter.

Edward Martin Spanton

- 9.15.19. Edward Martin Spanton is listed in the final BOR [[AS-581](#)] as the owner or reputed owner and occupier of plots 016, 017, 019, 019a, 019b, 020, 020a, 022, 023, 079, 080, 081, 082, 096, the owner or reputed owner of plots 078 and occupier of plots 016c, 021, 024, 025.
- 9.15.20. Plots 016, 016c relate to Associated Development including construction, operation and maintenance of an emergency route [[APP-012](#), Appendix 1].
- 9.15.21. Plots 017, 020, 021, 022, 023, 024, 025 relate to the glide path safeguarding [[APP-012](#), Appendix 1].
- 9.15.22. Plots 019, 019a, 019b, 020a, relate to an emergency access to the airfield [[APP-012](#), Appendix 1].
- 9.15.23. Plots 078, 079, 080, 081, 082, 096 relate to the pipeline and outfall [[APP-012](#), Appendix 1].
- 9.15.24. In coming to its recommendation, the ExA has had regard to the 2013 Guidance that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate and that the Applicant must have a clear idea of how they intend to use the land which it is proposed to acquire.
- 9.15.25. The ExA has considered the particular uses of the glide path safeguarding and the pipeline and outfall above and have concluded that these uses

are for a legitimate purpose are necessary. The ExA considers that the emergency access and the emergency route also fulfil these criteria.

9.15.26. The ExA has had regard to the guidance set out in paragraph 25 of the 2013 Guidance that:

"Applicants should seek to acquire land by negotiation wherever practicable. As a general rule, authority to acquire land compulsorily should only be sought as part of an order granting development consent if attempts to acquire by agreement fail."

9.15.27. The Applicant's Overall Summary of Case [[REP11-014](#)] states that:

"Mr Spanton has not made a representation objecting to the project or the proposed compulsory acquisition and nor has he responded to any attempts at contact from the Applicant."

9.15.28. However, the ExA notes that the final version of the CA Status Report [[AS-585](#)] dated the day of the close of the Examination [[AS-585](#)] showed that Mr Spanton did attend a meeting at Cliffsend Village Hall on 17 June 2019. The ExA notes that this meeting was to discuss the pipeline and outfall.

9.15.29. The ExA considers that the Applicant could have sought to acquire by agreement given that, it appears from the Applicant's own records, Mr Spanton did respond to an attempt to contact him.

9.15.30. Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in relation to plots 016, 017, 019, 019a, 019b, 020, 020a, 022, 023, 079, 080, 081, 082, 096, 016c, 021, 024, 025 should not be granted.**

9.16. CROWN LAND

9.16.1. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land be granted.

9.16.2. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has considered the position in relation to Crown Land as if the ExA had come an alternate view and concluded that there is sufficient need for the development.

9.16.3. Part 4 of the final BoR [[AS-581](#)] contains a list of "Owners of any Crown Land which is proposed to be used for the Purposes of the Order for which the Application is being made" as follows:

- The SoS for Defence (plots 014, 015, 015a, 016a, 017, 018, 018a, 018b, 019b, 020, 020a, 023, 024, 025, 026, 026a, 028, 036, 037, 038, 039, 040, 040a, 041, 041a, 042, 042a, 043, 043a, 044, 045,

045a, 045b, 046, 047, 047a, 048, 048a, 048b, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 053a, 053b, 054, 055, 058, 068, 069, 070, 070a, 102, 103, 114 and 114a);

- Met Office and SoSMHCLG (plot 27);
- Government Legal Department (plots 119a and 050b); and
- SoS for Transport (plots 015, 015a, 026a, 027, 037, 039, 041a, 043, 043a, 046, 050a, 054, 054a, 055, 058, 068 and 069).

9.16.4. These Crown bodies are considered individually, below.

9.16.5. Section 135 (Orders: Crown land) of the PA2008 states that:

"(1) An order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown land only if—

(a) it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and

(b) the appropriate Crown authority consents to the acquisition.

(2) An order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision."

The Secretary of State for Defence

9.16.6. The SoS for Defence has Category 1 right as owner or reputed owner in plots 018, 018a, 018b, 025, 026, 038, 041, 042, 042a, 044, 045, 045a, 045b and Category 2 and 3 interests in respect of plots 014, 015, 015a, 016a, 017, 019b, 020, 020a, 023, 024, 026a, 027, 028, 036, 037, 039, 040, 040a, 041a, 043, 043a, , 046, 047, 047a, 048, 048a, 048b, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 053a, 053b, 054, 055, 058, 068, 069, 070, 070a, 102, 103, 114 and 114a.

9.16.7. The Statement of Reasons [[APP-012](#)] states that these plots:

"...include Ministry of Defence infrastructure retained on site when the airfield was sold to a private operator in 1999."

9.16.8. With reference to the Category 1 interests, plots 018, 018a, 018b, 025, 026, 038, 041, 042, 042a, 044, 045, 045a, 045b, relate mainly to proposed works along the north and north western boundary of the Proposed Development both on the 'airside' and on the NGA.

9.16.9. Plot 41, the HRDF is dealt with below.

9.16.10. At the start of the Examination, the SoR [[APP-012](#)] stated at paragraph 12.11 that:

"Discussions are continuing with the Ministry of Defence and third-party landowners at the time of application and RiverOak expects to enter in to an agreement with the Secretary of State for Defence, for the purposes

of acquiring the freehold interest in these plots, during the examination period."

- 9.16.11. The SoS for Defence has made a number of representations to the Examination with a number of them from the DIO relating to the HRDF which is considered below.
- 9.16.12. The draft (not agreed) SoCG between the Applicant and MoD relating to interests other than the HRDF [[REP4-016](#)] states under 'matters not agreed' that:
- "The Secretary of State for Defence's consent pursuant to Section 135 of the Planning Act 2008 has not yet been agreed."*
- 9.16.13. No further, signed, version of this SoCG was submitted to the Examination.
- 9.16.14. The ExA confirms that, in respect of plot 019c and 050b the interest in question is not an interest which is for the time being held otherwise than by or on behalf of the Crown.
- 9.16.15. The SoS for Defence has not submitted a statement to the Examination confirming that the Crown Authority consents to the acquisition of rights or to any other provision in the dDCO relating to it.
- 9.16.16. Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in respect of the SoS for Defence in respect of plots 018, 018a, 018b, 025, 026, 038, 042, 042a, 044, 045, 045a, 045b, 014, 015, 015a, 016a, 017, 019b, 020, 020a, 023, 024, 026a, 027, 028, 036, 037, 039, 040, 040a, 041a, 043, 043a, , 046, 047, 047a, 048, 048a, 048b, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 053a, 053b, 054, 055, 058, 068, 069, 070, 070a, 102, 103, 114 and 114a be refused and that any provisions relating to SoS for Defence should not be included in any final DCO.**
- 9.16.17. The SoS may wish to liaise with Secretary of State for Defence to seek to secure such a statement

Plot 41 - The High Resolution Direction Finder

- 9.16.18. The HRDF (also referred to in some documentation as the "*Diagonal Resolution Direction Finding System*" (DRDF)) is located on land owned by the MoD and is plot 041 in the BoR and on the Land Plans for the application.
- 9.16.19. The Operations chapter describes the HRDF and its important role with regards to maintaining the UK emergency response capability for the management of air safety incidents. The chapter also details discussions relating to the potential re-location of the facility.

- 9.16.20. Chapter 10 on the dDCO, below, contains details of submissions by the DIO in respect proposed draft Requirements to be included in the dDCO should the Order be made in relation to the HRDF.
- 9.16.21. This section of the CA chapter relates purely to the CA of plot 041 of the BoR.
- 9.16.22. The DIO made a number of representations to the Examination [[REP2-017](#), [REP4-014](#), [REP6-008](#), [REP6-030](#), [REP7a-005](#), [REP7a-025](#), [REP7a-026](#), [REP8-025](#), [REP9-019](#), [AS-287](#)].
- 9.16.23. A draft SoCG between the Applicant and the MoD, the DIO and NATS was prepared at D4 [[REP4-014](#)], with draft SoCGs between the Applicant and DIO at D4 [[REP4-016](#)], D5 [[REP5-019](#)], D6 [[REP6-008](#)] and D7a [[REP7a-005](#)].
- 9.16.24. Initially the Applicant sought to re-locate the HRDF to land outside the Order Lands [[REP1-004](#)] on land to the east of the site near to where the existing landing lights are located. Later on in the Examination, progression of this matter led to the proposed relocation of the HRDF to an alternative location in land within the ownership of MoD. The final draft (not agreed) SoCG between the Applicant and the MoD (HRDF) [[REP7a-005](#)] states at paragraph 3.6 that:

"Discussions between RiverOak and the MoD had indicated that the HRDF is potentially capable in principle of being relocated to an alternative location, provided that the new location is on land within the freehold ownership of the MOD, offers the same technical capability, is safeguarded in accordance with the MOD Radio Site Protection criteria defined in the MOD Joint Services Publication 604 Leaflet 3032 (JSP 604) and the Ministry of Defence (Manston) Technical Site Direction (2017), and assuring there is no interruption in the service that it provides. It has not yet been demonstrated that any particular proposed alternative location achieves this."

- 9.16.25. As described in the Operations section, the Applicant commissioned a technical assessment to be carried out by Aquila, to confirm suitability of alternative sites. The Applicant is of the view that [[REP11-007](#)]:

"...we are completely confident that a solution can not only be found but that 3 potential locations have been identified that are not only viable, but which actually enhances the MODs HRDF capability."

- 9.16.26. However, on the last day of the Examination the MoD [[AS-287](#)] considered that no acceptable scheme detailing location, specification of equipment or technical mitigation has been submitted for the provision of what would be a replacement HRDF system, and that:

"In conclusion MOD maintain our objection on the basis that insufficient information has been submitted to provide any positive indication that potential harm to safeguarded operational defence assets can be overcome or readily mitigated."

- 9.16.27. The ExA confirms that, in respect of plot 041 the interest in question is not an interest which is for the time being held otherwise than by or on behalf of the Crown.
- 9.16.28. The SoS for Defence has not submitted a statement to the Examination confirming that the Crown Authority consents to the acquisition of rights or to any other provision in the dDCO relating to it.
- 9.16.29. Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in respect of the SoS for Defence in respect of plot 041 be refused and that any provisions relating to SoS for Defence should not be included in any final DCO.**
- 9.16.30. The SoS may wish to liaise with SoS for Defence to seek to secure such a statement.

The Government Legal Department

- 9.16.31. The Government Legal Department has Category 2 rights in respect of plots 019c and 050b as Queen's Nominee in respect of *bona vacantia* land, with the latter plot in which the SoS for Defence also has an interest.
- 9.16.32. The final CA Status Report [[AS-585](#)] shows a series of contacts between the Applicant and the Government Legal Department starting on 16 February 2018 and culminating with a statement on 20 June 2019 confirming that there has been no change regarding the position of the bona vacantia land interest.
- 9.16.33. The ExA confirms that, in respect of plot 019c and 050b the interest in question is not an interest which is for the time being held otherwise than by or on behalf of the Crown.
- 9.16.34. The Government Legal Department has not submitted a statement to the Examination confirming that the Crown Authority consents to the acquisition of rights or to any other provision in the dDCO relating to it.
- 9.16.35. Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in respect of the Government Legal Department in respect of plots 019c and 050b be refused and that any provisions relating to these authorities and to these plots should not be included in any final DCO.**
- 9.16.36. The SoS may wish to liaise with this authority to seek to secure such a statement.

The Met Office and The Secretary of State for the Ministry of Housing, Communities and Local Government

- 9.16.37. The Met Office and SoSMHCLG have rights in respect of plot 027, a plot in which the SoS for Defence also has an interest.
- 9.16.38. The Met Office submitted an RR [[RR-1168](#)] which states that:
"Met Office currently occupy part of Manston Airport for the purposes of a weather station, which is an important site within our network. It is likely that the proposals will affect the location and exposure of the weather station to the extent that it will not be possible to retain in its current location..."
- 9.16.39. The Met Office concluded a signed SoCG with the Applicant [[REP6-007](#)] which states that:
"The land is held by The Met Office on behalf of the Secretary of State for Housing, Communities and Local Government pursuant to a Lease [...]"
- 9.16.40. The signed SoCG [[REP6-007](#)] stated under 'matters not agreed' that:
*"The commercial terms and form of property agreement in respect of the New Weather Station have not been agreed.

The precise location and extent of the demised land required for the New Weather Station (or any temporary meteorological equipment) has not been agreed, but there have been some initial discussions between the parties around possible locations.

The precise timing in respect of removal of the Existing Weather Station, provision of a new weather station and any temporary rights to ensure continuous data collection by The Met Office at Manston Airport (or nearby) has not been agreed."*
- 9.16.41. The final CA Status Report [[AS-585](#)] shows a series of contacts between the Applicant and the Met Office starting on 7 February 2018 and culminating with a statement on the day the Examination closed that the Met Office confirm that they are standing by the position in the SoCG.
- 9.16.42. The ExA confirms that, in respect of plot 027, the interest in question is not an interest which is for the time being held otherwise than by or on behalf of the Crown.
- 9.16.43. Neither the Met Office nor the SoSMHCLG have submitted a statement to the Examination confirming that the Crown Authority consents to the acquisition of rights or to any other provision in the dDCO relating to it.
- 9.16.44. Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in respect of the Met Office and the SoSMHCLG in respect of plot 027 be refused and that any provisions relating to these authorities and to these plots should not be included in any final DCO.**
- 9.16.45. The SoS may wish to liaise with each of these authorities to seek to secure such a statement.

The Secretary of State for Transport

- 9.16.46. The SoS for Transport has Category 1 interests as owner or reputed owner of plots 015, 015a, 026a, 027, 037, 039, 041a, 043, 043a, 046, 050a, 054, 054a, 055, 058, 068 and 069.
- 9.16.47. These plots were added to the final version of the BoR dated 9 July 2019 [[AS-581](#)] to:
- "[create] rights interest for the Secretary of State for Transport in respect of Operation Stack following further consideration and an update to HM Land Registry title K873634."* [[AS-582](#)]
- 9.16.48. First, the ExA notes that these interests are listed as being Category 1 interests as owner or reputed owner of these plots in the final CA Status Report [[AS-585](#)] but are listed as Category 2 interests in the final revised BoR [[AS-581](#)] stating that these are all *"in respect of rights pursuant to Operation Stack"*.
- 9.16.49. The ExA has relied on the revised BoR as being the document secured under Schedule 10.
- 9.16.50. The SoS for Transport has not made any submissions to the Examination and the final CA Status Report [[AS-585](#)] shows one contact between the Applicant and the DfT dated 15 April 2019 with no response being recorded.
- 9.16.51. In respect of plot 15 (which is a plot of 2,262,837 sq m including the runway, fields, buildings, grassy knoll, hangers, landing lights, taxiways, aircraft parking, car parks, gardens, shrubberies, hardstanding, verges, tracks, accesses and land (former airport site)), this was added to the BoR at D7a because:
- "Following further diligent inquiry at HM Land Registry, it was established that The Secretary of State for Transport has acquired a registered interest in this plot"* [[REP7a-010](#)].
- 9.16.52. The rdDCO appended to this report at Appendix D, contains two subparagraphs (7) and (8) to Article 18 dealing with the suspension of the right of access should Operation Stack be declared.
- 9.16.53. The ExA confirms that, in respect of plots 015, 015a, 026a, 027, 037, 039, 041a, 043, 043a, 046, 050a, 054, 054a, 055, 058, 068 and 069 the interest in question is not an interest which is for the time being held otherwise than by or on behalf of the Crown.
- 9.16.54. The SoS for Transport has not submitted a statement to the Examination confirming that the Crown Authority consents to the acquisition of rights or to any other provision in the dDCO relating to it.
- 9.16.55. Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that the request for CA in respect of**

the SoS for Transport in respect of plots 019c and 050b be refused and that any provisions relating to Secretary of State for Transport should not be included in any final DCO.

9.17. SPECIAL CATEGORY LAND

- 9.17.1. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land.
- 9.17.2. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has considered the position in relation to Special Category Land as if the ExA had come an alternate view and concluded that there is sufficient need for the development.
- 9.17.3. Section 132 of the PA2008 deals with commons, open spaces etc: compulsory acquisition of rights over land.
- 9.17.4. Part 5 of the final BoR [[AS-581](#)] contains a list of plots of land of which the acquisition is subject to Special Parliamentary Procedure, is Special Category Land or is replacement land. These are plots 185b, 185c, 185d, 185f which are a cycle way, verges, public footpath (TR33) and grassy knoll, south of Sandwich Road at the Viking Boat Park.
- 9.17.5. These plots are special category land by virtue of being related to open space and the final updated Land Plans [[REP11-015](#)] show 'Acquisition of permanent rights over land' for these plots with 'Permanent Acquisition of subsoil only' for plots 185b and 185f.
- 9.17.6. These plots relate to the pipeline running diagonally under these plots.
- 9.17.7. The ExA visited this site as part of its USI on 8 January 2019 [[EV-004](#)].
- 9.17.8. First, **the ExA concludes that the circumstances set out in the PA2008 s132(4) related to replacement land; s132(5) relating to area, or use and necessity of replacement land; s132(4A) relating to availability of replacement land and public interest for a speeded procedure; or s132(4B) relating to acquisition for a temporary purpose do not apply in relation to plots 185b, 185c, 185d, 185f.**
- 9.17.9. The APs having an interest in these plots are listed as being KCC, TDC, Nemo Link Ltd and SHP.
- 9.17.10. In CA.1.43 [[PD-007](#)] the ExA asked those with an interest in these plots whether, in their opinion, PA2008 s132(3) which states that this subsection applies if the order land, when burdened with the order right, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public.

- 9.17.11. The agreed SoCG between the Applicant and SHP [[REP6-010](#)] states at paragraph 2.3 that:
- "SHP has no reason to challenge the Applicant's opinion that s.132 is not engaged in respect of 'Special Category Land' at plots 185b, 185c, 185d and 185f".*
- 9.17.12. KCC's response to ExQ1 [[REP3-139](#)] states that:
- "The County Council agrees that that the land will be no less advantageous to landowners or the public, even if the applicant obtains a right over the land."*
- 9.17.13. The unsigned draft SoCG between the Applicant and Nemo Link Ltd [[REP3-182](#)] states at paragraph 4.1.2 that:
- "Nemo Link has no objection in principle to the acquisition by RiverOak of rights over plots 185b, 185c, 185d, 185f and has no comments to make as to the statutory test in section 132(3) of the Act in relation to the acquisition of rights over these plots."*
- 9.17.14. TDC's response to CA.1.43 [[REP3-018](#)] states that:
- "Thanet District Council considers that the Special Category land at plots 185b, 185c, 185d, 185f will be no less advantages to either the Council or the public, given that it will remain as public open space/cycleway available for use by the public and for maintenance by the Council where appropriate."*
- 9.17.15. Second, having had regard to the submissions made and cited above, **the ExA notes that, if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that it would be satisfied that subsection 3 of s132 of the PA2008 does apply in that:**
- "(3) ... the order land, when burdened with the order right, will be no less advantageous than it was before to the following persons—*
- (a) the persons in whom it is vested,*
- (b) other persons, if any, entitled to rights of common or other rights, and*
- (c) the public."*

9.18. STATUTORY UNDERTAKERS

- 9.18.1. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land.
- 9.18.2. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has

considered the position in relation to Statutory Undertakers as if the ExA had come an alternate view and concluded that there is sufficient need for the development.

9.18.3. The final BoR [[AS-581](#)] lists six SUs as having interests in plots for which a request for the acquisition of subsoil and or rights over land is made:

- BT Group plc;
- Nemo Link Limited;
- Network Rail Infrastructure;
- South Eastern Power Networks plc (originally shown as UK Power Networks Services (South East) Limited in the submitted BoR [[APP-014](#)].)
- Southern Gas Networks plc; and
- Southern Water Services Limited.

9.18.4. These are considered individually, below.

9.18.5. The ExA note that Schedule 9 of the Applicant's final revised dDCO [[REP7a-017](#)] shows two generic draft Protective Provisions:

- Part 1 — For the Protection of Electricity, Gas, Water and Sewage Undertakers.
- Part 2 — For the Protection of Operators of Electronic Communications Code Networks.

BT Group plc

9.18.6. BT Group plc is listed in Part 1 of the final BoR has having a Category interest in plots 015, 015a, 015b, 016, 016a, 016c, 017, 019, 019a, 019b, 020, 020a, 021, 022, 023, 024, 025, 026, 028, 036, 037, 038, 039, 041, 045, 048, 048b, 049, 049a, 050, 050a, 050c, 050e, 051b, 053a, 053b, 055, 056, 056a, 059, 068 and 069.

9.18.7. BT Group plc has not made any submissions to the Examination. The ExA directed questions to this organisation in ExQ2 [[PD-010b](#), CA.2.10, CA.2.11] and ExQ3 [[PD-014](#), CA.3.10, CA.3.11] but the group did not respond to these.

9.18.8. The final CA Status Report [[AS-585](#)] details a series of often inconclusive contacts between representatives of the Applicant and BT Group plc including discussion of a draft SoCG and finally, on 5 July 2019 an email from BT Group with comments on the Protective Provisions and the SoCG.

9.18.9. These comments were not placed before the Examination.

9.18.10. Having regard to the evidence above, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that, in the absence of any statement from BT Group plc agreeing that the rights can be purchased without any serious detriment to the carrying on of the undertaking, the request for CA of rights over land held by BT Group plc should not be granted.**

9.18.11. The SoS may wish to liaise with BT Group plc to seek to obtain such a statement.

Nemo Link Limited

9.18.12. The ExA note that Nemo Link Ltd (NLL) is not listed in the final version of the CA Status Report [[AS-585](#)] but is listed in Part 1 of the final BoR [[AS-581](#)] as having a category 2 interest in respect of plots 185, 185a, 185b, 185c, 185d, 185e, 185f, 186 and 187.

9.18.13. These plots all relate a section of pipeline running from Manston Airport to an outfall at Pegwell Bay. This pipeline is covered in this chapter, above.

9.18.14. The position of NLL in respect to Special Category Land is covered above.

9.18.15. More generally, the signed SoCG with NLL [[REP5-016](#)] states at paragraph 3.1.3 that:

"Nemo Link does not object to the acquisition of rights in the Plots."

and at paragraph 3.1.4 that:

"Nemo Link is satisfied with the protective provisions included in the draft DCO (APP-006) and has no comments to make in respect of them."

9.18.16. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the case of NLL, there is a compelling case in the public interest.

9.18.17. Having regard to the evidence above and given the existence of the statements of agreement in the signed SoCG, **the ExA notes that, if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that that, in respect of NLL, the rights could be purchased without any serious detriment to the carrying on of the undertaking.**

Network Rail Infrastructure

9.18.18. Network Rail Infrastructure is shown in the final BoR [[AS-581](#)] as having a Category 1 interest in plot 123 and a Category 2 interest in plots 113, 115, 116, 117, 118 and 119.

9.18.19. These plots all relate to a section of the pipeline running from Manston Airport to an outfall at Pegwell Bay. This pipeline is covered in this chapter, above.

9.18.20. Network Rail Infrastructure has made a number of submissions to the Examination [[REP1-060](#), [REP3-090](#) (not relating to CA), [REP3-179](#), [REP7-005](#), [REP9-020](#)].

9.18.21. The Applicant and Network Rail Infrastructure submitted a signed SoCG at D7 [[REP7-005](#)] which stated at paragraph 5.1.4 that:

"The parties agree that the authorised works of the proposed Development will not affect the undertaking carried on by Network Rail. The parties are still in discussions regarding the proposed powers in the DCC which, if made, would authorise access and maintenance rights to land underneath Network Rail's operational railway."

and at paragraph 5.3 that:

"The parties are currently negotiating the form of protective provisions which RiverOak will grant to Network Rail for the protection of its undertaking. Network Rail has provided a copy of its standard protective provisions, however the parties do not currently agree the nature and extent of protective provisions which are necessary and reasonable."

- 9.18.22. Neither agreed nor draft Protective Provisions were made available to the ExA before the close of the Examination and, in its response to CA.4.23 [[REP9-020](#)], the representative of Network Rail Infrastructure states that:

"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."

- 9.18.23. The Applicant's Overall Summary of Case submitted on 5 July 2019 [[REP11-013](#)] states at paragraph 32 that:

"The only statutory undertaker to maintain a significant objection is Network Rail. It objects to the Applicant acquiring the pipeline where it passes underneath a railway. The pipeline is existing infrastructure, the ownership of which is unclear. The Applicant is prepared to take on maintenance responsibilities for it, where currently there are none with legal responsibility. It is not proposing to carry out any works to the pipeline, and therefore does not consider that its acquisition of the pipeline could threaten the railway. It therefore maintains its proposal to acquire the pipeline."

- 9.18.24. The final CA Status Report [[AS-585](#)] shows that on 18 January 2019, shortly after the start of the Examination period, an email was sent from Network Rail's solicitors to the Applicant's solicitors attaching a draft Framework Agreement. The report then shows a series of e-mails spreading over the six months of the Examination period without any apparent resolution of any differences between the two parties.

- 9.18.25. The final CA Status Report [[AS-585](#)] lists an email dated 5 July 2019 from a representative of the Applicant to a representative of Network Rail Infrastructure explaining that the Applicant had submitted a modified version of Network Rail's standard Protective Provisions to the ExA for inclusion in the rdDCO.

- 9.18.26. The Applicant's D11 cover letter [[REP11-001](#)] contained proposed Protective Provisions for the protection of Network Rail at Annex 2. The letter does not state whether these have been agreed by Network Rail Infrastructure and that the undertaker did not make any further representations to the Examination following its 28 June submission quoted above.
- 9.18.27. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the case of Network Rail Infrastructure, there is a compelling case in the public interest.
- 9.18.28. Having regard to the evidence above and given the existence of the statements of agreement in the signed SoCG:
- Given that both parties have agreed that the authorised works of the proposed Development will not affect the undertaking carried on by Network Rail;
 - given that Network Rail Infrastructure has made it clear from its first submission [[REP1-060](#)] that it wanted to present an objection to CA of land and wanted to have Network Rail standard Protective Provisions in the Order;
 - given that the Applicant has provided draft Protective Provisions at D11;
 - given that, as shown in Chapter 10 on the DCO, below, the Applicant states in its DL11 cover letter [[REP11-001](#)] that:
"The Applicant proposes the addition of the protective provisions for the protection of Network Rail set out at Annex 2 below"; and that
 - the ExA has included these draft Protective Provisions in the rdDCO appended to this report at Appendix D;

the ExA notes that, if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that, in respect of Network Rail Infrastructure, the rights can be purchased without any serious detriment to the carrying on of the undertaking subject to Network Rail Infrastructure informing the SoS that it is content with the Protective Provisions as included in the rdDCO.

South Eastern Power Networks plc

- 9.18.29. The ExA notes that South Eastern Power Networks plc was originally shown as UK Power Networks Services (South East) Limited in the submitted BoR.
- 9.18.30. South Eastern Power Networks plc is shown in the final CA Status Report [[AS-585](#)] as having a Category 1 and / or 2 interest in plots 018a, 018b, 018c, 040, 042, 050d, 050e, 051b, 051c, 053b, 055 and 068.
- 9.18.31. However, the ExA notes that the final BoR [[AS-581](#)] shows South Eastern Power Networks plc as having a Category 1 interest in respect of apparatus additionally in plots 015, 015a, 018, 026, 028, 036, 038, 042a, 043a, 050, 050a, 053, 054, 059, 078, 080, 095, 097, 107, 108,

109, 110, 111, 124, 128, 129, 152, 160, 162, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 181, 182, 183 and 185 and a Category 2 interest in 040b.

9.18.32. A signed SoCG between the Applicant and South Eastern Power Networks plc dated 7 March 2019 was submitted [REP4-004]. Apart from a previous draft of this SoCG [REP3-185], South Eastern Power Networks plc has not made any other submissions to the Examination.

9.18.33. The agreed SoCG [REP4-004] states at paragraph 4.1.1 that:

"RiverOak agrees that in principle, protective provisions should be agreed with SEPN in respect of its infrastructure within the red line boundary of the DCO application."

but states at paragraph 4.6 that:

"The parties do not currently agree the nature and extent of protective provisions which are necessary and reasonable in respect of the Development."

9.18.34. The final CA Status Report [REP11-032] shows that on 8 July 2019 an email was sent by the Applicant's representative to South Eastern Power Networks plc's representative confirming that costs are now agreed and agreement has therefore been reached.

9.18.35. This email was not placed before the Examination.

9.18.36. Having regard to the evidence above, Therefore, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that, in the absence of any statement from South Eastern Power Networks plc agreeing that the rights can be purchased without any serious detriment to the carrying on of the undertaking, the request for CA of rights over land held by South Eastern Power Networks plc should not be granted.**

9.18.37. The SoS may wish to liaise with South Eastern Power Networks plc to seek to obtain such a statement.

Southern Gas Networks plc

9.18.38. Southern Gas Networks plc is shown in the final BoR [AS-581] as having a Category 1 and 2 interests in plots 014, 167, 015, 016, 016c, 017, 019, 019a, 019b, 020a, 022, 023, 026, 028, 036, 037, 038, 039, 043, 043a, 044, 045, 045b, 048, 048b, 050, 050d, 050e, 053b, 061, 062, 063, 078, 081, 082, 094, 095, 096, 097, 107, 111, 112, 113, 115, 116, 117, 118, 119, 124, 127, 128, 129, 151, 153, 156 and 167. Southern Gas Networks plc and the Applicant submitted a SoCG dated 2019 [REP3-175] which stated at paragraph 4.4 that:

"The parties do not currently agree that the construction and operation of the proposed Development will not affect the undertaking carried on by

SGN. The parties do not agree that the compulsory acquisition of the Plots above, including the creation of new rights in relation to specific plots, can be undertaken without serious detriment to SGN's undertaking."

and at paragraph 4.5 that:

"SGN does not currently agree that RiverOak should be authorised to acquire SGN's apparatus or extinguish SGN's rights or interests in land and SGN's position is that the DCO should not authorise RiverOak to acquire SGN's apparatus or extinguish SGN's rights or interests in land unless and until alternative apparatus or alternative rights or interests have been provided to SGN;"

9.18.39. Paragraph 4.5.2 states the Applicant's position as being that:

"...it is necessary for the DCO to authorise the extinguishment of rights over land in the event that it is necessary to exercise these powers following detailed design of the Development in order to carry out the Development. Paragraph 6 of the protective provisions included at Schedule 9 of the draft DCO provides that RiverOak cannot acquire apparatus belonging to a statutory undertaker without that undertaker's consent. The protective provisions contained at paragraphs 6, 7 and 8 of Schedule 9 to the draft DCO provide adequate protection for SGN in the event that any existing right or interest held by SGN is extinguished in order to carry out the Development, including in relation to alternative apparatus and the granting of rights in relation to such alternative apparatus. Notwithstanding this and as set out above, RiverOak is in principle willing to agree alternative protective provisions with SGN should these be necessary."

9.18.40. In response to CA.3.14 and CA.3.10 [[REP7a-043](#)], Southern Gas Networks stated that it confirms that:

"...discussions have progressed between SGN and the Promoter, and the terms of a side agreement and bespoke protective provisions in favour of SGN are being negotiated. SGN and the Promoter are close to agreeing suitable bespoke protective provisions, subject to resolution of some outstanding issues that we do not expect to delay completion;

it expects that a further statement of common ground can be issued once the side agreement has been completed and the bespoke protective provisions secured, to reflect the agreed position between SGN and the Promoter;

the further statement of common ground will be issued once the side agreement has been completed and the bespoke protective provisions secured; and it expects to be in a position to have completed an agreement and withdraw its representation in advance of 9 July 2018. SGN is hopeful that this can be achieved by Deadline 8."

9.18.41. This response was dated 24 May 2019 and no further SoCG was submitted to the Examination.

9.18.42. Having regard to the evidence above, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that, in the absence of any statement from Southern Gas Networks plc agreeing that the rights can be purchased without any serious detriment to the carrying on of the undertaking, the request for CA of rights over land held by Southern Gas Networks plc should not be granted.**

9.18.43. The SoS may wish to liaise with Southern Gas Networks plc to seek to obtain such a statement.

Southern Water Services Limited

9.18.44. Southern Water Services Limited is shown in the final BoR [[AS-581](#)] as having a Category 1 and 2 interests in plots 014, 015, 018, 028, 036, 037, 038, 039, 043, 043a, 045, 049, 049a, 049b, 050, 050b, 050c, 050d, 050e, 053a, 053b, 054, 054a, 056, 056a, 057, 059, 061, 062, 063, 070 and 070a and in plots 040a, 042a, 044, 045a, 048, 048a, 048b, 061, 062, 063, 072, 072a, 073, 077, 078, 080, 081, 082, 083, 084, 085, 086, 088, 090, 092, 094, 096, 097, 098, 099, 100, 107, 111, 112, 118, 127, 128, 129, 133, 134, 136, 148, 153, 155, 156, 157, 160, 162, 167, 177, 177a, 179, 180, 181, 182, 183, 184, 185, 185a, 185b, 185c, 185d and 185e added to the final version of the BoR dated 9 July 2019 [[AS-581](#)] in terms of apparatus following a review of utilities plans and asset register sent in by Southern Water.

9.18.45. A signed SoCG between the Applicant and Southern Water Services Limited dated 8 March 2019 [[REP4-009](#)] states at paragraph 3.1.3 that:

"Southern Water does not object to the acquisition of the Plots or of the creation of new rights in the Plots."

and at paragraph 3.1.6 that

"Southern Water is satisfied with the Requirements and protective provisions included in the draft DCC (APP-006) and has no comments to make in respect of them."

and at paragraph 4.1.9 that:

"The parties agree that the construction and operation of the proposed Development will not affect the undertaking carried on by Southern Water."

9.18.46. The signed SoCG makes specific reference to R13 - Surface and foul water drainage and R15 - Piling and other intrusive works and to Protective Provisions for the benefit of water undertakers at Schedule 9 of the dDCO.

9.18.47. The ExA confirms that the references to Southern Water in these Requirements and the Protective Provisions remain unchanged in the rdDCO contained at Appendix D to this report.

- 9.18.48. The ExA has taken account of the statutory tests in relation to the grant of a request for CA and concluded that, in the case of Southern Water Services Ltd, there is a compelling case in the public interest.
- 9.18.49. Having regard to the evidence above and given the existence of the statements of agreement in the signed SoCG, **the ExA notes that, even if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that, in respect of Southern Water Services Limited the rights can be purchased without any serious detriment to the carrying on of the undertaking.**

9.19. CONCLUSIONS

- 9.19.1. On the request for CA, the ExA concludes that:
- a) The overall need for the Proposed Development is not sufficiently established and the ExA has not found such a level of need that would meet the criteria of there being a compelling case in the public interest for the land to be acquired compulsorily; and that, therefore
 - b) the ExA is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily.
- 9.19.2. Given the overall recommendation by the ExA that it is not satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily, the ExA is not recommending that the requests for CA of land and / or rights over land.
- 9.19.3. However, in order to aid decision making by the SoS should the SoS take a different view on the sufficient need for the development, the ExA has considered the position in relation to funding and the requests for CA as if the ExA had come an alternate view and concluded that there is sufficient need for the development.
- 9.19.4. The remaining parts of this summary should be read with the overall conclusion in mind.
- 9.19.5. On funding, the ExA concludes that:
- a) There is insufficient evidence that the Applicant itself holds adequate funds to indicate how an order that contains the authorisation of CA is proposed to be funded and that, therefore, it is necessary to examine the availability of these funds from other funders;
 - b) the Joint Venture Agreement and Deed of Variation do provide a degree of reassurance that a mechanism exists to provide the Applicant and associated companies funding up to £15m;

- c) due diligence and approval carried out by HMRC under the Business Investment Relief scheme is not carried out for the purposes of examining the funding for an NSIP and does not employ the same criteria and tests set out in statute and in guidance;
- d) there is an indication of how any potential shortfalls in funding are intended to be met;
- e) whilst the Capital Expenditure budget does not provide a fully worked and transparent estimate of the Capital Costs of bringing the airport back into use, it does provide a sufficient overall figure against which the ExA could examine the funding of the implementation of the Proposed Development;
- f) given some uncertainty associated with the figure as it relates to land values and compensation, given that no alternative figure has been submitted and erring on the side of caution the £7.5m element of the figure in Article 9 should not be reduced in any final DCO;
- g) given the need to seek to ensure that the sum specified in Article 9 is adequate to cover the potential costs related to CA, implementation of insulation policy, Part 1 claims; and implementation of relocation policy, and notwithstanding that the sum required for noise insulation may have been reduced, the overall sum of £13.1m should not be changed in any final DCO to allow sufficient headroom for any contingencies;
- h) Article 9(2)(f) be amended to read:

"(f) a guarantee by a parent company or companies of the undertaker"; and
- i) subject to the amendment above, the wording for Article 9 contained in the Applicant's final dDCO [[REP7a-017](#)] should be included unchanged in any final DCO.

9.19.6. On alternatives to CA, the ExA concludes that:

- a) Recognising that the existence of a formerly operating airport in this part of South East England of this size and potential capabilities provides a site that cannot be matched by another, alternative site, the ExA concludes that the opportunity to modify the Proposed Development by focussing on another site is not open to the Applicant in this particular situation;
- b) the opportunity to modify the Proposed Development through amendments to layout has been explored in relation to this application but that, given the particular type of development, the opportunities for doing so may be limited;

- c) the Applicant has not been pursuing alternatives to CA as seriously as it could and should have done; and
- d) however, overall, the Applicant is able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the Proposed Development) have been explored;

9.19.7. On the use of the land which it is proposed to acquire, the ExA concludes that:

- a) In general, Article 19 serves to secure that only land that is required may be acquired compulsorily;
- b) in the case of Work Nos. 15, 16, 17 and 32, these works are only required to facilitate or are incidental to that development if their use is restricted by the application of specific provisions in the rdDCO that have been recommended by the ExA and are set out in that chapter; and
- c) in relation to specific elements of the Proposed Development, Article 19 serves to secure that only land that is required may be acquired compulsorily.

9.19.8. On risks and impediments, the ExA concludes that any potential risks or impediments to implementation of the scheme have been properly managed.

9.19.9. On the provisions of the HRA1998, the ExA concludes that:

- a) It cannot conclude that the purposes for which an order authorises the CA of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected;
- b) nevertheless, Article 19 does provide sufficient assurance that, should the Order be made and the request for CA be granted, that those affected by this request will receive compensation; and
- c) in the specific cases of two employers within the proposed Order Lands, should the Order be made, the interference is for a legitimate purpose, that the need for the land for the project and is necessary and proportionate and that the Applicant has proposed relocation proposals which the lease holders are content with.

9.19.10. The ExA has considered the duties placed upon it by the PSED in relation to the request for CA.

9.19.11. The overall position in relation to the PSED is set out in Chapter 3 of this report, including indicating that, within those making representations to the Examination, there are those who share protected characteristics and

showing the ExA's reflection of its responsibilities in the ways in which it has carried out the Examination.

- 9.19.12. The ExA is not aware of any specific representations received from APs drawing the ExAs attention to persons sharing a particular protected characteristic. On specific Articles in Part 5 of the rdDCO, the ExA concludes that:
- a) The issue of any addition to the dDCO related to the 'Crichel Down' rules should not be pursued; and
 - b) the issue of any changes to the dDCO related to the General Vesting Declaration should not be pursued.
- 9.19.13. The ExA has considered specific purposes for which the request for CA is made and has considered a range of representations from APs and concluded on these.
- 9.19.14. On Crown Land, the ExA concludes that in the absence of any statement submitted to the Examination that the appropriate Crown Authority consents to the acquisition, the request for CA in respect of the SoS for Defence, the Government Legal Department, the Met Office and the SoSMHCLG and the SoS for Transport should be refused and that any provisions relating to these Crown Authorities should not be included in any final DCO should it be made.
- 9.19.15. On Special Category Land, the ExA recommends it is satisfied that the Special Category Land within the Order Lands, when burdened with the rights imposed by this Order, will be no less advantageous than it was before to the persons in whom it is vested; other persons, if any, entitled to rights of common or other rights; and the public; and that, accordingly, section 132(3) of the PA2008 applies.
- 9.19.16. On SUs, the ExA concludes that:
- a) In the absence of any statement from BT Group plc, South Eastern Power Networks plc and Southern Gas Networks plc agreeing that the rights can be purchased without any serious detriment to the carrying on of the undertaking, the request for CA of rights over land held by BT Group plc should not be granted;
 - b) in respect of NLL and Southern Water Services Limited, the rights can be purchased without any serious detriment to the carrying on of the undertaking; and
 - c) in respect of Network Rail Infrastructure the rights can be purchased without any serious detriment to the carrying on of the undertaking subject to Network Rail Infrastructure informing the SoS that it is content with the Protective Provisions as included in the rdDCO.

10. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

10.1. INTRODUCTION

- 10.1.1. During the course of the Examination, the dDCO [[APP-006](#)] went through a number of iterations and was examined in detail.
- 10.1.2. The ExA's rdDCO is appended to this Recommendations Report at Appendix D, below.
- 10.1.3. This draft contains amendments and additions compared with the dDCO as originally submitted. This chapter sets out the rationales for, and discussions surrounding, these changes.

10.2. THE DCO AS APPLIED FOR

- 10.2.1. A dDCO [[APP-006](#)] was submitted with the suite of application documents on 17 July 2018. It was accompanied by a dEM [[APP-007](#)] and by Works Plans [[APP-018](#)].
- 10.2.2. These submissions therefore fulfilled the requirements contained in Regulation 5(2)(b)(c) and (j) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009¹⁵⁶.

10.3. CHANGES DURING EXAMINATION

- 10.3.1. The Applicant submitted further dDCOs at D3 [[REP3-186](#)] (tracked change version [[REP3-193](#)]); D5 [[REP5-002](#)] (tracked change version [[REP5-003](#)]); D6 [[REP6-018](#)] (tracked change version [[REP6-019](#)]); and D7a [[REP7a-017](#)] (tracked change version [[REP7a-018](#)]).
- 10.3.2. The Applicant submitted a Draft DCO Validation Report at D3 [[REP3-189](#)].
- 10.3.3. The ExA published two dDCOs – an initial draft on 10 May 2019 [[PD-015](#)] and a second draft on 14 June 2019 [[PD-018](#)].
- 10.3.4. Comments on the ExA's dDCOs were received from the Applicant at D7 [[REP7-002](#)] and D9 [[REP9-002](#)].
- 10.3.5. Other parties also made specific responses the ExA's two dDCOs including Cogent [[REP5-059](#)]; Liam Coyle [[REP9-094](#)]; Five10Twelve [[REP9-057](#), [REP9-069](#), [REP9-071](#)]; KCC [[AS-124](#)]; Laura Marks [[REP9-089](#)]; Angela Stevens [[REP9-032](#)]; TDC [[REP7-016](#)]; and SHP [[REP7-015](#), [REP9-131](#)].

¹⁵⁶ Available at:

<http://www.legislation.gov.uk/ukxi/2009/2264/regulation/5/made>

- 10.3.6. Where these responses have proposed changes to, or have commented on, specific provisions in the dDCO, these have been considered in relation to those provisions, below.
- 10.3.7. The Applicant submitted a Revised dEM at D5 [[REP5-006a](#)] (tracked change version [[REP5-007](#)]); D6 [[REP6-020a](#)] (tracked change version [[REP6-020](#)]); D7a [[REP7a-019](#)] (tracked change version [[REP7a-020](#)]); and revised Works Plans at D3 [[REP3-197](#)].
- 10.3.8. This chapter of the Recommendation Report takes as a starting point the Applicant's final submitted dDCO at D7a [[REP7a-019](#)] and, unless otherwise stated, uses that as the basis for discussing changes.
- 10.3.9. During the course of the Examination, the ExA published four rounds of written questions which included questions on the dDCO. ExQ1 was issued on 18 January 2019 [[PD-007](#)] and contained eight questions on the dDCO. ExQ2 was published on 5 April 2019 [[PD-010b](#)] and contained 51 questions on the dDCO. ExQ3 was published on 10 May 2019 [[PD-014](#)] and contained 20 questions on the dDCO. ExQ4 was published on 21 June 2019 [[PD-020](#)] and contained 25 questions on the dDCO. ExQ5, published on 3 July 2019 [[PD-022](#)], did not contain further questions on the dDCO.
- 10.3.10. The ExA held two all-day dDCO hearings; on 10 January 2019 (ISH1) [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#) and [EV-006c](#)] and on 7 June 2019 (ISH8) [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#) and [EV-029c](#)].
- 10.3.11. The Applicant provided a written summary of oral submissions put at the January 2019 hearings (including at ISH1) [[REP1-004](#)] and a summary of oral submissions put at ISH8 [[REP8-016](#)]. TDC submitted a written summary of oral submissions put at ISH4, ISH5, ISH6, ISH7 and ISH8 [[REP8-029](#)]. SHP submitted a written summary of its oral representation put at ISH8 [[REP8-033](#)]. Dr John Pritchard provided a written summary of his oral representations at ISH8 [[REP8-056](#)], and Norman Winbourne [[REP8-086](#)] and Winbourne Martin French [[REP8-098](#)] submitted a written summaries of their oral representations put at ISH8; although the ExA notes that these latter submissions did not contain specific proposals for amendment of the dDCO.
- 10.3.12. During the course of the Examination, changes were proposed to Articles, Requirements and other Schedules and the ExA proposed the inclusion of new Requirements. This chapter discusses all of these, including, for completeness, those that were withdrawn or which the ExA recommend be not accepted.
- 10.3.13. The ExA's rdDCO contained at Appendix D to this report contains changes that are recommended to the SoS by the ExA.
- 10.3.14. A number of these changes raised significant issues whilst others resulted from the tidying up of wording or agreed more minor changes. Given this, this chapter of the Recommendation Report is divided into four main sub-sections, below. The first sets out three cross-cutting issues; the second sets out relevant evidence in relation to proposed

changes to Articles, Requirements and Schedules; the third discusses proposed new Articles and Requirements; and the fourth contains a table setting out a list of other, more minor, changes.

- 10.3.15. In these sub-sections, reference is made where relevant to evidence and conclusions in other chapters and sections of this Recommendation Report.

10.4. CROSS-CUTTING ISSUES

- 10.4.1. This section of the chapter looks at three issues which the ExA considers to be relevant and important and which cut across different Articles and Requirements. These are

- Associated Development;
- the responsibility and procedure for discharging Requirements; and
- the use of the phrase “...to the extent that is unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement...”

Associated Development

- 10.4.2. Section 115 (Development for which development consent may be granted) of the PA2008 provides that:

*“(1) Development consent may be granted for development which is—
(a) development for which development consent is required, or
(b) associated development.”*

- 10.4.3. During the course of the Examination, the ExA examined through written questions and at the CAHs and dDCO ISHs whether all the Works listed in Schedule 1 of the dDCO fulfilled the definition of “associated development” and aligned with the descriptions of what constituted Associated Development in DCLG Guidance.

- 10.4.4. The Applicant’s final dDCO, submitted at D7a [[REP7a-017](#)] lists:

“Associated development comprising:

Work No.12 — The construction of a new passenger terminal facility with a maximum building height of 15m.

Work No.14 — The construction of a gatehouse with a maximum height of 4m and vehicle control area to including vehicle lanes, a gantry with maximum height of 8m and a welfare facility for gatehouse staff.

Work No.15 — The construction of airport-related commercial facilities (use class B1 and B8) with a maximum building height of 18m and with a total building footprint of up to 60,000m² including associated paved storage areas, parking and internal accessways.

Work No.16 — The construction of airport-related commercial facilities (use class B8) with a maximum building height of 18m and with a total

building footprint of up to 26,000m² to include associated paved storage areas, parking and internal accessways.

Work No.17 — The construction of airport-related commercial facilities (use class B1) with a maximum building height of 10m and with a total building footprint of up to 30,000m² to include associated paved storage areas, parking and internal accessways.

Work No.18 — The construction of a new aircraft recycling facility and associated offices with a maximum building height of 23m.

Work No.19 — The construction of new or improved facilities to create an airport fuel farm on the site of an existing fuel storage facility.

Work No.20 — The construction of an airside storage and maintenance area for cargo and stand equipment.

Work No.21 — The construction of internal access roads and parking areas including passenger parking and parking overflow.

Work No.22 — The construction of paved areas and visual screening for the proposed cargo areas to include an emergency assembly area, site access road and paved areas to support cargo facilities and air traffic control.

Work No.23 — The construction of two new attenuation ponds for the purposes of treating, storing and discharging site drainage runoff.

Work No.24 — Works to construct a diversion to an existing public right of way.

Work No.25 — Public highway works to construct a new airport access.

Work No.26 — Public highway works to junction of B2190 and B2050.

Work No.27 — Public highway works to B2050 including new access provision.

Work No.28 — Public highway upgrade to B2190.

Work No.29 — Public highway upgrade to Manston Road.

Work No.30 — Public highway upgrade to B2190.

Work No.31 — Public highway upgrade to Manston Road.

Work No.32 — Public highway works at new airport-related business park entrance on Manston Road.”

10.4.5. The ExA notes, however, that subsequent to that draft, the Applicant proposed that Work No.12 (The construction of a new passenger terminal facility with a maximum building height of 15m) be moved from the category of “associated development” to “nationally significant infrastructure project” [[REP9-002](#)]. This is discussed below.

10.4.6. Associated Development is defined in the s115(2) of the PA2008 as:

"...development which [...] is associated with the development within subsection (1)(a) [development for which development consent is required] (or any part of it)."

10.4.7. s115 (6) states that:

"In deciding whether development is associated development, a Panel or the Council must have regard to any guidance issued by the Secretary of State."

10.4.8. The DCLG April 2013 Guidance on associated development applications for major infrastructure projects states¹⁵⁷ (the 2013 DCLG

10.4.9. Guidance) at paragraph 5 that:

"(i) The definition of associated development [...] requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts.

(ii) Associated development should not be an aim in itself but should be subordinate to the principal development.

(iii) Development should not be treated as associated development if it is only necessary as a source of additional revenue for the applicant,

(iv) Associated development should be proportionate to the nature and scale of the principal development."

10.4.10. The ExA notes that Annex B of that guidance provides examples of Associated Development specific to individual types of major infrastructure projects. The sole example provided for airports is a:

"Freight distribution centre, including freight forwarding and temporary storage facilities."

10.4.11. After setting out the Applicant's approach to the identification of Associated Development, this section of Chapter 10 will draw on the tests set out in the guidance on Associated Development to support the ExA's reasoning.

The Applicant's approach to Associated Development

10.4.12. The dEM as submitted with the Application [[APP-007](#)] stated, at 2.10, that:

"...RiverOak has chosen not to differentiate the NSIP and associated development works in Schedule 1 to the Order".

¹⁵⁷ Available at: <https://www.gov.uk/government/publications/planning-act-2008-associated-development-applications-for-major-infrastructure-projects>

- 10.4.13. Additionally, there was no definition of “associated development” in the dDCO [[APP-006](#)] Schedule 1, Article 2 but “associated development” was referred to in the definition of “authorised development” and in the preamble to Schedule 1.
- 10.4.14. In partial justification of this position, the Applicant stated as an introduction to paragraph 2.10 of the dEM [[APP-007](#)]:
- “...noting that there is no requirement for a development consent order to distinguish between these two categories...”*
- 10.4.15. The ExA notes that the Applicant returned to this line of reasoning in its response to CA.4.2 [[REP9-006](#)]:
- “...there is no statutory or policy requirement upon the Applicant to distinguish between the two in the DCO. Provided the development does demonstrably involve an NSIP, there is no need to separate the NSIP from associated development as a matter of law.”*
- 10.4.16. In considering this, the ExA had regard to the advice contained in paragraph 10 in the 2013 DCLG Guidance that:
- “As far as practicable, applicants should explain in their explanatory memorandum which parts (if any) of their proposal are associated development and why”*
- and cited this in examining this issue at ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#) and [EV-006c](#)].
- 10.4.17. The ExA also noted at ISH1 that, even though the submitted dDCO did not differentiate Associated Development in Schedule 1, the NSIP Justification Document [[APP-008](#)] did identify a list of works at paragraph 44 that:
- “...are not part of the NSIP itself can be categorised as supporting the operation of the NSIP or addressing its impacts, and are therefore associated development.”*
- Work No.12 — the construction of a new passenger terminal facility*
- Work No.13 — the construction of a new airport fire station and associated storage areas*
- Work No.14 — the construction of a gatehouse and vehicle control area to include vehicle lanes, a gantry and a welfare facility for gatehouse staff*
- Works No.15 to 17 —the construction of airport-related commercial facilities to include associated paved storage areas, parking and internal access ways*
- Work No.18—the construction of a new aircraft recycling facility and associated offices*

Work No.19 – the construction of new or improved facilities to create an airport fuel farm

Work No.20 – the construction of new or improved facilities for the RAF Manston History Museum and the Spitfire and Hurricane Memorial Museums

Work No.21 – the construction of an airside storage area

Work No.22 – the construction of internal roads and parking areas

Work No.23 – the construction of landside access, parking and storage for the airport and cargo facilities

Work No.24 – the construction of two attenuation ponds

Work No.25 – the laying out of a diverted public right of way.

10.4.18. In its written summary of oral submissions put at the January 2019 hearings [[REP1-004](#), paragraph 5.1] the Applicant:

"...noted that there was an inconsistency between the NSIP Justification document, which specified which elements of the authorised development would be part of the NSIP and which would be associated development, and Schedule 1 of the dDCO, which did not differentiate. [It] confirmed that the Applicant would make changes to the next draft of the dDCO which drew a distinction between the NSIP and associated development to match the NSIP Justification document and provided a definition of "associated development"."

10.4.19. The revised dDCO submitted at D3 on 15 February 2019 [[REP3-186](#)] separated the works in Schedule 1 by listing a number as being "associated development" added a definition of Associated Development as follows:

"associated development" has the same meaning as in section 115 (development for which development consent may be granted) of the 2008 Act"

10.4.20. The ExA asked the Applicant in DCO.2.10 [[PD-010b](#)] to explain how the introduction of this definition supports its categorisation of "associated development".

10.4.21. The Applicant's response to DCO.2.10 [[REP6-012](#)] did not provide further evidence as to the utility of this definition but the Applicant stated in its summary of case put at ISH8 [[REP8-016](#)] that:

"...a definition of 'associated development' in the Applicant's dDCO [...] was unnecessary and considered bad practice in legislative terms. [...] As the Applicant is not attempting to alter the meaning of the definition of 'associated development' given in s.115 of the Planning Act the definition in the dDCO should be removed."

10.4.22. Given this, **the ExA concludes and recommends that the definition of "associated development" be removed from Article 2 and have**

not included this in the rdDCO appended to this report at Appendix D.

- 10.4.23. The ExA now considers each of the criteria in the 2013 DCLG Guidance in turn.
- 10.4.24. The first criterion in the 2013 DCLG Guidance is that associated development:
"...requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts."
- 10.4.25. The ExA has not received evidence that consider that Work Nos. 15, 16 and 17 are designed to help to address the impacts of the Principal Development or to support its construction. The Examination has, therefore, focussed on the role of these Works to support the operation of the Proposed Development.
- 10.4.26. In examining the issue of the *"direct relationship between associated development and the principal development"*, there was some discussion during the Examination as to what constituted the *"principal development"* in this context.
- 10.4.27. In its comments on the Applicant's response to CA.2.18 [[REP7-014](#)], SHP argued that
"Under the PA2008, only development that has the requisite effect referred to in section 23(5)(b) which is "to increase by at least 10,000 per year the number of air transport movements of air cargo movements for which the airport is capable of providing air cargo services", could be classified as the principal development. Any development that does not have this requisite effect is therefore not part of the principal development."
- 10.4.28. In its response to DCO 4.3 [[REP9-006](#)], the Applicant stated that:
"Section 23 just requires the project to consist of 'airport related development' that exceeds one of the capacity thresholds set out in that section, there is no requirement that every part of the development must contribute to that threshold."
- 10.4.29. Nevertheless, the ExA notes, for example, the original inclusion by the Applicant of Work No.12 — The construction of a new passenger terminal facility - under *"associated development"* rather than under the s14 and s23 list of works in Schedule 1 of the dDCO.
- 10.4.30. This was queried at DCO.2.33 and the Applicant's response [[REP6-012](#)] stated that:
"The NSIP is to increase the capability of the airport to provide cargo facilities – the passenger terminal is therefore not part of that but is

rather classified as associated development. The increase in passengers will not reach the threshold of 10 million per annum that would make it an NSIP in its own right."

- 10.4.31. The ExA considers that this statement could be seen to reinforce the contention that, in this case, only development that has the requisite effect referred to in section 23(5)(b) which is *"to increase by at least 10,000 per year the number of air transport movements of air cargo movements for which the airport is capable of providing air cargo services"*, could be classified as the Principal Development.
- 10.4.32. In examining this issue, the ExA was mindful of the fact that the PA2008 does not use the term *"principal development"* and, therefore, does not define it, and that the 2013 DCLG Guidance references the *"principal development"* as *"the development for which development consent is required under Part 3 of the Act"*.
- 10.4.33. Part 3 of the PA2008 defines the general and particular categories of what forms an NSIP. The relevant category in this case is s14(1)(i) – *"airport-related development"* and the ExA notes that the specification at s23(5)(b) of the PA2008 serves, if met, to place a Proposed Development within the wider category of *"airport-related development"*.
- 10.4.34. The ExA has also considered the need to take a wider view that the development that is applied for is the development that is summarised in the Application Form [[APP-002](#)], detailed in the dDCO [[APP-006](#)], set out in the Works Plans [[APP-018](#)] and assessed in the ES.
- 10.4.35. It may only be part of that Proposed Development that serves to fulfil the requirement in s23(5)(b). Therefore, subject to meeting the criteria in s23(1) (a),(b) or (c) of the PA2008, the remaining elements of the Proposed Development still constitute *"airport-related development"* under s14(1)(i).
- 10.4.36. The ExA notes that the description of the Proposed Development contained in Volume 1 of the ES [[APP-033](#), paragraph 3.3.3,] comprises:
- "Upgrade of Runways 10/28 to allow CAT II/III operations;*
 - Re-alignment of the parallel taxiway (Alpha) to provide EASA compliant clearances for runway operations;*
 - Construction of 19 EASA compliant Code E stands for air freight aircraft with markings capable of handling Code D and F aircraft in different configurations*
 - Installation of new high mast lighting for aprons and stands;*
 - Construction of 65,500m² of cargo facilities;*
 - Construction of a new ATC tower;*
 - Construction of a new airport fuel farm;*

Construction of a new airport rescue and firefighting service (RFFS) station;

Complete fit-out of airfield navigational aids (nav-aids);

Construction of new aircraft maintenance/recycling hangars, including three tear-down stands;

Development of the Northern Grass area for airport related businesses;

Demolition of the redundant 'old' ATC Tower;

Safeguarding of existing facilities for museums on the site;

Highway improvement works; and

Extension of passenger service facilities including an apron extension to accommodate an additional aircraft stand (total of four passenger stands) and increasing the current terminal size."

10.4.37. The ExA has first considered this issue in respect to those Works listed in the Applicant's final dDCO [[REP7a-017](#)] under Schedule 1 – Authorised Development – as being works that are "A *nationally significant infrastructure project as defined by section 14 and 23 of the 2008 Act*" (Work Nos. 1 to 11 and 13).

10.4.38. First, as stated above, the Applicant's response to the ExA's second dDCO [[REP9-002](#)] proposed that Work No.12 (The construction of a new passenger terminal facility with a maximum building height of 15m) be moved from the category of "associated development" to "nationally significant infrastructure project".

10.4.39. The Applicant's reasons for this are stated in its response to CA.4.2 [[REP9-006](#)]:

"The reason for this is that section 23 of the PA2008 provides that 'airport-related development' will constitute an NSIP if its effect is to increase the capacity of the airport above certain specified thresholds. If the effect of the development is to exceed those thresholds then the airport-related development in question will constitute an NSIP. The passenger terminal facility within the proposed airport boundary is airport-related development and, together with the other airside development it constitutes part of the NSIP. The Applicant does not agree with SHP that it is only those parts of the development that actually serve to increase capacity to the relevant PA2008 thresholds than can be classified as part of the NSIP." [...]

"In this case, it is appropriate to treat all 'airside' works as part of the NSIP and all landside works as associated development."

10.4.40. The ExA has considered this distinction between airside and landside and have looked at this in terms of the revised Works Plan from DL3 [[REP3-197](#)], the ExA's second dDCO [[PD-018](#)] and the Design Guide [[REP8-009](#)].

- 10.4.41. Using these, in summary the airside works appear to be Work Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and 13. Works Nos. 12, 18, and 19 effectively straddle the airside / landside boundary (passenger terminal, aircraft recycling, fuel depot) - they would include security checkpoints within them.
- 10.4.42. This distinction would appear to the ExA to exclude Work No.4 - the Radar which is shown in the Applicant's final dDCO [[REP7a-017](#)] as being part of the Principal Development.
- 10.4.43. Given this, the ExA do not consider that the distinction between airside and groundside is a valid determinant of the distinction between Principal Development and Associated Development.
- 10.4.44. Second, in its written summary of oral representations put at ISH8 [[REP8-033](#)], SHP state that:
- "Works No. 2 (8 light and business aircraft hangars and associated fixed base operator terminal) and Works Nos 10 & 11 (comprising 7 Code C stands relating to proposed recycling and passenger operations, as explained in the Environmental Statement [APP-033]) clearly do not increase the capability of the airport to provide air cargo facilities."*
- 10.4.45. In its response to DCO.4.3 [[REP9-006](#)], the Applicant responded that:
- "Although these Works, when isolated from the rest of the proposed development, do not necessarily increase the capability of the airport to provide air cargo facilities, Stone Hill Park is incorrect when it says that Works 2, 10 and 11 are therefore not part of the principal development because they are not directly related to meeting the threshold for increase in cargo transport capability set out in section 23 of the Planning Act 2008. Section 23 just requires the project to consist of 'airport related development' that exceeds one of the capacity thresholds set out in that section, there is no requirement that every part of the development must contribute to that threshold. Consequently, they are also incorrect when they say that items in the Applicant's list of 'associated development' which is associated with Works 2, 10 and 11 is not associated with the principal development."*
- 10.4.46. Taking a wider view that the development that is applied for is the development that is summarised in the Application Form [[APP-002](#)], detailed in the dDCO [[APP-006](#)], set out in the Works Plans [[APP-018](#)] and assessed in the ES **the ExA concludes and recommends that Work Nos. 1 to 13 are works that form development for which development consent is required.**
- 10.4.47. Given this conclusion, there is the need to examine whether the works listed under Schedule 1 – as being "associated development" are works that do form Associated Development in terms of the PA2008.
- 10.4.48. Taking into account the description of individual works and having examined the nature, purpose and master planning of the Proposed Development, **the ExA concludes and recommends that the**

following Works are Associated Development as defined in PA2008 s115(2):

Work No.14 — The construction of a gatehouse with a maximum height of 4m and vehicle control area to including vehicle lanes, a gantry with maximum height of 8m and a welfare facility for gatehouse staff.

Work No.19 — The construction of new or improved facilities to create an airport fuel farm on the site of an existing fuel storage facility.

Work No.20 — The construction of an airside storage and maintenance area for cargo and stand equipment.

Work No.22 — The construction of paved areas and visual screening for the proposed cargo areas to include an emergency assembly area, site access road and paved areas to support cargo facilities and air traffic control.

Work No.23 — The construction of two new attenuation ponds for the purposes of treating, storing and discharging site drainage runoff.

Work No.24 — Works to construct a diversion to an existing public right of way.

Work No.25 — Public highway works to construct a new airport access.

Work No.26 — Public highway works to junction of B2190 and B2050.

Work No.27 — Public highway works to B2050 including new access provision.

Work No.28 — Public highway upgrade to B2190.

Work No.29 — Public highway upgrade to Manston Road.

Work No.30 — Public highway upgrade to B2190.

Work No.31 — Public highway upgrade to Manston Road.

10.4.49. In coming to this conclusion, the ExA had regard to the 2013 DCLG Guidance and noted that evidence was not received which challenged the inclusion of these Works as being Associated Development.

10.4.50. Given this, there is the need to consider whether the following works constitute Associated Development under the PA2008:

Work No.12 — The construction of a new passenger terminal facility with a maximum building height of 15m.

Work No.15 — The construction of airport-related commercial facilities (use class B1 and B8) with a maximum building height of 18m and with a total building footprint of up to 60,000m² including associated paved storage areas, parking and internal accessways.

Work No.16 — The construction of airport-related commercial facilities (use class B8) with a maximum building height of 18m and with a total building footprint of up to 26,000m² to include associated paved storage areas, parking and internal accessways.

Work No.17 — The construction of airport-related commercial facilities (use class B1) with a maximum building height of 10m and with a total building footprint of up to 30,000m² to include associated paved storage areas, parking and internal accessways.

Work No.18 — The construction of a new aircraft recycling facility and associated offices with a maximum building height of 23m.

Work No.21 — The construction of internal access roads and parking areas including passenger parking and parking overflow.

Work No.32 — Public highway works at new airport-related business park entrance on Manston Road.

- 10.4.51. Taking account of the ExA's wider view including that the development that is applied for is the development that is summarised in the Application Form [[APP-002](#)], detailed in the dDCO [[APP-006](#)], set out in the Works Plans [[APP-018](#)] and assessed in the ES, **the ExA concludes and recommends that the following Works are Associated Development** in that these three works do have a direct relationship to the airport and have included them in the rdDCO appended to this report at Appendix D:

Work No.12 — The construction of a new passenger terminal facility with a maximum building height of 15m.

Work No.18 — The construction of a new aircraft recycling facility and associated offices with a maximum building height of 23m.

Work No.21 — The construction of internal access roads and parking areas including passenger parking and parking overflow.

- 10.4.52. Given this, the ExA sees the need to explore in particular whether the following Works constitute Associated Development:

Work No.15 — The construction of airport-related commercial facilities (use class B1 and B8) with a maximum building height of 18m and with a total building footprint of up to 60,000m² including associated paved storage areas, parking and internal accessways.

Work No.16 — The construction of airport-related commercial facilities (use class B8) with a maximum building height of 18m and with a total building footprint of up to 26,000m² to include associated paved storage areas, parking and internal accessways.

Work No.17 — The construction of airport-related commercial facilities (use class B1) with a maximum building height of 10m and with a total building footprint of up to 30,000m² to include associated paved storage areas, parking and internal accessways.

Work No.32 — Public highway works at new airport-related business park entrance on Manston Road.

- 10.4.53. The ExA considers that its focus on these four Works is supported by the Applicant's statement in paragraph 45 of the NSIP Justification Document [[APP-008](#)] which states that:

"...all of the above elements are in their nature airport-related, except potentially the development of the so-called 'Northern Grass' (which is divided into three zones and described as Works 15 to 17), which could become unrelated to the airport if it was not controlled in some way. To ensure that this remains in support of the operation of the airport, the Development Consent Order requires the uses at the Northern Grass to be airport-related in the description of those works."

10.4.54. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA pointed out that the application version of the dDCO [[APP-006](#)] did not, in fact, require the uses at the NGA to be airport-related in the description of those works.

10.4.55. The ExA also notes that Schedule 1 of the dDCO submitted as part of the application [[APP-006](#)] defined Works Nos. 15, 16 and 17 as:

"The construction of commercial facilities..."

10.4.56. In its response to CA.1.4, the Applicant stated [[REP3-187](#)] that:

"Following the Issue Specific Hearing (ISH) on the dDCO which considered this issue, the Applicant has amended the description of Works Nos. 15-17 in the dDCO to clarify that the works must be "airport-related"."

10.4.57. In order to seek clarification on one aspect, in DCO.2.34 [[PD-010b](#)] the ExA requested that the Applicant show how the references to Use Classes B1 and B8 serve to ensure that these works are "airport-related".

10.4.58. The Applicant's response [[REP6-012](#)] stated that:

"The references to classes B1 and B8 do not serve to ensure that the works are airport-related (which is ensured by the use of the word 'airport-related'), but restrict the use classes that are permitted to the two specified. Requirement 19 of the DCO ensures that works 15, 16 and 17 must only be developed and used to support the operation of the NSIP."

10.4.59. The ExA notes that the Updated NSIP Justification submitted at D1 [[REP1-005](#)] set out at paragraph 14 a list of examples of the type of activity that is anticipated in the B1 / B8 development on the NGA as follows:

"radar equipment and its accompanying safeguarding clearances (these also limit the building heights across the remainder of the Northern Grass),

airport management offices offering visibility over the airfield, with associated marketing suites and secure storage for equipment and materials that do not require an airside location (i.e. inside the security fence),

offices and crew facilities for airlines (passenger and cargo),

*offices and flight planning facilities for flight schools,
catering operation for passenger and business aviation flights,
covered secure and valet parking operations,
rental car operators – overnight garage, cleaning and office facilities,
garage and offices for airside public transport providers,
airport taxi company garage, cleaning and office facilities,
vehicle depots and storage facilities for air cargo handlers and associated
logistics companies,
specialist bonded warehouses and other facilities (e.g. stables and other
animal handling and veterinary facilities) that do not need to be
constrained by an airside location,
offices and warehousing for storage associated with MRO and aircraft
recycling (including parting out) operations,
office and storage facilities for outsourced contractors providing services
to the airport (e.g. – maintenance, security, operations) that do not need
to be airside, project offices for construction companies working on the
airport, and offsite offices for Border Force, Police.”*

- 10.4.60. The Applicant’s dDCO submitted at D5 [[REP5-002](#)] introduced a new Requirement (R19 - Airport-related commercial facilities) stating that:
“Works Nos. 15, 16 and 17 must only be developed and used to support the operation of Works Nos. 1 to 11 and 13.”
- 10.4.61. The ExA note that the word ‘support’ is used in the 2013 DCLG Guidance.
- 10.4.62. In its question DCO.2.44 the ExA requested the Applicant to define, including through the use of examples, what is meant by “support” in this Requirement and show how this would ensure that Works Nos. 15, 16 and 17 are required for aviation purposes.
- 10.4.63. The Applicant’s response to DCO.2.44 [[REP6-012](#)] was that:
“The word support is, as has been noted, intended to reflect the use of the word in MHCLG guidance on associated development to avoid any charge that Works 15 to 17 are not compliant with such guidance. The guidance does not explain the meaning of support in that context; the Applicant therefore understands it to have its ordinary meaning of ‘strengthen, maintain’ (Collins), i.e. the facilities provided by those works would, together with the airside facilities, provide a more complete service for the airport’s cargo customers.
- 10.4.64. The ExA notes that, in response to DCO 2.10 [[REP6-012](#)], the Applicant stated that:
“The guidance only states that [Associated Development] should support the operation of the NSIP (amongst other things), as in this case.”

- 10.4.65. The ExA is not assured that “*support*” is the dominant concept in the 2013 DCLG Guidance but that this word is used as a subsidiary addition to the main criterion that Associated Development requires a direct relationship between Associated Development and the Principal Development.
- 10.4.66. **The ExA concludes and recommends therefore that R19 - Airport-related commercial facilities should be included in any DCO should it be made but that the wording should be amended to read:**
- “Works Nos. 15, 16 and 17 must only be developed and used to have a direct relationship to and support the operation of Works Nos. 1 to 11 and 13.”*** (ExA’s underlining added for clarity)
- and has included this new Requirement as amended in the rdDCO appended to this report at Appendix D.
- 10.4.67. However, as this amended wording was not discussed during the Examination, **the ExA concludes and recommends that the SoS should consult IPs on this wording and, in particular, seek the views of the Applicant.**
- 10.4.68. The Applicant’s response to DCO.2.44 [[REP6-012](#)] goes on to state that:
- “By supporting works that are a nationally significant infrastructure project concerning aviation, this wording would ensure that they were for aviation purposes (although note that the word ‘required’ does not appear in the guidance). To make doubly sure, however, each work is additionally required to be ‘aviation-related’.”*
- 10.4.69. However, instead of defining what is meant by “*aviation-related*”, following a request to do so by the ExA [[PD-010b](#), CA.2.18] the Applicant introduced a definition of “*airport-related*” in its dDCO submitted at D6 [[REP6-018](#)] which reads:
- ““airport-related” development means development directly related to, or associated with, or supportive of operations at Manston Airport including, but not limited to, offices for various support functions and freight forwarders, freight distribution centres, flight catering, car hire activities, maintenance and valeting operations, support functions for aircraft maintenance, airline training centres, airline computer centres, security facilities, business aviation facilities and storage facilities for airlines;”*
- 10.4.70. In its comments on the Applicant’s responses to ExQ2 [CA.2.18], SHP stated [[REP7-013](#)] that:
- “This new definition is extremely wide. It would cover [many of the types of activity the Applicant stated it was seeking to attract to the NGA in paragraph 14 of Annex 4 of its Updated NSIP Justification [[REP1-005](#)]], but would conflict with the Requirement 19, as many of the examples given would not “support the operation of Work No.’s 1 to 11 and 13”*

and would further conflict with the requirements of the relevant April 2013 DCLG guidance on associated development."

- 10.4.71. In its comments ExA's initial dDCO [REP7-016], TDC commented on the above definition in relation to the 2013 DCLG Guidance stating that:

"The phrase "directly related to, or associated with, or supportive of..." could allow development with even very tenuous links to the airport to be permissible under the definition of "airport-related"."

- 10.4.72. In the light of this, TDC suggested its own alternative definition of "airport-related":

"airport-related" development means development which can 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 including, but not limited to, offices for support functions and freight forwarders, freight distribution centres, flight catering, car hire activities, maintenance and valeting operations, support functions for aircraft maintenance, airline training centres, airline computer centres, security facilities, business aviation facilities and storage facilities for airlines".

- 10.4.73. In its response to DCO.4.2 [REP9-006] the Applicant stated that:

"The Applicant is opposed to the revised drafting. The definition of airport-related was added to the Applicant's draft DCO in order to give further comfort to interested parties that Works Nos. 15, 16 and 17 would be 'associated development' as defined under s.115 of the Planning Act 2008. The Applicant's use of the wording 'directly related to, or associated with, or supportive of' reflects the guidance on requirements for 'associated development' as set out in paragraph 5(i) of 'Guidance on associated development applications for major infrastructure projects' which was published in April 2013 by the Department for Communities and Local Government ('the Guidance'). TDC's revised wording would place an additional condition that 'airport-related' development would be of the nature that is required to be located at Manston Airport in order to support operations at Manston Airport. This additional condition has no foundation in the Guidance and is not appropriate for the reasons set out in the Applicant's response to CA.2.20¹⁵⁸ [REP6-012] which stated:

'The Northern Grass is the most suitable location for such development as it is brownfield land adjacent to the airport and is allocated for airport use in the local plan. If the development does not take place on the Northern Grass then it is likely to arise further afield in a piecemeal and uncontrolled manner with a worse impact on the local area and less efficient interaction with the airport, and so it is in the public interest that as much of it as possible is sited on the Northern Grass.'

¹⁵⁸ The ExA note that this reference should be to CA.2.19.

- 10.4.74. The ExA agree with the Applicant in one respect that the statute or guidance does not specify whether or not Associated Development should be located within a certain distance of the airport to which it has a direct relationship and, whilst this was examined, it has not considered further in this report the arguments about factors and advantages related to the location for such development put forward by the Applicant in, for example, its response to CA.2.20 [[REP6-012](#)] and CA.3.22 [[REP7a-002](#)].
- 10.4.75. The issue of Associated Development was examined further at CAH2 [[EV-018](#), [EV-025](#), [EV-025a](#), [EV-025b](#) and [EV-025c](#)] and at ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)].
- 10.4.76. At those hearings, the ExA discussed whether the definition of “*airport-related*” (which refers to Work Nos. 15, 16 and 17 in Schedule 1) was too wide in including types of use such as flight catering, car hire activities and business aviation facilities.
- 10.4.77. Taking account of the discussions and evidence submitted on this definition and taking account of both the statutory definition of, and guidance on, Associated Development, the ExA considers that the examples given in the Applicant’s proposed definition may not serve to strengthen the clarity and applicability of this definition and are not all necessary to establish the relationship between these three works and the airport.
- 10.4.78. If examples are thought to be required, the ExA considers that the example given in the 2013 DCLG Guidance may suffice to indicate the type of development covered by this definition.
- 10.4.79. Further, the ExA considers that the criterion set out in the 2013 DCLG Guidance is not set out in terms of being supportive of as being an alternative to having a direct relationship to and that, therefore, the use of the word “*or*” in the Applicant’s proposed definition is misplaced.
- 10.4.80. **The ExA concludes and recommends therefore that the definition of “*airport-related*” in Article 2 should be included in any DCO should it be made but that the wording should be amended to 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”***
- and has included this new definition as amended in the rdDCO appended to this report at Appendix D.
- 10.4.81. However, as this amended wording was not discussed during the Examination, **the ExA concludes and recommends that the SoS should consult IPs on this wording and, in particular, seek the views of the Applicant and of TDC which has the responsibility under any made DCO of discharging such a Requirement.**

10.4.82. In paragraph 4.2.15 of its LIR [[REP3-010](#)], TDC stated that:

"The information provided in the Applicant's Updated NSIP Justification does not provide convincing evidence that this development should be treated as associated development within the meaning of the Act. There is existing space at the allocated Manston Business Park which could be used to office and storage space for operators and users of the airport and thereby supports its operation. No justification has been provided to explain why a further 116,000sqm of floorspace is a required to achieve this aim."

and, at paragraph 4.2.16, that:

"TDC is concerned that, as drafted, the dDCO may not be able to prevent only this general employment land being developed, without any other elements of the airport use coming forward."

10.4.83. In order to address this latter point, and thus to strengthen the relationship between these works and the Proposed Development, in its written comments following the ISHs [[REP8-029](#)], TDC states that it:

"has agreed with the applicant that a form of words will be submitted at Deadline 8 to amend the wording of Requirement 19 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' to ensure the connection between "airport-related" development and the authorised development."

10.4.84. In the summary of its oral case put at ISH8 [[REP8-016](#)], the Applicant states that:

"In response to TDC's concerns [the Applicant] proposed wording for a requirement to tie occupation of buildings on the Northern Grass to the airport becoming certified and Work No.1 (the cargo sheds) becoming operational. Those would be the key works that show that the airport has come forward. The wording would be as follows:

'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)."

10.4.85. The ExA published its second dDCO at D8 on 14 June [[PD-018](#)] and this stated that:

"Interested Parties should note, however, that the ExA's second dDCO is issued for comments in advance of the receipt by the ExA of post-hearing summaries and submissions consequent on the ISH held on 7 June 2019 [EV-023]. These include any revised version of the dDCO prepared by the Applicant to reflect changes in wording to provisions as agreed by parties at that ISH."

- 10.4.86. Noting that both TDC and the Applicant state that agreement has been reached on this wording, **the ExA concludes and recommends that R20(2) be added to the rdDCO should it be made to read:**
- "Buildings comprised in Works Nos. 15, 16 and 17 must not be occupied before:***
- i) the aerodrome is granted EASA or CAA certification; and***
- ii) the commencement of operation of Work No.1 (or any part thereof)"***
- and the ExA has included this wording in its rdDCO appended to this report at Appendix D.
- 10.4.87. The ExA has added "...or CAA..." to reflect any possibility that the UK may withdraw from EASA Certification processes.
- 10.4.88. The next test to be considered in the 2013 DCLG Guidance is that:
- "Associated development should not be an aim in itself but should be subordinate to the principal development"*
- 10.4.89. The Updated NSIP Justification [[REP1-005](#)] states that:
- "The Northern Grass development is not an aim in itself. Without the airport there could be no 'airport-related' development on the Northern Grass and there would be no purpose in the Applicant's application for it. Its purpose is to support the operation of the airport."*
- 10.4.90. At CAH2 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#) and [EV-029c](#)] the ExA examined this issue.
- 10.4.91. **The ExA concludes and recommends that, subject to any made DCO being made in the form as appended to this report at Appendix D, Works Nos. 15, 16 and 17 and 32 would be directly related to the Principal Development and, therefore, would not be an aim in itself.**
- 10.4.92. The next criterion to be considered in the 2013 DCLG Guidance is that:
- "Development should not be treated as associated development if it is only necessary as a source of additional revenue for the applicant"*
- 10.4.93. The ExA examined whether Works Nos. 15, 16 and 17 were only necessary as a source of additional revenue for the Applicant in its question CA.2.19 [[PD-010b](#)], and in CAH2 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#) and [EV-029c](#)].
- 10.4.94. The ExA was aided in this by the submission at D3 of the business model provided at Appendix F.1.5 of the Applicant's appendices to answers to ExQ1 [[REP3-187](#)], following a request by the ExA to do so and by the submission of a RSP Business Plan for Manston submitted at Appendix CAH2 – 15 to [[REP8-011](#)].

10.4.95. The ExA noted that the proportion of total Property Income in relation to total revenue shown in the RSP Business Plan ranged from 31.7 per cent in Year 4 to 39.4 per cent in Year 6. However, the ExA recognises that such figures cannot be used in any analytic way both because they do not separate out property income from Works Nos. 15, 16 and 17 from all other property in the Proposed Development and because they are working estimates. The Applicant states in Appendix 10 to its written of case put at CAH1 [[REP5-010](#)] that:

"At this point, it is difficult to ascertain who will be occupying a specific amount of space".

10.4.96. Nevertheless, the ExA recognise that Works Nos. 15, 16 and 17 will act as a source of additional revenue for the Applicant. In examining this criterion, however, the ExA notes that the 2013 DCLG Guidance uses the word 'only'. Given the discussion above in this section of Chapter 10, the ExA considers that, should any made DCO contain the ExA's proposed definition of "airport-related" and the other Requirements, then Works Nos. 15, 16 and 17 would have a direct relationship to the Principal Development and, thus, would serve other purposes in addition to serving as a source of additional revenue.

10.4.97. On this basis, and subject to any made DCO being in the form as appended to this report in Appendix D, **the ExA concludes that Works Nos. 15, 16 and 17 are not necessary solely as a source of additional revenue for the Applicant.**

10.4.98. The final criterion in the 2013 DCLG Guidance is that:

"Associated development should be proportionate to the nature and scale of the principal development."

10.4.99. The Applicant's final dDCO [[REP7a-017](#)] shows that:

"Work No. 15 has a total building footprint of up to 60,000m²;

Work No. 16 has a total building footprint of up to 26,000m²;

Work No. 17 has a total building footprint of up to 30,000m²"

10.4.100. The justification of the amount of floorspace for these works has been discussed in the section of Chapter 6 which dealt with operations. This chapter on the dDCO will not re-rehearse the evidence set out in that section.

10.4.101. That section in Chapter 6 concludes at paragraph that:

"Overall when considering the proposed uses and noting the illustrative nature of the proposed development for the Northern Grass area the ExA concludes that insufficient justification has been provided for the entirety of the Northern Grass development in terms of required space for scale and capacity and its relationship to the airport."

- 10.4.102. For the reasons explained in this chapter, if the DCO was to be made in the form in which it was originally submitted [[APP-006](#)], then these works would not fulfil the tests in statute or criteria in the 2013 DCLG Guidance and could not, in that eventuality be included within Schedule 1 of the rdDCO.
- 10.4.103. However, **the ExA concludes that, whilst the extent of the proposed floorspace for Works Nos. 15, 16 and 17 has not been fully justified, the amended description in the ExA's proposed definition of "airport-related" (see above) restricts any development to that which has a direct relationship to the Proposed Development and that this definition must apply to all the development constructed within these three works and must be taken into account in any future commercial decision as to the phasing and extent of this part of the development.**
- 10.4.104. In summary, in the case of Works Nos. 15, 16, 17 and 32, **the ExA concludes and recommends that these works only have a direct relationship between this Associated Development and the Principal Development if their use is restricted by the application of specific provisions in the rdDCO that have been recommended by the ExA and are set out in this sub-section of this chapter.**

Responsibility and procedure for discharging Requirements

- 10.4.105. The dDCO as submitted with the Application [[APP-006](#)] specified the "Secretary of State" as the certifying or approving body, for example in and Articles 6, 9 and 41 and Requirements 3, 4, 5, 8, 10, 11, 12, 13, 14, 15, 16 and 18.
- 10.4.106. In examining whether or not the SoS was the correct entity to name in these Articles and Requirements, the ExA had regard, *inter alia*, to the Planning Inspectorate's advice on drafting DCOs¹⁵⁹. This states at paragraph 19.3 that:
- "If an applicant proposes that the approval of matters be required from a discharging authority other than the relevant planning authority, the Applicant should consult with that discharging authority ahead of submitting the application and consider whether it has the required resources and expertise to perform that function."*
- 10.4.107. In its written summary of oral submissions put at the January 2019 hearings [[REP1-004](#)] the Applicant confirmed that it had sought such confirmation from the SoS for Transport but that this was after the application was made.

¹⁵⁹ Advice Note Fifteen: Drafting Development Consent Orders, available at: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf

- 10.4.108. More widely, it noted that the SoS could be identified as a certifying or approving body under legislation and
- "...confirmed that the Applicant felt that the Secretary of State had the expertise within his department to discharge this duty which Thanet District Council might not have."*
- 10.4.109. During the course of the Examination, the ExA continued to pursue these two aspects – the willingness of the SoS for Transport to be the Discharging Authority and the concerns by the Applicant of the competence and suitability of TDC to fulfil this responsibility.
- 10.4.110. In its response to DCO.2.45 [[REP6-012](#)] the Applicant confirmed that the SoS responded on 26 April 2019, to advise that he was not willing to discharge the Requirements.
- 10.4.111. The DfT's Deputy Director, Environment, Strategy and Legal Defence, Heathrow Expansion and Aviation and Maritime Analysis's response and the Applicant's subsequent request for him to reconsider are appended at Appendix DCO.2.45 in the Applicant's appendices to answers to ExQ2 [[REP6-014](#)].
- 10.4.112. The response from the DfT stated, amongst other things, that:
- "In the absence of any reasons for departing from the general approach, the most appropriate person to assume the discharging role for the purposes of the Application remains the relevant planning authority. There are no previous DCOs in the aviation sector which conflict with this general approach.*
- Following review of the proposed Requirements contained in the draft DCO, as matters stand, I remain to be convinced that the relevant planning authority does not benefit from the necessary local knowledge and expertise, particularly for example, in relation to matters of landscaping and traffic management. Therefore, the default position remains that the relevant planning authority would be best placed to perform the role of discharging authority in keeping with Paragraphs 19.1 and 19.3 of PINS Advice Note Fifteen. Thanet District Council's view of the position has been confirmed by their representations made to date, that they, as the relevant planning authority, ought to discharge the requirements."*
- 10.4.113. In its response to DCO.3.7 [[REP7a-002](#)] the Applicant stated that the SoS responded further on 14 May 2019, confirming that they do not wish to be the Discharging Authority for the Requirements.
- 10.4.114. The letter from Deputy Director, Programme, Assurance and Communications, Heathrow Expansion and Aviation and Maritime Analysis is appended as DCO.3.6 in the Applicant's appendices to answers to ExQ3 [[REP7a-003](#)].
- 10.4.115. This letter states that, *inter alia*:

"I note that the Applicant has nominated the Secretary of State as discharging authority in the draft DCO, however adopting that approach in a DCO would deviate from established policy and practice without precedent for doing so in the aviation sector. In the absence of any reasons for departing from the default position, the most appropriate person to act as discharging authority remains the relevant planning authority. I repeat the conclusion of Mr Goodwin's letter, that the Secretary of State sees no reason to depart from the default approach or adopt a different approach in relation to airports development."

10.4.116. Taking these two letters together, the ExA considers that the DfT's position on this is totally clear.

10.4.117. On the second related issue, the Applicant's written summary of its case put at CAH1 [[REP5-011](#)] stated at paragraph 3.23 that:

"The report of the Transport Select Committee inquiry into small airports in 2015 is provided at Appendix 8, supporting the case that the Secretary of State would be the better body to approve the guarantee provided at Article 9. The project also affects a wider area than that of Thanet District Council, further suggesting a higher-level body would be more appropriate."

10.4.118. The Applicant's response to DCO.2.19 [[REP6-012](#)] cited, in particular, the following paragraphs:

"48. [...] However, we question whether a small district council has sufficient funds or legal and financial expertise to handle a case of this magnitude. For example, TDC told us that it spent £26,000 on legal advice in relation to the proposed CPO.68 That sum was unlikely to provide TDC with adequate advice in relation to indemnification by a US company or to allow it to understand RiverOak's business plan and operating model [...]"

53. The DfT interceded in the Manston case following TDC's decision not to proceed with a compulsory purchase order. In December 2014, the Minister of State, DfT, John Hayes MP, chaired a meeting with interested parties and agreed to co-ordinate work across Government to explore all options to secure the airport's future. That the DfT judged it necessary to intervene in the Manston case shows the extent to which Kent County Council failed to fulfil its strategic oversight role."

and the following conclusions and recommendations:

"13. We expect higher-tier local government bodies to fulfil their strategic oversight functions by supporting local planning authorities in resolving one-off, complex cases involving nationally significant transport assets.

14. Kent County Council has the legal and financial resources to assess complex CPO cases. Despite having agreed a motion to support Thanet District Council, it failed to deploy those assets. In failing to support Thanet District Council's scrutiny of the proposed CPO at Manston, Kent

County Council also failed to fulfil its strategic oversight function as the local transport authority.

15. That the DfT judged it necessary to intervene in the Manston case shows the extent to which Kent County Council failed to fulfil its strategic oversight role."

and stated that:

"Recommendation 13 implies that lower-tier local authorities require support when resolving complex cases involving nationally significant transport assets (Manston Airport being the actual example used); recommendations 14 and 15 report that Kent County Council failed to act when it should have and the DfT had to step in. To avoid a repeat of this situation the Applicant has given the DfT the role of approving body in the first place.

The DfT is able to perform this role as it has set up a unit to discharge DCO requirements and has the role of discharging very similarly-worded requirements in several other DCOs, such as the Testo's Junction DCO."

10.4.119. Throughout the Examination, TDC resisted this characterisation of its resourcing and expertise. The signed SoCG between the Applicant and TDC [[REP6-011](#)] records that:

"TDC wholly disagrees with this assertion and can demonstrate previous experience having been the discharging authority on the Richborough Connection Project DCO."

10.4.120. In its response to DCO.2.3 [[REP6-058](#)], TDC states that:

"Thanet District Council's position is that the discharging of all requirements in Schedule 2 Part 1 should be undertaken by the relevant planning authority rather than the Secretary of State for the site. Thanet District Council have demonstrated through the DCO process that it is highly capable of harnessing the breadth of knowledge and expertise to provide critical analysis of any submissions made. The Council have previously been the discharging authority for the Richborough Connection Project DCO and are therefore familiar with the process and the timescales involved. No justification has been provided by the applicant about why the discharging authority should rest with the Secretary of State for the requirements, other than reference to the Transport Select Committee report (which specifically discusses the Compulsory Purchase process), or oral evidence regarding the lack of adoption of the Council's Local Plan. Neither of these points relate to the Council's ability to discharge requirements for the DCO."

10.4.121. At ISH8, as confirmed in its written summary of case [[REP8-016](#)], the Applicant:

"...confirmed that the Applicant's position is that the role of the Secretary of State in articles 8 (consent to transfer benefit of Order), 9 (guarantees in respect of payment of compensation, etc.) and 37 (removal of human remains) should be retained in subsequent drafts. The Applicant

proposed that the TDC or KCC, as appropriate to their functions, should be responsible for the discharge of requirements."

- 10.4.122. At ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)] the ExA asked for an explanation of the decision for the SoS to be retained in his decision making capacity in relation to Article 37.
- 10.4.123. At ISH8 the Applicant committed itself to provide a more detailed explanation of the article in a revised dEM and some text on why the SoS is a more appropriate party to deal with procedures under this Article than the LPA.
- 10.4.124. The Applicant's written summary of oral submissions at ISH8 [[REP8-016](#)] provides the Applicant's explanation¹⁶⁰ as follows:
- "[Article 37] is intended to replace but replicate the function of s.25 of the Burial Act 1857 where the Secretary of State has the licensing role. It is appropriate that the Secretary of State is given the power to make directions under article 37(12), in effect retaining his decision making power in the replacement procedure."*
- 10.4.125. The ExA recognises the validity of this argument.
- 10.4.126. In its written comments on the ISHs [[REP8-029](#)] TDC state that:
- "TDC agrees with the revised position of the applicant that Thanet District Council should be the discharging body for the various requirements, with the Secretary of State remaining at Articles 8, 9 and 37 of the Draft DCO."*
- 10.4.127. The ExA notes that as well as the "relevant planning authority" replacing the "Secretary of State" in Requirements, this has also been done in Article 8(2).
- 10.4.128. Having questioned the Applicant's position that the LPA should have been the Discharging Authority for the Requirements from outset of the Examination, and noting the final agreement between the Applicant and TDC as to the provisions in the rdDCO to which this should apply, **the ExA concludes and recommends that TDC should be the Discharging Authority for the various Requirements and specific Articles, with the SoS remaining at Articles 8, 9 and 37**, and have included this in the rdDCO in Appendix D to this report.

¹⁶⁰ The ExA note that whilst explanatory wording relating to this Article was added to at Deadline 3 [[REP3-200](#)], before the second DCO ISH, this wording was not amended in the final revision to the Explanatory Memorandum at D7a [[REP7a-019](#)].

10.4.129. An issue related to the responsibility for discharging Requirements is that of the procedure for doing so as set out in Part 2 - Procedure for discharge of Requirements.

10.4.130. Part 2 of the dDCO sets out the procedure for the discharge of Requirements including in R21(1) time periods for serving notices and at 21(2) provisions in respect to non-determination. These provisions were drafted before it was proposed that "*the relevant planning authority*" be substituted for "*Secretary of State*".

10.4.131. In its response to DCO.2.3 [[REP6-058](#)], TDC stated that:

"...the draft DCO has still not revised the procedure for the discharge of requirements, which includes an automatic approval for non-determined requirements after 8 weeks at Part 2 Article 20, with no right of appeal (assumed to be because the Secretary of State is the discharge authority). Given the apparent lack of consultation with Secretary of State to ensure they can comply with these timescales, Thanet District Council is concerned that the details of the requirements submitted may not be subject to sufficient scrutiny, prior to be automatically approved by virtue of the current wording of the draft DCO."

10.4.132. The signed SoCG between the Applicant and TDC [[REP6-011](#)] states under matters not agreed between the parties at 4.1.15 that:

"TDC consider that provisions for discharging requirements at paragraphs 18(2) and 18(3) of dDCO Part 2 allowing automatic approval of requirements submitted but not determined within a period of 8 weeks should be removed."

10.4.133. The ExA notes that in its WR [[REP3-162](#)] Historic England stated in relation to R18 in paragraph 6.10.1 that it:

"...queries whether 8 weeks is a sufficient period of time for the Secretary of State to consult specialist advisors and reply to the Undertaker in view of the various issues that could arise. We think that a longer period of, say, 12 weeks might be more appropriate."

10.4.134. In its question DCO.3.18, the ExA reminded the Applicant of TDC's response to DCO.2.3 [[REP6-058](#)]. The Applicant responded [[REP7a-002](#)] that:

"The Applicant has included the same procedure for discharge of requirements that has been included in numerous Highways DCOs where the Secretary of State is the discharging authority (see for example Part 2 of Schedule 2 to the M20 Junction 10a Development Consent Order 2017 and Part 2 of Schedule 2 of the A19/A184 Testo's Junction Alteration Development Consent Order 2018). The Applicant believes that this is an appropriate form of words for the discharge of requirements and it has been previously accepted by the Secretary of State. Discussions with the Secretary of State concerning its role in the discharge of requirements are ongoing."

- 10.4.135. In its questions DCO.3.17, the ExA noted TDC's response to DCO.2.3 (above) and asked TDC to suggest an acceptable alternative form of wording should TDC be the Discharging Authority. TDC provided this at Appendix 1 in its responses to ExQ3 [[REP7a-045](#)].
- 10.4.136. This wording was subject to discussions between the Applicant and TDC and, in its responses to DCO.4.23, the Applicant stated in its answers to ExQ4 [[REP9-006](#)] that:
- "The Applicant and TDC have discussed the wording of Part 2 of Schedule 2 and have agreed on the draft wording provided at Appendix DCO 4.23."* [[REP9-010](#)]
- 10.4.137. In its comments on the ExA's second dDCO and answers to the ExQ4, TDC states [[REP9-026](#)] that:
- "TDC has agreed a form of wording with the Applicant, which is attached as Appendix 1.*
- As set out above, this wording is now agreed and there are no further areas of disagreement on this point."*
- 10.4.138. This agreement between the Applicant and TDC came after the Applicant had produced its final dDCO at D7a [[REP7a-019](#)] and after the ExA had published its second dDCO for comments [[PD-018](#)].
- 10.4.139. Taking into account the agreement stated by both the Applicant and TDC and having considered the wording as submitted, **the ExA concludes and recommends that the revised wording for Schedule 2, Part 2 be included in any final DCO should this be consented** and has included this in the rdDCO at Appendix D to this report.
- Use of the phrase "...to the extent that is unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement..."***
- 10.4.140. ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA considered the use and applicability of the phrase:
- "...to the extent that is unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement..."*
- 10.4.141. The application dDCO [[APP-006](#)] includes the following usages of that phrase in Article 2 - Interpretation, definition of "commence" and definition of "maintain"; Article 6(2) - Limits of Deviation; R13(2) - Surface and foul water drainage; and Schedule 1 - Authorised Development - (p).
- 10.4.142. First, in its written summary of oral submissions at the January 2019 hearings [[REP1-004](#)] the Applicant confirmed that the words could be removed from the definition of commence in Article 2 as they were not necessary in this definition.

- 10.4.143. The Applicant's response to DCO.2.11 [[REP6-012](#)] stated that:
- "The phrase has not been used in recent transport DCOs granted by the Secretary of State for Transport (the Port of Tilbury (Expansion) Order 2019, the Silvertown Tunnel Order 2018, the M20 Junction 10a Development Consent Order 2017) and the same definition of 'commence' has been used, for consistency in drafting and decision-making."*
- 10.4.144. Further, in its response to DCO.3.9 [[REP7a-002](#)] the Applicant stated that:
- "The wording that has been removed is intended to cover situations in which variation to the works authorised by the Order is permitted, as long as the impacts of such works are not materially new or materially worse. This wording is not appropriate in these circumstances as the material operations listed in the definition will take place in any event. The definition of 'commence' serves solely to define what material operations will comprise 'commencement' for the purposes of the Order."*
- 10.4.145. This phrase was omitted from the definition of "commence" in the revised dDCO submitted at D5 [[REP5-002](#)].
- 10.4.146. Nevertheless, the ExA retained this phrase in its second dDCO published on 14 June 2019 [[PD-018](#)] on the stated basis that [[PD-018](#)]:
- "To relate any works that can be carried out without complying with pre-commencement requirements to what has been assessed in the Environmental Statement (ES)."*
- 10.4.147. Taking into account the consideration that if this wording is retained in the definition it does serve prevent any major pre-commencement works which may have an environmental impact before they are approved under the Requirements, the **ExA concludes and recommends that the wording should be retained in the definition of "commence"** and has included it in the rdDCO appended to this report at Appendix D.
- 10.4.148. The wording in Article 6(2) and in R13(2) has been amended slightly by the ExA to replace "would" with "do" and "reported" with "assessed" in line with the agreed wording.
- 10.4.149. In its *Written summary of oral submissions put at Examination events in January 2019* [[REP1-004](#)] the Applicant confirmed that the definition of "maintain" in article 2 would be amended by adding:
- "provided that they do not give rise to materially new or materially worse effects than those identified in the ES"*
- 10.4.150. Furthermore, it advised [[REP1-004](#)] that any examples of the wording "materially new or materially different" that remained would be replaced with "materially new or materially worse" as this would remove the unintended effect of the Applicant having to build the authorised development in a more environmentally damaging way than was

necessary because a less environmentally damaging way was considered to be "materially different".

- 10.4.151. In its written summary of oral submissions at the January 2019 hearings [[REP1-004](#)] the Applicant recorded that it had stated at ISH1 that the phrase "*materially new or materially worse*" was intended to allow a proportionate and acceptable level of flexibility in the final design of the Authorised Development, which was considered necessary in major infrastructure projects. This wording linked any such changes to the impacts assessed in the ES and ensured that the flexibility did not result in the impacts exceeding those assessed.
- 10.4.152. The revised dDCO submitted at D3 [[REP3-186](#)] did contain this change of wording for the definition of "*maintain*" and the ExA asked at DCO.2.12 which body or bodies is to certify that such actions do not give rise to any new or materially different worse environmental effects from those identified in the ES.
- 10.4.153. The Applicant responded [[REP6-012](#)] that:
- "...there is no body identified to sign off the opinion of the Applicant that maintenance would not give rise to effects beyond those assessed, just as the Applicant is entitled to build the identified works without further sign-off, in the expectation that it will adhere to the DCO given the criminal sanctions that apply should it not. There will be an Operational Environmental Management Plan..."*
- 10.4.154. The ExA notes, in this respect, that in addition it is within the power of TDC to take enforcement action against breaches of the DCO should it be made.
- 10.4.155. In its initial dDCO [[PD-015](#)] the ExA proposed that the words:
- "...which do not give rise to any materially new or materially worse environmental effects to those assessed in the environmental statement"*
- should be added to Schedule 1 – Authorised Development.
- 10.4.156. The ExA notes that, in its comments on the ExA's initial dDCO [[REP7-002](#)] the Applicant states that it is content with this amendment.
- 10.4.157. The amendment was included in the Applicant's revised dDCO submitted at D7a [[REP7a-017](#)].
- 10.4.158. Taking into account the agreement stated by both the Applicant and having considered the wording as submitted, **the ExA concludes and recommends that the revised wording in Article 2 – Interpretation - definition of "*maintain*"; Article 6(2) – Limits of deviation; R13(2) – Surface and foul water drainage; and Schedule 1 – Authorised Development - (p) ("*which do not give rise to any materially new or materially worse environmental effects to those assessed in the environmental statement*") be included in any final**

DCO should this be consented and has included this in the rdDCO at Appendix D to this report.

- 10.4.159. The wording in Article 6(2) and in R13(2) has been amended slightly by the ExA to replace "would" with "do" and "reported" with "assessed" in line with the agreed wording.

10.5. PROPOSED AMENDMENTS TO ARTICLES

- 10.5.1. This sub-section discussed proposed changes to Articles.

Article 2 - Interpretation, definition of "airport related"

- 10.5.2. The definition of "airport-related" has been discussed in the section in this chapter dealing with Associated Development, above. For completeness, the above conclusion is repeated here.

- 10.5.3. **The ExA concludes and recommends that the definition of "airport-related" should be included in any DCO should it be made but that the wording should be amended to 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"

and has included this new definition as amended in the rdDCO appended to this report at Appendix D.

- 10.5.4. However, as this amended wording was not discussed during the Examination, **the ExA concludes and recommends that the SoS should consult IPs on this wording and, in particular, seek the views of the Applicant and of TDC which has the responsibility under any made DCO of discharging such a Requirement.**

Article 2 – Interpretation - definition of "associated development"

- 10.5.5. Article 2 - Interpretation, definition of "associated development" has been discussed in the section of this chapter on Associated Development, above, given the discussion in that section, **the ExA concludes and recommends that the definition of "associated development" be removed from Article 2** and have not included this in the rdDCO appended to this report at Appendix D

Article 2 – Interpretation - definition of "commence"

- 10.5.6. The application dDCO [[APP-006](#)] stated that:

"commence" means the carrying out of any material operation (as defined in section 155 of the 2008 Act), comprised in or carried out for the purposes of the authorised development other than operations consisting of environmental surveys and monitoring, investigations for

the purpose of assessing ground conditions, diversion and laying of services, receipt and erection of construction plant and equipment, erection of any temporary means of enclosure, the temporary display of site notices or advertisements or installation of a site compound or any other temporary building or structure to the extent that is unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement..."

10.5.7. In its initial dDCO [[PD-015](#)] the ExA stated that it considered that this definition was unduly wide ranging and allows for a large number of different types of works to be undertaken prior to approval of the CEMP or OEMP.

10.5.8. The Applicant responded in its *Written summary of oral submissions put at Examination events in January 2019* [[REP1-004](#)] that it:

"...confirmed that any investigations considered to be intrusive would need to be agreed with the Environment Agency prior to them being carried out. A programme of works had been prepared. All works listed after "other than operations consisting of" would be subject to obligations described in the CEMP which were considered in the ES. The ES chapters relied upon and prescribed the provisions of the CEMP."

10.5.9. The ExA considers that the inclusion of the phrase *"...to the extent that these do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement"* as discussed and recommended in this chapter (above) should serve to cover any potentially environmentally intrusive actions taken under this definition.

10.5.10. However, the ExA considers that there is no certainty that this will cover activities allowed under this definition where they are likely to harm heritage assets of national importance and their settings that are considered worthy of conservation by the relevant planning authority, KCC and Historic England.

10.5.11. In order to seek to protect such assets, **the ExA concludes and recommends that the phrase:**

"...and are not likely to harm heritage assets of national importance and their settings as defined in the further assessment of the historic character of the airfield under Requirement 3(3)(a)"

be added after "...environmental statement..." and have included this phrase in the rdDCO appended to this report at Appendix D.

10.5.12. In DCO.3.7 and DCO.3.8 [[PD-014](#)] and in its second dDCO [[PD-018](#)] the ExA requested the Applicant to justify the inclusion of *"advertisements"* and *"any other temporary building"* in the definition of *"commence"*.

10.5.13. In its response to DCO.3.7 [[REP7a-002](#)] the Applicant stated that:

"The Applicant has included this because, as with any construction site, there may be a need to advertise information in connection with the scheme. For instance such advertisements may provide information on the construction programme or current or future developments that will be taking place at the site. It is also the case that, as with all prestigious schemes such as the Manston Airport project, individual contractors will want to advertise their involvement in its construction (for instance on their construction compounds). This wording is intended to regularise the position in relation to advertisements which are necessary or common place in connection with the construction of nationally significant infrastructure projects."

and, in response to DCO.3.8 [REP7a-002] it stated:

"Temporary buildings are included in the list of excluded operations as they may be required in connection with the carrying out of the other operations explicitly excluded from the definition of 'commence'. A number of these operations could require temporary buildings to support them. For instance, site offices and employee facilities might be required in connection with diversion and laying of services. Similarly, site offices and employee facilities might be required in connection with environmental surveys (which would include those surveys under Requirement 12 of the dDCO (Protected species))."

10.5.14. In its comments on the ExA's second dDCO [REP9-002], the Applicant cited the installation of a site compound in respect of temporary building and stated that contractor's signage and signage associated with site fencing is the most obvious example of advertisement which accompanies site compounds.

10.5.15. Following consideration of this representation, **the ExA concludes and recommends that "any other temporary buildings" be retained in the definition but that "contractors' signage and notices" be substituted for "advertisements"**.

Article 2 – Interpretation – Definition of "maintain"

10.5.16. The signed SoCG between the Applicant and TDC [REP6-011] states under matters not agreed between the parties at 4.1.13 that:

"The definition of "maintain" as set out in Article 2 is too broad and could allow significant future development without sufficient planning controls."

10.5.17. At ISH8 [EV-023, EV-029, EV-029a, EV-029b, EV-029c] the Applicant and TDC agreed to seek to propose a mutually satisfactory form of words and in the summary of its case put at ISH8 [REP8-016], the Applicant states that:

"The Applicant has agreed with TDC as to its preferred definition of maintain."

10.5.18. This definition is set out in TDC's comments following the ISHs [REP8-029] as being:

“maintain” in relation to the authorised development includes to inspect, repair, adjust, alter, remove, refurbish, replace, improve or reconstruct to the extent assessed in the environmental statement and any derivative of “maintain” is to be construed accordingly.”

- 10.5.19. Following consideration of these representations and noting the Applicant’s agreement to this change, **the ExA concludes and recommends that the definition of “maintain” is that contained in TDC’s D8 submission subject to the substitution of “to the extent assessed in the environmental statement” by the agreed phrase “do not give rise to any materially new or materially worse environmental effects to those assessed in the environmental statement”,** as set out above and has included this definition in the rdDCO at Appendix 10 to this report.

Article 2 – Interpretation – listing of documents

- 10.5.20. First, noting that the Land Plans are defined and listed, at ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#) and [EV-006c](#)] the ExA recommended that Crown Land Plans [[APP-017](#)] and Special Category Land Plan [[APP-019](#)] be defined in Article 2 and listed in Schedule 10 and the Applicant stated [[REP1-004](#)] that it would consider making the suggested amendment.
- 10.5.21. The ExA notes that this addition was not included in Applicant’s D7a dDCO [[REP7a-017](#)]. Nevertheless, the ExA still consider that such an addition would be beneficial and **the ExA concludes and recommends that Crown Land Plan and Special Category Land Plan be defined in Article 2 and listed in Schedule 10** and have included that amendment in the rdDCO appended to this report at Appendix D.
- 10.5.22. Second, at ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#) and [EV-006c](#)] the ExA noted that the REAC [[APP-010](#)] references a number of documents such as the MHCP and the Spillage Environmental Response Plan and queried whether such documents be defined in Article 2 and listed in Schedule 10.
- 10.5.23. The Applicant explained [[REP1-004](#)] that a number of the documents were intended to be “living documents” that were worked up during the Examination to reflect matters raised by the ExA and then further developed following the Examination once contractors had been appointed and the airport became operational but stated that it would consider options to include consultation on final versions with appropriate bodies.
- 10.5.24. The ExA is content with this explanation but has also considered the inclusion of other specified documents within R7 and Schedule 10, below.

Article 2 – Interpretation - Definitions of Operation Stack and of Operation Stack Land

- 10.5.25. The Applicant introduced definitions of Operation Stack and of Operation Stack Land in its first revised dDCO at D3 [[REP3-186](#)].

- 10.5.26. KCC agreed with this definition in an e-mail dated 4 June 2017 [[AS-124](#)].
- 10.5.27. Noting the agreement of the Applicant and of KCC, **the ExA concludes and recommends that these definitions be added** and have included them in the rdDCO appended to this report at Appendix D.

Article 2 – Interpretation - “Outline construction environmental management plan”

- 10.5.28. The Applicant introduced a definition of “*outline construction environmental management plan*” in its first revised dDCO at D3 [[REP3-186](#)], to read:

“...means the document of that description certified by the Secretary of State under article 41 (certification of documents, etc.) for the purposes of this Order”.

- 10.5.29. KCC expressed concern in an e-mail dated 4 June 2017 [[AS-124](#)] that the CEMP would be submitted for approval in outline only and requests that the full document is submitted, unless further justification can be provided for a need to deal with it by way of a staggered approach.

- 10.5.30. The ExA considers that the requirement to submit a full document is included in R6.

Article 3(2) – Principal powers

- 10.5.31. The ExA examined the phrase in this Article:

“...land within or adjacent to the Order limits”.

- 10.5.32. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#) and [EV-006c](#)], the ExA explained that its concern here was not necessarily with the principle of this Article but, in particular, with the words “*adjacent to*”.

- 10.5.33. The Applicant put forward the view that s120(5)¹⁶¹ of the PA2008 allows for the modification of statutory provisions that affect the development and that may include land adjacent to the Order Limits [[REP1-004](#)].

¹⁶¹ PA2008 s.120(5) *An order granting development consent may—*

(a) apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order;

(b) make such amendments, repeals or revocations of statutory provisions of local application as appear to the [F3Secretary of State] to be necessary or expedient in consequence of a provision of the order or in connection with the order;

(c) include any provision that appears to the [F4Secretary of State] to be necessary or expedient for giving full effect to any other provision of the order;

- 10.5.34. The ExA is of the opinion that modifications should only relate to any matter for which provision may be made in the order.
- 10.5.35. The ExA put forward putative alternative wording at ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#) and [EV-006c](#)]:
- "(2) Any enactment applying to land within, adjoining or sharing a common boundary with the Order limits has effect subject to the provisions of this Order."*
- 10.5.36. The Applicant sought to explain the rationale for this Article in its response to DCO.4.6 [[REP9-006](#)]:
- "Article 3(2) does not provide a power to carry on activities outside the Order limits. The intention of this provision is to make sure that, if the Secretary of State sees fit to make the DCO, the effect of any existing legislation that might otherwise be incompatible or interfere with the authorised development or the exercise of powers under the Order, is modified such that the interference does not occur. Any such pre-existing legislation might exert interference not only from its effect within the Order limits but also from its effect from land that is adjoining or sharing a boundary with the Order limits. It is therefore important to ensure that article 3(2) has effect on the adjoining land as well as the Order limits."*
- 10.5.37. In KCC's submission [[AS-124](#)] published on 5 June 2019 it states that:
- "There is adopted Highway Land that immediately abuts the site and as such KCC would need to ensure that this order does not prevent the County Council from undertaking any maintenance/upgrades or changes to the highway in the future, and, if necessary, any new routes that KCC wishes to promote."*
- and that:
- "In order to carry out full due diligence, KCC officers will check the enactments that apply in respect of any other adjacent land in which KCC has an interest that will be affected and will update the Examining Authority accordingly."*
- 10.5.38. KCC did not submit any further representations following the one on 5 June and did not present evidence at ISH8 held on 7 June 2019 [[EV-023](#)].
- 10.5.39. The Applicant included the ExA's suggested wording in its final dDCO [[REP7a-017](#)]:

(d)include incidental, consequential, supplementary, transitional or transitory provisions and savings.

"(2) Any enactment applying to land within, adjoining or sharing a common boundary with the Order limits has effect subject to the provisions of this Order."

10.5.40. The ExA considers that this Article may be of modest effect and that its suggested revised wording serves to make its scope more specific and defined.

10.5.41. **The ExA concludes and recommends that this Requirement as contained in the Applicant's D7a dDCO be retained in the rdDCO** and have included it in the rdDCO appended to this report at Appendix D.

Article 5(1) – Maintenance of drainage works

10.5.42. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA looked at the breadth and possible implications of Article 5(1).

10.5.43. The Application version of the dEM [[APP-007](#)] states at 3.13 that:

"The purpose of this article is to make it clear that any realignment of award drains or other works to them that are carried out as a part of the scheme do not affect the existing allocation of responsibility for maintenance of those drains, unless this is agreed between RiverOak and the responsible party."

10.5.44. The ExA was concerned whether this was a reasonable provision given the expansion of the airport. The phrase *"nothing in this order"* seemed excessively broad and it was unclear what would be additional to construction / maintenance or operation.

10.5.45. This was examined in question DCO.2.14 and the Applicant responded [[REP6-012](#)] that:

"Article 5 merely preserves existing responsibilities for drainage of land. Section 72 of the Land Drainage Act 1991 lists defence against water, irrigation, warping and management of the level of water in a watercourse under the definition of 'drainage'."

10.5.46. The revised version of the dEM [[REP3-200](#)] adds to the explanation at 3.13 that:

"The provision gives certainty to both the RiverOak and to those that possess that responsibility. It also enables agreement on reallocation of responsibilities to be reached where it is appropriate."

10.5.47. The ExA accepts these explanations and **the ExA concludes and recommends that Article 5(1) remain in the rdDCO.**

Article 6 – Limits of deviation

10.5.48. The ExA examined two main issues in relation to Article 6 – Limits of deviation. This first related to the potential breadth and applicability of this Article. This is considered in that section of Chapter 6 that deals with landscape, design and visual impact.

10.5.49. That section states that:

"the ExA concludes and recommends that an additional subsection be added to Article 6 stating that:

"In any discrepancy in any heights cited in this Article and heights cited elsewhere in this DCO, notably in Schedule 1, then the lower of the two shall be the maximum height permitted."

and that:

The Applicant made an amendment in its D3 dDCO [REP3-186] to add the Radar tower constructed as part of Work No.4, Gatehouse constructed as part of Work No.14 and Gatehouse gantry constructed as part of Work No.14 to the table at A6(1)(c)

and amended A6(1)(a):

"a) deviate laterally from the lines or situations of the authorised development construct each work only within its relevant work limits shown on the works plans to the extent of the limits of deviation shown on those plans;"

to read:

"construct each work only within its relevant work limits shown on the works plans"

10.5.50. Following consideration of this representation, **the ExA concludes and recommends that Article 6(1) and 6(2) should be included as amended in the rdDCO** and has included them in the rdDCO appended to this report at Appendix D.

10.5.51. The second issue relates to amendments proposed by Historic England. These amendments are linked to proposed amendments to R3(1) and (3) and these are considered in the sub-section below alongside Article 6.

Article 6: Limits to deviation and Requirement 3(1) and (3)

10.5.52. In its WR [[REP3-162](#)] Historic England stated in paragraph 6.2.1 that:

10.5.53. *"The blanket provision for lateral and vertical deviation in the locations and dimensions of new buildings and other features is not appropriate in our view. This is because the location of important archaeological remains, historic buildings, and historic landscape character could be harmed by some such deviations. However, as heritage surveys are incomplete it is not yet possible to identify places where deviations should be restricted."*

and proposed a new sub-paragraph (3) to Article 6:

"In the light of further heritage assessment, Heritage Constraint Areas in which deviations are restricted will be identified by the applicant in consultation with Kent County Council, and if appropriate Historic

England, before they are submitted to the Secretary of State for approval”.

and, at paragraph 6.4.1, a new sub-paragraph (4):

“The external appearance and dimensions of any element of Works that has the potential to affect a Heritage Constraint Area should be subject to consultation with Kent County Council, and if appropriate Historic England, before it is submitted to the Secretary of State for approval.”

and at paragraph 6.8.1 a new sub-paragraph to R3:

“Before the Master Plan is submitted the Applicant should commission further assessment of the historic character of the airfield and model the options for increasing the proportion of land in non-harmful land-uses in response to the result of heritage surveys”.

- 10.5.54. These proposed amendments were restated in Historic England’s response to ExQ2 [[REP6-042](#)].
- 10.5.55. The Applicant has proposed alternative wording [[REP7a-017](#)] to add new sub-Requirement (3) in order to seek to address this issue:

“(3) Before a masterplan is submitted under sub-paragraph (1) the undertaker must—

(a) carry out an archaeological survey;

(b) consider options for minimising impacts on archaeological assets which may involve a smaller development footprint; and

(c) consult Kent County Council and Historic England on the options before submitting the masterplan for approval.”

- 10.5.56. In its summary of submissions made during the ISHs [[REP8-026](#)], Historic England stated that it:

“...welcomed the applicant’s proposed amendments to Requirement 3 (1) and (3) but we said that they do not go far enough in that i) they only make provision for archaeological survey and not for historic buildings and historic landscape survey and assessment, or the analysis of such surveys to determine heritage significance, and ii) they only make provision for “considering the options” for minimising impacts, which we think is weak provision because it doesn’t commit the applicant to finding conservation solutions...”

- 10.5.57. KCC proposed [[REP6-045](#), response to DCO.2.42]:

“(2) Where archaeological evaluation works referred to in sub-paragraph (1) identify remains that are of a significance to warrant preservation in situ, as advised to the Secretary of State by Kent County Council and Historic England, the design, parameters and quantum of development in that area will be adjusted to ensure the appropriate preservation in situ of the archaeological remains.”

10.5.58. However, in its comments on the ExA's initial dDCO published on 10 May 2019, KCC stated [[AS-124](#)] that:

"KCC is satisfied with the proposed wording that has evolved from comments put forward by Historic England seeking to protect Heritage Assets and their settings."

10.5.59. This issue was examined further at ISH4 held on 3 June 2019 [[EV-019](#), [EV-024](#), [EV-024a](#)] and at ISH8 held on 7 June 2017 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)].

10.5.60. In its response to the ExA's second dDCO the Applicant stated that:

"The Applicant has carefully considered Historic England's suggested wording. However, the Applicant believes that it is inappropriate to include provisions for the protection of Heritage Assets in Article 6 (limits of deviation)."

"It is also unclear to the Applicant how the proposed restriction on deviations from the works plans and engineering drawings would offer protection for heritage assets on site. The Applicant therefore considers that protection for heritage assets should be provided for by amendments to Requirement 3."

10.5.61. The Applicant's response to DCO.3.20 [[REP7a-002](#)] stated that:

"The Applicant has introduced revised wording to Requirement 3(1) and a new Requirement 3(3) to address the concerns raised by Historic England. The proposed amendments have been shared with Historic England and their comments have been requested."

10.5.62. In paragraph 2.4 of its summary of submissions made during the ISHs [[REP8-026](#)], Historic England stated that:

"...we have not yet agreed an alternative wording; however we have suggested to the applicant that our concept of Heritage Constraints Areas could be moved from the Articles to the Requirements if that is more acceptable to them."

10.5.63. The ExA notes, further, that in paragraph 2.8, Historic England considers that the suggestion made by KCC in relation to R16 (see below in this chapter) goes some way to addressing its concern (ExA agenda for ISH8 s.8 d [[EV-023](#)]) but that:

"...this provision is not wholly adequate for our purpose in that it only makes provision for the protection of buried archaeological remains and not for historic buildings and their settings, and HRA character. In addition, we think it inappropriate that a provision for the avoidance of harm should be in Requirement 16, which relates to the mitigation of impacts through excavation and recording; in our view it should be covered in Requirement 3 as provision for avoidance of harm prior to approval of a masterplan."

10.5.64. The ExA notes that the Applicant's written summary of the case put at ISH8 [[REP8-016](#)] states that:

"The Applicant and Historic England are currently in discussions and attempting to agree the wording of Requirement 3 and Requirement 6 of the DCO. The remaining issues are that Historic England wishes to approve any detailed design of the northern grass area due to its potential impact on archaeological finds; and that more protection should be given to non-designated heritage assets."

10.5.65. In its ExQ4 [[REP9-022](#)] Historic England stated at paragraph 1.2 that:

"In an email of the 21 June 2019 Historic England suggested to the applicant an alternative wording for these two clauses, which is set out below. This was acknowledged by the applicant but at the time of writing (27 June) we have not yet received a further response.

"Article 6 – Limits of deviation:

(3) Deviations will be restricted where they are likely to harm Heritage Constraint Areas, which are defined as areas containing heritage assets of national importance and their settings. Heritage Constraint Areas will be identified by the applicant in consultation the relevant planning authority, Kent County Council and Historic England following the heritage assessment undertaken to inform the masterplan and before the masterplan is submitted for approval. Areas containing archaeological remains of national importance that are discovered during subsequent archaeological mitigation work can also be defined as Heritage Constraint Areas by the relevant planning authority who will be advised by Kent County Council and Historic England."

and stated that Historic England would not object to this provision being a Requirement rather than an Article if the ExA think it appropriate.

10.5.66. In its response [[REP9-022](#)] Historic England also set out the revised wording to R3(3) that it had sent to the Applicant:

"Before the Master Plan is submitted the applicant should commission further assessment of the historic character of the airfield, historic buildings survey, and archaeological investigation, and assess the heritage significance of heritage assets and their settings. Heritage assets of national importance should be preserved in situ by means of amendments to the design, parameters or quantum of development. The applicant should consult the relevant planning authority, Kent County Council and Historic England before submitting the masterplan for approval and report on the consultees' recommendations in the submission."

10.5.67. In its D11 submission [[REP11-016](#)], Historic England stated that:

"In respect of sub-paragraph (3)(a) we have agreed on appropriate wording i.e.:

"Before the Master Plan is submitted the applicant should commission further assessment of the historic character of the airfield, historic buildings survey, and archaeological investigation, and assess the heritage significance of heritage assets and their settings."

but stated that:

"In respect of sub-paragraph 3(b) the applicant said that [the Applicant] consider it inappropriate to include in the DCO our suggested wording concerning preservation in situ and amendments to the design i.e.:

"Heritage assets of national importance should be preserved in situ by means of amendments to the design, parameters or quantum of development."

- 10.5.68. However, instead, Historic England suggested the following alternative, which, it stated, uses the language of the NPPF where it refers to nationally important heritage assets (paragraphs 193 and 190):

"The conservation of heritage assets of national importance and their settings should be given great weight, and conflict between their conservation and the proposal avoided or minimised."

- 10.5.69. Further, Historic England stated that:

"In respect of sub-paragraph 3(c) we have agreed on the following wording:

"The applicant should consult the relevant planning authority, Kent County Council and Historic England before submitting the masterplan for approval and report on the consultees' recommendations in the submission.""

- 10.5.70. In respect of Article 6, Historic England stated that it:

"...continues to think that further provision should be made to restrict deviations in areas that contain nationally important heritage assets and we think that specific provision for this should be made in the DCO. We would be content for this to be in the Requirements rather than the Articles."

and added that:

"...if the concept of "Heritage Constraint Areas" is considered problematic or unnecessary by the ExA we would be content with the use of "heritage assets of national importance and their settings" instead, which is a phrase used in the NPPF. Therefore, we suggest that a new clause in the Requirements should say:

"Deviations are restricted where they are likely to harm heritage assets of national importance and their settings that are considered worthy of conservation by the relevant planning authority, Kent County Council and Historic England".

- 10.5.71. **The ExA concludes and recommends that the above proposed amendment would be more applicable in Article 6 than in R3** so that those relying on Article 6 are directly aware of this restriction.
- 10.5.72. The Applicant states in its D11 covering letter [[REP11-001](#)] that it:
"...agrees to the changes to Requirement 3 suggested by Historic England in its Deadline 11 submission (not yet published but provided to the Applicant by Historic England)."
- 10.5.73. In summary, therefore, the ExA has assumed from Historic England's final representation [[REP11-016](#)] that the amendments to Article 6 and R3 as agreed between Historic England and the Applicant should read:
"Article 6 (3)¹⁶²
"Deviations are restricted where they are likely to harm heritage assets of national importance and their settings that are considered worthy of conservation by the relevant planning authority, Kent County Council and Historic England as defined in the further assessment required in Requirement 3(3)(a)".
"Requirement 3(3)
(a) Before the Master Plan is submitted the applicant should commission a further assessment of the historic character of the airfield, historic buildings survey, and archaeological investigation, and assess the heritage significance of heritage assets and their settings.
(b) The conservation of heritage assets of national importance and their settings should be given great weight, and conflict between their conservation and the proposal avoided or minimised.
(c) The applicant should consult the relevant planning authority, Kent County Council and Historic England before submitting the masterplan for approval and report on the consultees' recommendations in the submission."
- 10.5.74. In order to link these three proposed amendments together, the ExA recommends the addition of the phrase *"...as defined in the Development Masterplans..."* after *"...settings..."* in A6(3).
- 10.5.75. Having examined this issue in full through written questions, considerations of representations and through an ISH, and noting the agreement reached between Historic England and the Applicant, **the ExA concludes and recommends that the amendments set out above should be included in any final DCO should it be consented subject to substituting "should" for "must" in 3(3)(a) and "the undertaker" for "the applicant" in 3(3)(a) and (c)** and have included them in the rdDCO appended to this report at Appendix D;

¹⁶² Following the recommendation, above, that a new Article 6(3) be inserted, this amendment now becomes Article 6(4)

- 10.5.76. Given that the wording above is construed by the ExA from Historic England's final submission [[REP11-016](#)], the **SoS may be minded to assure itself that this is the wording as agreed by consulting Historic England and the Applicant.**

Article 7 – Benefit of Order and Article 8 – Consent to transfer benefit of Order

- 10.5.77. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA asked a number of questions relating to these Articles including which body will be constructing, managing and / or operating this airport should it be consented and whether the Applicant considers this Article adequate to give the SoS assurance that whichever body this Article will apply and has the necessary attributes to ensure that the provisions of any consented DCO are followed and applied rigorously.

- 10.5.78. At the ISH, the Applicant confirmed [[REP1-004](#)] that it will:

"...operate the airport and manage and develop it. However, the Applicant also intended to contract with suitably qualified major construction companies (with whom there was already a dialogue) when it came to major construction works, which the Applicant would supervise. When it came to operating the airport, the Applicant would do so but may subcontract certain aspects of the airport operation, as is usual. [It] confirmed that the Applicant had no track record in operating airports without subcontracting but that this is why the operation on the ground level would be contracted out (under the standard supervision of the CAA)."

and that the Applicant will consider the proposed amendment for the next draft of the dDCO.

- 10.5.79. In response [[REP1-004](#)] to the query as to whether one reading of subparagraph (2) could be that all the works will benefit one or more parties referenced in this Article:

"[the Applicant] confirmed that while it was possible to identify certain persons who might benefit from works (e.g. the local highway authority in respect of highways works at Works Nos. 24-32) it was not possible to specify all of those persons and / or organisations who may need to benefit e.g. beneficiaries of as yet unanticipated accommodation works."

- 10.5.80. The Applicant confirmed [[REP1-004](#)] that it would consider the wording of the Article in order to ensure clarity.

- 10.5.81. The ExA note, however, that, with the exception of the introduction of the word "written" before "consent" in Article 8(1), the wording of these Articles remained unchanged in the Applicant's final dDCO [[REP7a-017](#)].

- 10.5.82. **The ExA concludes and recommends that the amendment set out above should be included in any final DCO should it be consented** and have included them in the rdDCO appended to this report at Appendix D.

Article 9 – Guarantees in respect of payment of compensation, etc.

10.5.83. For ease of reference, this Article is considered in detail in Chapter 9 on CA (above).

10.5.84. The section of that chapter states that:

“the ExA concludes and recommends that the wording for Article 9 contained in the Applicant’s final dDCO [REP7a-017] should be included unchanged in any final DCO and has included it in the rdDCO appended to this report at Appendix D.”

Articles 11 and 12 – Construction and maintenance of new, altered or diverted streets and Temporary stopping up and restriction of use of streets

10.5.85. At ISH1 [EV-005, EV-006, EV-006a, EV-006b, EV-006c], the ExA recommended that the streets referred to in these Articles should be identified on the Access and Rights of Way Plans listed at Schedule 10 and words be included in this Article that reference that plan.

10.5.86. The Applicant explained [REP1-004] that, in relation to Works Nos. 15 to 17 in particular there would be roads that would be constructed to serve the Authorised Development but which could not be identified or named at this stage. The location would be dependent on detailed design so it would not be possible to include a list of those streets prior to the DCO being made. The Applicant would consider what, if any, changes could be made.

10.5.87. In response to DCO.2.20 [REP6-012] the Applicant provided an additional consideration, that:

“Article 11 does not give a power to construct new, altered or diverted streets, it controls how this may be carried out when it is authorised by other parts of the dDCO (e.g. the works that consist of highway alterations, such as Work Nos.25 to 32).”

10.5.88. The ExA accepts these explanations and **the ExA concludes and recommends that this Article remains unchanged in any DCO should it be made.**

Article 11(1) – Construction and maintenance of new, altered or diverted streets

10.5.89. In the original Applicant’s version of the dDCO [APP-006] Article 11(1) stated that:

“Any street to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed with the local highway authority must be maintained by and at the expense of the local highway authority from its completion.”

- 10.5.90. The ExA proposed that "*in writing*" be inserted into the phrase "...*unless otherwise agreed with the local highway...*" and this was included by the Applicant in its revised dDCO submitted at D3 [[REP3-186](#)].
- 10.5.91. The ExA asked KCC in DCO.3.10 to indicate whether it is content with the wording in Article 11(1) and, in particular, whether it is content to accept responsibility for maintaining at your expense from completion of new, altered or diverted streets
- 10.5.92. KCC's response [[REP7a-034](#)] was that:
- 10.5.93. "*This article should be altered to reflect the typical requirement for a specified maintenance period to be applied, directly after completion of new, altered or diverted streets for a period to be specified by the Local Highway Authority. This is generally set once the specific details such as geological and construction specification and workmanship relating to the highway infrastructure has been identified in more detail. This is normally identified as part of an agreement under Section 278 of the Highways Act 1980.*"
- 10.5.94. The Applicant did not make the requested change in subsequent submissions.
- 10.5.95. Taking into account that KCC is the responsible authority, **the ExA concludes and recommends that the phrase " ...*following a specified maintenance period to be agreed with the Local Highway Authority*" be added to Article 11(1)** and have included this in the rdDCO appended to this report at Appendix D.

Article 12 - Temporary stopping up and restriction of use of streets

- 10.5.96. The ExA considered two issues in relation to this Article. The first is the power potentially granted by it to temporarily stop up a street for use as a temporary working site and whether the use of streets as temporary working sites been assessed in the ES.
- 10.5.97. The second is the time allowed in Article 12(6) for a response from a street authority to an application for consent under this Article.
- 10.5.98. In the original Applicant's version of the dDCO [[APP-006](#)] Article 12(2) stated that:

"...the undertaker may use any street temporarily stopped up or restricted under the powers conferred by this article and which is within the Order limits as a temporary working site"

and Article 12(6) stated:

"If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent."

10.5.99. The table as sub-section 9.9 shows that the Applicant agreed [[REP7-002](#)] to the insertion of "valid" before "application".

10.5.100. On the first issue, the Applicant's response to DCO.2.21 [[REP6-012](#)] stated that:

"Figure 12.3a in [APP-042] sets out the areas where construction activities have been assessed and some of these consist of highways improvements on existing highways; there are also activities across the 'northern grass' area, which may have highways laid out across it which are adopted and subsequently require to be diverted while these works are being carried out."

10.5.101. In its response to DCO.1.2. [[REP3-139](#)], KCC states that:

"KCC is not content with the wording of Article 12(2). The County Council requests that the wording is altered to require the applicant to seek written consent from the Highway Authority to be able to use the highway as a temporary working site."

The County Council notes that utility companies, as statutory undertakers, have a right to access and maintain any plant. The NRSWA 1991 Guidance on Measures necessary where apparatus is affected by Diversionary Works - A Code of Practice (appendix 1) states that when a highway, which is subject of a stopping up order, contains undertakers' apparatus, the Highway Authority should be aware of the undertaker's need for adequate access or protection and should discuss the intended closure at an early stage. The statutory undertaker should be consulted with and given an opportunity to divert any mains/plant.

With regards to permissions for access, once a stopping up order has been raised then this is no longer public highway and therefore in theory, any utility will not need to request road space from KCC as Highway Authority in order to access their plant/ apparatus. The wording should be altered to require the applicant to seek written consent from the Street Authority (i.e. the Highway Authority) to use the highway as a temporary working site."

10.5.102. The Applicant's response to KCC's request was stated in its response to DCO.2.20 [[REP6-012](#)] that:

"...this article is identically worded to articles in many granted DCOs, and there is no reason specific to this project to depart from it."

10.5.103. In its response to DCO.2.22 the Applicant [[REP6-012](#)] stated that:

"KCC's concerns relate to utilities contained in a highway that is stopped up under this power; however, powers over utilities' apparatus are already dealt with by the dDCO, in particular the protective provisions for utilities in Schedule 9. KCC will not have responsibility for ensuring that statutory undertakers continue to have access to their apparatus; that will be the responsibility of the Applicant."

10.5.104. In its response to DCO.4.10 [[REP9-006](#)], the Applicant stated that:

"The Applicant also notes that KCC can attach reasonable conditions to its consent under article 12(4) which may include conditions concerning the reinstatement of the highway after a period of temporary possession."

10.5.105. The ExA note that the Applicant's responses, above, did not refer to the question of the need for

10.5.106. In KCC's D6 cover letter [[REP6-044](#)] the it stated that:

"...the dDCO has not been amended to require the applicant to seek written consent from KCC to use the highway as a temporary working site. The applicant will need to obtain written permission/a permit from the KCC Streetworks team, who will require details of exactly where they propose to work and when, including any proposed traffic management proposals at the time of inception."

10.5.107. The ExA considers that this proposed Article extends beyond the stopping up of streets to their potential use as temporary working sites and that this latter activity may not be explicitly be covered in the requirement for a consent to be given under Article 12(4).

10.5.108. The ExA notes that, as shown above, the Applicant states that:

"Figure 12.3a in [APP-042] sets out the areas where construction activities have been assessed and some of these consist of highways improvements on existing highways."

10.5.109. The ExA does not consider that this figure does show the locations of the temporary compounds and, partly given this, it considers that it is a valid request by the street and Highway Authority to be given the opportunity to consent this.

10.5.110. Therefore, **the ExA concludes and recommends that the phrase "subject to the written consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed" be added at the end of Article 12(2)** and has included this in its rdDCO appended to this report at Appendix D.

10.5.111. On the second issue – that of the time allowed - KCC in an e-mail dated 4 June 2017 [[AS-124](#)] states with reference to paragraph (6) - and also referring to the same provision in Articles 15, 16 and 17 - that:

"...the approach is entirely unsatisfactory. There might be an unavoidable delay – for instance, due internal consultation required within KCC and a requirement to take decisions in compliance with delegated authority and sign off procedures within the authority. 28 days is therefore not considered to be a reasonable time period."

and that:

"KCC requires the power to refuse to undertake the works for which approval is sought, if there is a conflict with other planned works in the vicinity for example. Article 12(6) and the [other] provisions quoted immediately preceding this paragraph are not acceptable to KCC."

10.5.112. In the Applicant's response to DCO.4.9 [\[REP9-006\]](#) the Applicant stated that it:

"...wishes to point out that the wording to which KCC objects (in all four articles) is intended to prevent unnecessary delay and provide certainty that the Applicant can carry out the authorised development. KCC states that its concern is that there may be a conflict with other planned works in the vicinity (in respect of 12(6)) and is presumably concerned that other legitimate issues might delay approvals such that articles 15(11), 16(9) or 18(6) are engaged. However, articles 12, 15 and 16 already provide the decision maker with the power to withhold consent if it is not unreasonable to do so (see articles 12(4), 15(1), 15(2), 16(3) and 18(4)). Given that the current drafting envisages and deals satisfactorily with the concerns raised by KCC, and that the Secretary of State has seen fit to use this wording in a wide range of DCOs the Applicant is reluctant to make any changes without further justification being provided by KCC."

10.5.113. Taking into account the above, **the ExA concludes and recommends that this Article as originally drafted be included in any final DCO should it be consented** and have included them in the rdDCO appended to this report at Appendix D;

Article 13 – Permanent stopping up of public rights of way

10.5.114. Article 13(2) deals with PRow and the provision of a permanent or temporary alternative route before a new PRow is opened.

10.5.115. Specifically related to the dDCO, KCC states in its D6 cover letter [\[REP6-044\]](#):

"...it is [...] requested that the applicant notifies KCC of any closures, in order that KCC can post notices on site to inform the public, prior to closure. KCC would require six weeks' notice to process this. It is requested therefore that a requirement is imposed to notify KCC six weeks before any planned diversion or closure of the PRow."

10.5.116. **Taking into account that KCC is the responsible authority for PRowS, the ExA concludes and recommends that (2)(c) be added to Article 13 to read:**

"Kent County Council is notified six weeks before any planned diversion or closure of the PRow".

and have included this in the rdDCO appended to this report at Appendix D.

Article 14 – Access to works

10.5.117. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA examined the necessity of this Article in the circumstances of this particular project.

10.5.118. At that hearing, the Applicant stated [[REP1-004](#)]. that:

"...the general power to form accesses to public highways was appropriate for the project. This applied in relation to the Northern Grass area where access requirements might change dependent on the layout of the commercial premises which were constructed (within the parameters of the authorised development). It also applied to the airside development where the Applicant should retain the ability to relocate/establish access points where it was required to do so for regulatory or operational reasons. [The Applicant] stated that the Applicant was content to add the wording "provided it does not result in any materially new or materially worse environmental effects" to the end of the article and noted the ExA's comments on the requirement for certainty."

10.5.119. The Applicant's revised dDCO submitted at D3 [[REP3-186](#)] added the words:

"...provided that this does not result in any materially new or materially worse environmental effects".

10.5.120. In DCO.2.23, the ExA indicated that it was considering adding the phrase *"from those identified in the environmental statement"* at the end of this Article and, in its response [[REP6-012](#)], the Applicant indicated that it agreed with this change and had added it to the D6 version of the dDCO.

10.5.121. KCC in an e-mail dated 4 June 2017 [[AS-124](#)] states that:

"It is understood that the use of the definition 'Street Authority' would encompass KCC's role as Local Highway Authority, not just the Streetworks Team. Any new access onto existing highway within the order limits would need KCC teams (not just the Streetworks team) to review and agree. It may, for example, need to be secured through a Section 278 agreement if it is semi-permanent or consists of complex engineering works. KCC will look to check this amendment further with its streetworks team."

10.5.122. The ExA notes that KCC attended ISH8 in an observational capacity and did not submit any further evidence on this issue subsequent to 4 June 2019.

10.5.123. The ExA notes further that the response quoted above did not object to the principle, nor the overall wording, of this Article and **the ExA concludes and recommends that this Article remain in the rdDCO as amended** subject to the substitution of *"identified"* by *"assessed"*.

Article 18 - Authority to survey and investigate the land

- 10.5.124. First, in its revised dDCO [[REP3-186](#)] the Applicant added the phrase “*and on the Secretary of State*” in A18(2). Partly consequent on the discussion on the SoS as Discharging Authority set out above in this chapter, this was changed in the ExA’s second dDCO [[PD-018](#)] to “*local planning authority*” – whilst noting that, in this particular Article, this does not place any discharging responsibility on the LPA.
- 10.5.125. The issue of the Discharging Authority is covered at the start of this chapter and, as noted, the final wording of this Article named “*the Secretary of State*” in 18(2).
- 10.5.126. Less specifically, the ExA notes, for the record, that in its written summary or oral representations at CAH1 submitted at DL5 [[REP5-031](#)], SHP state at paragraph 7.3, that:
- “...the wide powers sought by the Applicant to survey and investigate land are inappropriate and are likely to have a blighting impact on land held by SHP.”*
- 10.5.127. However, taking into account the sale of SHP’s land holding to a company controlled by the Applicant on 9 July 2019, noted in Chapter 9 above, the objection by SHP is considered by the ExA to have lost its relevance. **The ExA concludes and recommends that paragraphs (1) to (6) of Article 18 remain unchanged in the rdDCO** and has included them in its rdDCO, appended to this report at Appendix D.
- 10.5.128. Nevertheless, in addition, at the ISH1, SHP raised concerns about the impact of this article on Operation Stack / Brock and the Applicant committed [[REP1-004](#)] to considering revised drafting to address the situation to include one or more of (a) a requirement to notify the DfT (b) a counter notice by the DfT or (c) a measure limiting access to the land in a similar way to the provision contained within the extant authorisation under s53 of the PA2008.
- 10.5.129. In its revised dDCO [[REP3-186](#)] the Applicant added paragraphs (7) and (8) to this Article which stated that:
- “(7) The right of access under paragraph (1) will be suspended temporarily and with immediate effect in respect of the Operation Stack land and the undertaker must remove all apparatus and equipment from that land within 2 hours in the event that the Secretary of State notifies the undertaker in writing that—*
- (a) Operation Stack has been declared by Kent Police; and*
- (b) the imminent use of the Operation Stack land for lorry parking purposes would be incompatible with the exercise of rights notified to the Secretary of State under paragraph (2).*
- (8) The Secretary of State will notify the undertaker as soon as is practicable of the date on which the use of Operation Stack land mentioned in paragraph (7)(b) has ceased at which point the temporary suspension under paragraph (7) will end.”*

- 10.5.130. In DCO.2.26 the ExA stated that it was considering amending Article 18(7)(a) to read "Operation Stack has been declared by Highways England and/or Kent Police" and, in its response [REP6-012] the Applicant indicated that it agreed with this change and had added it to the D6 version of the dDCO [REP6-018].
- 10.5.131. KCC in an e-mail dated 4 June 2017 [AS-124] stated that:
- "Whether KCC is content with this matter depends on the point in time when the Secretary of State notifies the undertaker following a declaration of Operation Stack. If the notification is given when Operation Stack is declared, then two hours is adequate, as Manston will not be first stage. However, the timeframe would be inadequate should there be a delay between declaration of Operation Stack and notification of the relevant undertaker.*
- The removal of apparatus should also include the surrounding road network – i.e. A299 Hengist Way and B2190 Spitfire Way. Clarity is requested on this matter."*
- 10.5.132. The ExA considers, first, that the Article cannot be worded to allow for the circumstance in which there is a delay in notification by the SoS but it does see the merit in making a more direct link between the notification and the start of the time period and, therefore, proposes amending the words "...within 2 hours in the event that the Secretary of State notifies the undertaker..." to read "...within 2 hours of the SoS notifying the undertaker...".
- 10.5.133. In respect of KCC's second point, above, the ExA considers that these sub-paragraphs firstly refer to the undertaker which is defined in the dDCO as 'RiverOak Strategic Partners Limited' or the person who has the benefit of the Order under Articles 7 or 8 and, second, that they only apply to the area within the order limits and cannot be extended to the surrounding road network.
- 10.5.134. **The ExA concludes and recommends that sub-paragraphs (7) and (8) relating to Operation Brock should be added as amended in 9.5.148, above, to this Article in any DCO should it be consented** and has included them in its rdDCO, appended to this report at Appendix D.
- Article 19 – Compulsory acquisition of land**
- 10.5.135. Aspects of Article 19 – Compulsory acquisition of land have been considered in Chapter 9 on CA, above.
- 10.5.136. Following that consideration, the ExA has not recommended any amendments to that Article as originally drafted.
- Article 21 - Time limit for exercise of authority to acquire land compulsorily**
- 10.5.137. Aspects of Article 21 - Time limit for exercise of authority to acquire land compulsorily have been considered in Chapter 9 on CA, above.

- 10.5.138. Following that consideration, and for the reasons set out in Chapter 9, **the ExA concludes and recommends that these amendments be included in Article 21 and has included them in its rdDCO, appended to this report at Appendix D.**

Article 22 – Compulsory acquisition of rights and restrictive covenants

- 10.5.139. Aspects of Article 22 – Compulsory acquisition of rights and restrictive covenants have been considered in Chapter 9 on CA, above.

- 10.5.140. Following that consideration, and for the reasons set out in Chapter 9, **the ExA concludes and recommends that references in Article 22 to restrictive covenants should be removed as follows:**

- 10.5.141. *“Compulsory acquisition of rights ~~and restrictive covenants~~*

22.—(1) Subject to paragraphs (2) to (4), the undertaker may acquire such rights over the Order land, ~~or impose restrictive covenants affecting the Order land~~, as may be required for any purpose for which that land may be acquired under article 19 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the undertaker’s powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements or new rights in the land ~~or the imposition of restrictive covenants~~ as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 of the 1965 Act (other provisions as to divided land), as modified by Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights ~~and the imposition of restrictive covenants~~), where the undertaker acquires a right over land ~~or the benefit of a restrictive covenant affecting land~~ under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right ~~or the imposition of a restrictive covenant.~~”

and has included these amendments in the rdDCO appended to this Report at Appendix D.

- 10.5.142. **The ExA conclude and recommend that consequential changes be made to Schedule 6 to remove references to restrictive covenants** and has included these amendments in the rdDCO appended to this Report at Appendix D

Article 25 - Application of the Compulsory Purchase Act 1965

10.5.143. Aspects of Article 25 - Application of the Compulsory Purchase Act 1965 have been considered in Chapter 9 on CA, above.

10.5.144. Following that consideration, and for the reasons set out in Chapter 9, **the ExA concludes and recommends that an amendment be included in Article 21** and has included it in its rdDCO, appended to this Report at Appendix D.

Article 26 - Application of the Compulsory Purchase (Vesting Declarations) Act 1981

10.5.145. Aspects of Article 26 - Application of the Compulsory Purchase (Vesting Declarations) Act 1981.

10.5.146. Following that consideration, the ExA has not recommended any amendments to that Article as originally drafted.

Article 29 - Temporary use of land for carrying out the authorised development

10.5.147. Aspects of Article 26 - Application of the Compulsory Purchase (Vesting Declarations) Act 1981.

10.5.148. Following that consideration, the ExA has not recommended any amendments to that Article as originally drafted.

Article 34 - Felling or lopping of trees and removal of hedgerows

10.5.149. The issue of the felling or lopping of trees and removal of hedgerows is dealt with in the sub-section of Chapter 5 that deals with landscape, design and visual impact, above.

10.5.150. In DCO.2.29 [[PD-010b](#)], the ExA stated that:

"The ExA is considering whether to include the phrase "no actions under this Article may be commenced until a landscaping scheme for that part, which sets out details of all proposed hard and soft landscaping works, has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function." into this Article."

10.5.151. The Applicant's response [[REP6-012](#)]:

"The suggested text mirrors requirement 10, which relates to the authorised development. The Applicant accepts that the power under article 34 could be exercised separately from the commencement of the authorised development, but suggests that it would be preferable to add text to requirement 10 rather than article 34, as follows:

After 'commenced' add 'nor may powers under article 34 (felling or lopping of trees and removal of hedgerows) be exercised'."

10.5.152. The Applicant added this wording to R10 at D6 [[REP6-018](#)].

10.5.153. **The ExA concludes and recommends that this amendment be included in the rdDCO** and have included it in Appendix D.

Article 35 (Article 34) - Abrogation of agreement

10.5.154. In the Applicant's original dDCO [[APP-006](#)], this Article read:

"The Manston Airport s.106 Agreement is hereby abrogated."

10.5.155. The ExA requested in the Rule 6 letter [[PD-005](#)] that a copy of the s106 Agreement referred to in this Article be entered into the Examination.

10.5.156. The s106 Agreement was supplied at Enclosure 4 to the Applicant's cover letter to the material requested in Annex F to the Rule 6 letter [[REP1-001](#)]

10.5.157. The dEM [[APP-007](#), [REP3-200](#), [REP5-006a](#) and [REP7a-019](#)] states at paragraph 3.88 that this will be replaced by modernised obligations which will be secured by Requirement in Schedule 2.

10.5.158. At ISH1, the Applicant confirmed [[REP1-004](#)] that the agreement concerned was a Section 106 Agreement dated 26 September 2000 which detailed obligations of the owner of the airport (Kent International Airport plc) and TDC. The obligations on the owner related to limitation of noise and pollution impact. The Applicant wished to abrogate this agreement (to the extent that it still had effect) and replace it with a modern NMP.

10.5.159. TDC did not record any comments on this issue [[REP1-054](#)] arising out of ISH1.

10.5.160. In its response to DCO.2.30, the Applicant confirmed [[REP6-012](#)] that it was seeking this power under the PA2008 through item 3 ('The abrogation or modification of agreements relating to land') in Schedule 5, introduced by section 120 ('What may be included in an order granting development consent').

10.5.161. Noting the evidence submitted, the ExA agrees that Article 35 should be retained in the rdDCO.

10.5.162. However, during the course of the Examination, as detailed in Chapter 3, the Applicant submitted two draft s106 Agreements and a subsequent UU.

10.5.163. The ExA considers that there is the possibility of uncertainty as to the applicability of Article 35 to any future s106 Agreements and, consequently, **the ExA concludes and recommends that Article 35 be amended to read:**

"The Manston Airport s.106 Agreement dated 26 September 2000 is hereby abrogated."

and have included this amendment in its rdDCO at Appendix D.

Article 36 - Application of landlord and tenant law

10.5.164. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA requested that the Applicant should explain why this Article is necessary in the circumstances of this project.

10.5.165. At ISH1, the Applicant's representative reported [[REP1-004](#)] that:

"...it envisaged a potential situation where an airport operator was granted the right to operate the airport/part of the airport along with a lease over the operational land of the airport. If that agreement to operate was terminated the Applicant did not want to be subject to any delay or complication in the operation of the airport which might be brought about by commercial security of tenure,

with this stance being reinforced in the Applicant's response to DCO.2.31 [[REP6-012](#)].

10.5.166. Noting the evidence submitted, **the ExA concludes and recommends that Article 36 should be retained in the rdDCO.**

Former Article 37 - Operational land for purposes of the Town and Country Planning Act 1990

10.5.167. In the original dDCO [[APP-006](#)], Article 37 stated that:

"Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act)."

10.5.168. The original dEM [[APP-007](#)] explained in paragraph 3.91 that:

"The effect of that Order land being treated as operational land is that the person responsible for operating and maintaining the proposed development (RiverOak or any transferee of its powers) will benefit from certain permitted development rights on that land in connection with the operation of the airport."

10.5.169. This was examined at ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)].

10.5.170. The ExA requested the Applicant to identify the Permitted Development rights that may be available as a result of this Article and queried whether these would not accrue to the operator of the airport anyway.

10.5.171. In examining this Article, the ExA noted that Part 8, Class F of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015¹⁶³ states that the permitted development rights for airports consist of:

¹⁶³ Available at: <http://www.legislation.gov.uk/ukxi/2015/596/contents/made>

"The carrying out on operational land by a relevant airport operator or its agent of development (including the erection or alteration of an operational building) in connection with the provision of services and facilities at a relevant airport."

and that:

"A relevant airport operator means a relevant airport operator within the meaning of section 57A of the Airports Act 1986 (scope of Part 5) and a relevant airport means an airport to which Part 5 of the Airports Act 1986 (status of certain airport operators as statutory undertakers etc.)(35) applies"

10.5.172. The ExA noted that Section 57A of the Airports Act 1986¹⁶⁴ states that:

"(1) In this Part "relevant airport operator" means the airport operator in the case of an airport to which this Part applies.

(2) This Part applies to any airport in respect of which a certificate has been granted under this section (and has not been withdrawn)."

10.5.173. At ISH1, the Applicant confirmed [[REP1-004](#)] that it would reconsider the necessity for this Article given that the provisions in The Town and Country Planning (General Permitted Development) (England) Order 2015 were likely to operate in any event.

10.5.174. The Applicant stated in its revised dDCO [[REP3-186](#)] that:

"Further to discussion of this article at the DCO Issue Specific Hearing the Applicant considers this article to be unnecessary for the proposed development and it has been removed."

10.5.175. **The ExA concludes and recommends that the former numbered Article 37 - Operational land for purposes of the Town and Country Planning Act 1990 should be deleted from the DCO should it be consented** and has not included this in the rdDCO appended to this report at Appendix D.

10.5.176. As a result of the removal of this Article, the proposed new Article dealing with Human Remains, discussed below, became Article 37.

Article 40 – Crown rights

10.5.177. This Article is examined in detail in Chapter 9 on CA, above.

Article 43 - Arbitration

10.5.178. The application dDCO [[APP-006](#)] stated that:

"Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the

¹⁶⁴ Available at: <http://www.legislation.gov.uk/ukpga/1986/31/contents>

tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers."

- 10.5.179. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA recommended that the following wording "*to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State*" be substituted for "*to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers*" at the end of this Article.
- 10.5.180. At ISH1, the Applicant confirmed [[REP1-004](#)] that it would consider the amendment proposed and this was amended in the Applicant's dDCO submitted at D3 [[REP3-186](#)].
- 10.5.181. **The ExA concludes and recommends that this amendment should be included in the DCO should it be consented** and has included this in the rdDCO appended to this report at Appendix D.

10.6. PROPOSED AMENDMENTS TO SCHEDULE 1

- 10.6.1. Proposed amendments to Schedule 1 are dealt with in the section of this chapter that deals with Associated Development, above.

10.7. PROPOSED AMENDMENTS TO SCHEDULE 2

- 10.7.1. This section of the DCO chapter sets out the evidence for and the ExA's recommendations on proposed amendments to the Requirements contained in Schedule 2 of the dDCO.
- 10.7.2. Amendments proposed to R3 by Historic England are set out above as they relate closely to proposed changes to Article 6.

Requirement 3 - Development masterplans

- 10.7.3. Issues related to R3 and heritage have been covered above in the chapter in the section relating to Article 6.
- 10.7.4. At ISH1, the ExA queried whether this Requirement provides unnecessary flexibility; including whether there should be some indication as to content of the Masterplan, a provision that the Masterplan must fulfil the provisions of the DCO and an acknowledgement of the phasing of the Proposed Development.
- 10.7.5. At ISH1 the Applicant explained [[REP1-004](#)] that:

"Any development of this type is likely to be completed in phases and the complexities of the master planning phase for a new airport means that the number and size of those phases has not yet been established. The drafting of Requirement 3 is therefore appropriate for an airport NSIP

while also ensuring that the SoS has the appropriate powers of approval over the master planning of the authorised development."

10.7.6. It went on to state, however, that:

"In response to suggestions from the ExA that the detail of what would be contained in a masterplan was lacking [the Applicant] confirmed that the Applicant would reconsider the wording and provide more certainty on the parameters of a masterplan under this requirement. The Applicant would also consider the inclusion of further bodies in the approval process and that consideration would include Thanet District Council, RIBA and CABE."

10.7.7. The Applicant included some changes to wording in its dDCO submitted at D7a [REP7a-017] including specifying KCC as a body to be consulted under R3(1) and the ExA proposed in its initial dDCO [PD-015] to include, in addition, Historic England as a body to be consulted under R3(1).

10.7.8. The ExA did not consider that the suggested amendments served to address concerns about the content of masterplans and their relationship to the DCO and, in its second dDCO the ExA proposed adding a new subparagraph (6):

"The relevant approved masterplan must be substantially in accordance with the masterplan as submitted with the application documents."

10.7.9. The Applicant's written summary of its case at ISH8 [REP8-016] noted that:

"The Applicant agreed with this amendment. The amendment was included in the Applicant's revised dDCO submitted at Deadline 7a."

10.7.10. However, the ExA notes that, in its comments on the ExA's dDCO issued on 10 May 2019 [REP7-002] the Applicant stated that it is content with this amendment and has included it in its draft submitted at D7a in a slightly amended form:

"(2) be substantially in accordance with the certified masterplan referred to in Schedule 10 of this Order."

10.7.11. **The ExA concludes and recommends that it is content with this further amendment** and has included it in the rdDCO at Appendix D to this report.

R4(1) – Detailed design

10.7.12. The Applicant's response to the ExA's second dDCO [REP9-002] at Table A suggests a change to R4(1), to include the agreement of emergency access points with KCC to read:

"No part of the authorised development may commence until details of the siting, design, external appearance, lighting, site access (including

emergency access) and dimensions of any element of Works Nos..."
(ExA's underlining to show the proposed change)

10.7.13. **The ExA concludes and recommends that the Applicant's suggested addition be accepted** and has included it in the rdDCO appended to this report at Appendix D.

10.7.14. **However, the ExA also notes that the proposed amendment did not reference KCC, as the Highway Authority and the ExA conclude and recommend that the phrase "...in consultation with Kent County Council where relevant to its functions" be added after "...relevant planning authority..."** and has included it in the rdDCO appended to this report at Appendix D.

R4(2) – Detailed design

10.7.15. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA examined whether this Requirement provides unnecessary flexibility.

10.7.16. The existence of a perceived 'tailpiece' to R4(2) was examined at ISH1 and the ExA's second dDCO [[PD-018](#)] proposed to delete:

"...unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions, provided that the Secretary of State is satisfied that any departures from those documents would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement."

and to amend the wording to read:

"Where amended details are approved by the Secretary of State following the approach set out in section 153 of and Schedule 6 to the PA2008".

10.7.17. As set out earlier in this chapter, the words "Secretary of State" were changed to "local planning authority" as being the relevant body in this Requirement.

10.7.18. This issue was examined at the ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)] at which it was explained that the ExA's reason for proposing this change is that the PA2008 sets out a statutory procedure for amending details in Schedule 6 of that Act and the current provision in this Requirement could be seen to be setting up an alternative statutory procedure.

10.7.19. The Applicant's summary of case put at ISH8 [[REP8-016](#)] states that:

"The purpose of the text that the ExA proposes to delete is to enable the detailed design to depart from the commitment to accord with those documents, provided that the relevant planning authority is satisfied that any departure from the documents would not give rise to materially new or materially worse adverse environmental effects compared to those reported in the environmental statement. Requirement 4 allows the

Applicant to implement the authorised development in a slightly different way to those anticipated in the documents listed in requirement 4(2) while still being bound by all the parameters in the DCO.

Applying this to the current context it is clear that, taking the example of the Design Guide, the scenario can be envisaged where, in (say) 15 years time, the design of a particular type of building can be improved against that envisaged in the Design guide. The Applicant wants the relevant planning authority to have the power to approve a new design that will not have any materially worse environmental effect."

10.7.20. The ExA has considered the Applicant's oral submissions at ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)] and in its written summary of case [[REP8-016](#)] and the ExA can understand the validity of this argument in that, following the change of wording from SoS to "local planning authority", the Requirement has the effect of making the LPA the body responsible for dealing with changes to a document that it had approved in the first place.

10.7.21. **For the reason given above, the ExA concludes and recommends that it will not proceed with this proposed amendment**

10.7.22. Additionally, noting R5, the ExA queried at ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] why Work No. 19 — The construction of new or improved facilities to create an airport fuel farm, is excluded from elements of R4.

10.7.23. At the hearing the Applicant confirmed [[REP1-004](#)] that Work No. 19 would be added to the list of authorised development that was subject to R4.

10.7.24. This was added at D3 [[REP3-186](#)].

10.7.25. However, on further consideration the ExA asked the Applicant at DCO.3.15 to justify the inclusion of Work No. 19 in both R4 and R5

10.7.26. In response [[REP7a-002](#)] that Applicant stated that:

"The Applicant concedes that the inclusion of Work 19 in Requirement 4 is unnecessary. A further draft of the DCO with related amendments is submitted at Deadline 7a."

10.7.27. Taking into account the Applicant's explanation cited above, **the ExA concludes and recommends that this amendment be made in any DCO should it be consented** and have included it in the rdDCO appended to this report at Appendix D.

Requirements 5, 6 and 7

10.7.28. At ISH8, the ExA recommended that the words "the Health and Safety Executive" be removed from R5, R6 and R7.

10.7.29. This proposed change was made at the request of the Health and Safety Executive (HSE) [[REP6-040](#)] and the ExA notes that, in its comments on

the ExA's initial dDCO [[REP7-002](#)] the Applicant states that it is content with this amendment and has included it in its draft submitted at D7a.

- 10.7.30. **The ExA concludes and recommends that these amendments be made** and has included these changes in its rdDCO appended to this report at Appendix D.

Requirement 5 – Detailed design of fuel depot

- 10.7.31. First, the ExA note that this Requirement refers to the fuel depot whereas Work No. 19, to which it refers names it as being a fuel farm. In an excess of caution, the ExA has amended the reference to “depot” to a reference to “farm”.

- 10.7.32. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA examined whether the proposed specifications for Work No.19 contained in the REAC [[APP-010](#)] are adequately secured through R5.

- 10.7.33. The ExA notes that, in its RR [[RR-0538](#)], the Environment Agency indicates that it agrees with this Requirement as outlined.

- 10.7.34. The REAC [[REP11-008](#)] states that:

“Design will be undertaken beyond BAT and will include: bund construction, specification of storage tanks. double bunded tanks, bund to be underlain by impermeable membrane (e.g. visqueen), joints to be sealed with a hydrophobic sealant to prevent leakage, and concrete to include self-sealing material (e.g. xypex) and to be specified to water impermeable standard with additional reinforcement to limit cracks to e.g. <0.2 mm.”

- 10.7.35. At ISH1 the Applicant confirmed [[REP1-004](#)] that the Applicant would review R5 to ensure that it complied with all relevant commitments in the REAC. The Applicant would also consider the possible input of HSE in the approval process.

- 10.7.36. First, as stated above references to the HSE were removed from Requirements at the request of HSE, which stated [[REP6-004](#)] that:

“The relevant applicable legislation may require the applicant or other bodies to consult with, notify or otherwise involve HSE in the process of following through on the objectives of the DCO and HSE will become involved at that stage [...]

As a result, HSE does not wish to be included as a consultee in sections 5, 6 and 7 of the draft DCO.

HSE does not wish to be referenced as a body to be consulted or an approving body in relation to any other part of the draft DCO.”

- 10.7.37. Second, the Applicant proposed the insertion of R5(2) in its revised dDCO [[REP3-186](#)] to read:

“(2) The details approved under article 5(1) must reflect the relevant actions and commitments set out in the REAC.”

10.7.38. In its response to DCO.2.38 [[REP6-012](#)] the Applicant stated that:

“Requirement 5(2) requires that the detailed design of the fuel depot reflects the relevant actions and commitments set out in the REAC, which includes the text above; it is then approved by the Secretary of State in consultation with the EA and the HSE, and must be carried out in accordance with such approval.”

and that:

“The Applicant considers that this adequately secures the commitments set out [...].”

10.7.39. In its initial dDCO [[PD-015](#)], the ExA proposed substituting the words “Register of Environmental Actions and Commitments” for “REAC” at the end of R5(2).

10.7.40. The ExA notes that, in its comments on the ExA's initial dDCO [[REP7-002](#)] the Applicant states that it is content with this amendment and has included it in its draft submitted at D7a.

10.7.41. In its question DCO.2.36 the ExA stated that it was considering adding “...and the relevant planning authority” at the end of this Requirement. In its response, the Applicant [[REP6-012](#)] confirmed that it did not object to that addition, and has made the change in the latest version of the dDCO.

10.7.42. This change was then overtaken by the overall change of wording from “Secretary of State” to “local planning authority” outlined above in this chapter.

10.7.43. **The ExA concludes and recommends that these amendments be made** and has included these changes in its rdDCO appended to this report at Appendix D

R6 – Construction environmental management plan

10.7.44. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA noted that a draft CEMP has been provided as part of the application documentation. However, unlike R7, R6 does not specify the contents of the CEMP.

10.7.45. The ExA notes, for example, that the REAC [[APP-010](#)] specifies that the CEMP will contain a DMP; measures to reduce or limit air quality effects during the construction phase; a water quality method statement; an Unexploded Ordnance (UXO) threat and risk assessment; *inter alia*.

10.7.46. Given this, the ExA examined whether the contents of the CEMP should be specified in the dDCO.

10.7.47. In doing so, however, the ExA notes that, in its RR [[RR-0538](#)], the Environment Agency indicates that it agrees with this Requirement as outlined.

10.7.48. In its revised dDCO submitted at D3 [[REP3-186](#)], the Applicant added a list of management plans and other content which the CEMP must contain as follows:

"(2) A construction environmental management plan approved under sub-paragraph (1) must contain—

(a) the following management plans—

(i) Dust Management Plan;

(ii) Mitigation and Habitat Creation Plan;

(iii) Environmental Spillage Plan;

(iv) Unexploded Ordnance Threat and Risk Assessment;

(v) Noise and Vibration Management Plan;

(vi) Construction Traffic Management Plan;

(vii) Public Rights of Way Management Plan;

(viii) Construction Emergency Plan;

(ix) Site Waste Management Plan;

(x) Construction Risk Assessment;

(xi) Carbon Minimisation Action Plan;

(xii) Construction Emergency Plan;

(xiii) Tree Survey and Protection Plan;

(xiv) Construction Safety Management Plan;

(xv) Drainage Strategy;

(b) a record of the consents, commitments and permissions resulting from liaison with statutory bodies; and

(c) those mitigation measures set out in the register of environmental actions and commitments which are relevant to the construction of the authorised development."

10.7.49. **The ExA concludes and recommends that these amendments be made** and has included these changes in its rdDCO appended to this report at Appendix D

10.7.50. In addition to the list of documents, above, the ExA proposed the addition of a new paragraph (3) change in the ExA's second dDCO [[PD-018](#)] to read:

"Each part of the authorised development must be operated and maintained in accordance with the approved construction environmental management plan for that part."

10.7.51. In its comments on the ExA's second dDCO [[REP9-002](#)], the Applicant stated that:

"...it does not agree with this amendment as currently drafted. The Construction Environmental Management Plan is intended to cover the period of construction of the authorised development and is not intended to cover the period of operation and maintenance. The Applicant would agree with the following wording:

"Each part of the authorised development must be constructed in accordance with the approved construction environmental management plan for that part."

10.7.52. Following consideration of the representation made, the **ExA concludes and recommends that the Applicant's suggested wording, above, is preferable and serves the ExA purpose in proposing the original change** and has included this change in its rdDCO appended to this report at Appendix D.

Requirement 7(1) - Operation environmental management plan and Requirement 1 - Interpretation

10.7.53. At ISH1, the ExA stated that it wished to examine the status of the "operation environmental management plan" given that this document, or documents, is not listed in Schedule 10 of the dDCO.

10.7.54. At ISH1 the Applicant explained [[REP1-004](#)] that the OEMP was not a draft application document and that, due to the nature of the document it could not be produced at the Examination or certification stage as information from detailed design would be necessary to complete the document. It confirmed that the Applicant would add provision for approval of the document and would consider who should be the approving body.

10.7.55. The Applicant proposed the insertion of wording into R7 at its D3 dDCO [[REP3-186](#)] to replace the wording in the application version of the dDCO [[APP-006](#)]:

"The authorised development must be operated and maintained in accordance with the operation environmental management plan."

so that this Requirement read (including minor amendments proposed by the ExA in its d DCO [[PD-015](#)]):

"Operation environmental management plan

7.—(1) No part of the authorised development is to begin operation until an ~~must be operated and maintained in accordance with the operation~~ environmental management plan for that part has been submitted to, and approved in writing by, the relevant planning authority, following

consultation with any of the relevant highway authority, the Environment Agency, Southern Water, Historic England, the Civil Aviation Authority, and Natural England to the extent that it relates to matters relevant to their function.”

- 10.7.56. The ExA notes that the “*operation environmental management plan*” is defined in R1 – Interpretation.
- 10.7.57. Taking into account the Applicant’s explanation cited above, the ExA considers that the amendment to R7(1) does serve to meet its expressed concerns and noting that the Applicant proposed this change, **the ExA concludes and recommends that this amendment be included in any DCO should it be consented** and has included it in the rdDCO appended to this report at Appendix D.

R7(2)(b) - Operation environmental management plan

- 10.7.58. The ExA notes that, in its RR [[RR-0538](#)], the Environment Agency welcomes the overarching outlining of mitigation measures in the REAC [[APP-010](#)] and as required by R7(2)(d) of the dDCO.
- 10.7.59. First, the ExA notes that, in its RR [[RR-0538](#)] the Environment Agency requested that additional items are included regarding the management of fuel storage and transport and in relation to vegetation management using herbicides.
- 10.7.60. These were included in the Applicant’s dDCO submitted at D3 [[REP3-186](#)].
- 10.7.61. In question DCO.2.39 [[PD-010b](#)], the ExA recommended that reference should be made in R7(b) to the:
- *Framework Travel Plan;*
 - *Public Rights of Way Management Strategy;*
 - *Car Park Management Strategy; and*
 - *Airport Surface Access Strategy.*
- 10.7.62. The Applicant’s response [[REP6-012](#)] was that this would be reflected in the revised dDCO submitted at D6. This was done [[REP6-018](#)].
- 10.7.63. In its second dDCO [[PD-018](#)], the ExA stated that it had not amended the list of plans and documents under R7(2)(b) but noted that this list did not accord with the list set out in Table A2 in the Updated REAC [[REP7a-012](#)] and it required the Applicant to compare this list with the list set out at Table A2 and submit any consequential and necessary changes to the dDCO.
- 10.7.64. The Applicant provided a revised list at Annex 1 to its response to the ExA’s second dDCO [[REP9-002](#)]:
- i) Airport Management Strategy*
 - ii) Carbon Minimisation Action Plan*
 - iii) Car Park Management Strategy*

- iv) Climate Change Adaptation Strategy*
- v) Communications Plan*
- vi) Complaints Investigation Procedure*
- vii) Drainage Strategy*
- viii) Emergency Response and Post-Crash Management Plan*
- ix) Environmental Spillage Plan*
- x) Habitat Management Plan*
- xi) Landscape Masterplan*
- xii) Lighting Strategy substantially to meet requirements set out in the Draft Lighting Strategy*
- xiii) Long Grass Policy*
- xiv) Method Statement for Environmental Monitoring*
- xv) Mitigation and Habitat Creation Plan*
- xvi) Noise Mitigation Plan*
- xvii) Operational Emergency Plan*
- xviii) Operation Traffic Management Plan*
- xix) Pollution Incident Control Plan*
- xx) Public Rights of Way Management Strategy*
- xxi) Safety Health and Environment Plan*
- xxii) Site Waste Management Plan*
- xxiii) Surface Access Strategy*
- xxiv) Surface Water Monitoring Strategy*
- xxv) Training Plan*
- xxvi) Travel Plan*
- xxvii) Tree Survey and Protection Plans*
- xxviii) Wildlife Hazard Management Plan*

10.7.65. With regard to the above list, the ExA also notes that, in its comments following ISH8 [[REP8-029](#)] TDC states that:

"Thanet District Council (TDC) has agreed the following amendments to the wording of Requirement 7(2)(b), with a new item added at xiv) to read:

"The Lighting Strategy – to be substantially in the form to meet requirements set out in the Draft Lighting Strategy"

and that the Draft Lighting Strategy should also be included in Schedule 10 as a certified document.

10.7.66. Finally, the Applicant states in its D11 cover letter [[REP11-001](#)] that:

"To reflect the answer to Tr.5.13, the Applicant requests that the following line be added to Requirement 7(2)(b): [...]

(xiv) HGV Signage Strategy"

10.7.67. **The ExA concludes and recommends that these documents be specified in R7(2)(b)** and has included these changes in its rdDCO appended to this report at Appendix D.

Requirement 7(2)(c)

10.7.68. In DCO.3.16, the ExA requested the Applicant to state what is meant by 'long-term' and justify why this sub-paragraph does not also include short and medium-term.

10.7.69. The Applicant's responded that it [[REP7a-002](#)]:

"...is content to remove the two references to 'long term' in this sub-paragraph. The original drafting was intended to make clear that the commitments were to continue for an extended period and not just for a shorter or defined period of operation. The Applicant accepts that this wording may be confusing and a revised draft of the DCO including an amended Requirement 7 is submitted at Deadline 7a."

10.7.70. This was done [[REP7a-017](#)].

10.7.71. **The ExA concludes and recommends that these amendments be made** and has included these changes in its rdDCO appended to this report at Appendix D.

New Requirement 7(4)

10.7.72. As stated in that part of Chapter 6 which deals with traffic and transport, the ExA acknowledges that R7 does require the Applicant to agree a finalised version of the FTP and ASAS and that such provisions are also contained in the REAC.

10.7.73. However, given the clear importance of this issue in achieving the mode share targets and promoting sustainable development as required by national and local policy, the ExA considers that the dDCO should contain a specific Requirement on this matter.

The ExA therefore proposes the inclusion of new paragraph in its rdDCO, which sets out that the Applicant must agree a Bus Service Enhancement Scheme, including the enhancement of existing services and the provision of shuttle bus services. The ExA considers that this would also aid in securing the commitment in the UU [[AS-583](#)] to agree a Manston Airport Bus Service Scheme for shuttle buses.

10.7.74. The proposed sub-paragraph to R7 would read:

“(4) No part of the authorised development is to begin operation until a Bus Service Enhancement Scheme, has been submitted to, and approved in writing by, the local highway authority. This must contain measures to enhancement existing bus services and include shuttle bus service provision.”

- 10.7.75. **The ExA concludes and recommends that this proposed new paragraph be included in any DCO should it be made** and has included this change in its rdDCO appended to this report at Appendix D.

Requirement 8 – Ecological mitigation

- 10.7.76. In its dDCO submitted at D6 [[REP6-018](#)], the Applicant proposed to add new sub-paragraph (2) to read:

“The details of mitigation approved under subparagraph (1) must incorporate a net gain of at least 10 Biodiversity Units across the Order limits and any land used for ecological mitigation purposes compared to the situation that existed prior to the commencement of the authorised development”

and, as a consequence, proposed an addition to R1 – Interpretation to add a definition:

““Biodiversity Unit” means a biodiversity unit as defined in accordance with the methodology outlined in the document entitled ‘Technical Paper: the metric for the biodiversity offsetting pilot in England’ published by the UK Department for Environment, Food and Rural Affairs published in March 2012”.

- 10.7.77. This issue was addressed during ISH6 [[EV-021](#), [EV-027](#) and [EV-027a](#)] and considered in Chapter 6, above.

- 10.7.78. **The ExA concludes and recommends that these amendments be made** and has included these changes in its rdDCO appended to this report at Appendix D.

Requirement 9 – Noise mitigation

- 10.7.79. Proposed additions to this Requirement are dealt with under new Requirements, below.

R10 – Landscaping

- 10.7.80. At ISH8, the ExA proposed an addition to this Requirement to read:

“The landscaping scheme approved under (1) must be carried out in full.”

- 10.7.81. The ExA notes that, in its comments on the ExA’s initial dDCO [[REP7-002](#)] the Applicant states that it is content with this amendment and has included it in its draft submitted at D7a [[REP7a-017](#)].

- 10.7.82. In its written comments following the ISHs [[REP8-029](#)] TDC states that:

"TDC agrees to the inclusion of a new part to Requirement 10, at 10(3), to read:

"A landscaping scheme referred to in sub-paragraph (1) must be substantially in the form of the [draft landscaping plan]."

and that

"The Draft Landscaping Plan should also be included in Schedule 10 as a certified document."

- 10.7.83. **The ExA concludes and recommends a new part be added to R10, at 10(3) and the Draft Landscaping Plan be included in Schedule 10 as a certified document** and has included these changes in its rdDCO appended to this report at Appendix D.

Requirement 11 – Contaminated land and groundwater

- 10.7.84. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA notes that, in its RR [[RR-0538](#)], the Environment Agency states that:

- ix. *"This requirement refers to 'contaminated land'. This is a term with a strict legal definition. We request that the wording of this requirement is amended slightly to reflect this and also expanded to include the full wording of our standard approach to land contamination as outlined with additional wording in (4) and (5) below, changes are highlighted.*
- x. *11.—(1) In the event that land affected by contamination, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.*
- xi. *(2) Where the undertaker determines that remediation of the contamination identified in, on, or under land from detailed site investigations, or as an unexpected discovery, is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency.*
- xii. *(3) Any required and agreed remediation must be carried out in accordance with the scheme approved under sub-paragraph (2).*
- xiii. *(4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation scheme in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency.*

xiv. (5) *Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.*"

10.7.85. This issue is discussed in that part of Chapter 6, above, that deals with ground conditions.

10.7.86. Taking into account that discussion, **the ExA concludes and recommends that this amendment be made** and has included these changes in its rdDCO appended to this report at Appendix D.

10.7.87. At ISH8, the ExA recommended that the word "*the*" be removed from the phrase "...*remediation of the contamination*..." in R11(2).

10.7.88. The rationale for this is that the retention of "*the*" may be read to imply a specific occurrence or type of contamination rather than contamination in general.

10.7.89. The ExA notes that, in its comments on the ExA's initial dDCO [[REP7-002](#)] the Applicant states that it is content with this amendment.

10.7.90. In its written summary of its case at ISH8 [[REP8-016](#)] the Applicant noted that:

"...The amendment was included in the Applicant's revised dDCO submitted at Deadline 7a."

10.7.91. **The ExA concludes and recommends that this amendment be made** and has included these changes in its rdDCO appended to this report at Appendix D.

Requirement 12(3) – Protected species

10.7.92. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA examined the applicability of the phrase:

"...except where a suitably qualified and experienced ecologist, holding where relevant and appropriate a licence relating to the species in question ..." (ExA's underlining as a highlight added)

10.7.93. With a concern that, with the retention of this phrase, the Requirement may be rendered hard to enforce or meaningless.

10.7.94. As a consequence, this phrase was removed from the Applicant's D3 dDCO [[REP3-186](#)].

10.7.95. The Applicant added a reference to KWT at D3 [[REP3-186](#)] in R12(2), (3) and (4) as a body to be consulted.

10.7.96. **The ExA concludes and recommends that these amendments be made** and has included these changes in its rdDCO appended to this report at Appendix D.

Requirement 13(3)

10.7.97. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)], the ExA examined whether this Requirement should contain phasing for the completion of the elements of the relevant Work in relation to the start of operation of the Proposed Development.

10.7.98. In doing so, the ExA noted that, in its RR [[RR-0538](#)], the Environment Agency indicates that it agrees with this Requirement as outlined.

10.7.99. In question DCO.2.40, the ExA indicated that it is considering whether this Requirement should contain phasing for the completion of the elements of the relevant work in advance of the start of operation of the Proposed Development.

10.7.100. The Applicant responded [[REP6-012](#)] that it:

"...agrees in principle but in practice it may be difficult to separate out elements of drainage infrastructure and assign them to phases. For example there are two large attenuation ponds (Work No. 23), which will cater for several phases of the project. Drainage infrastructure local to the elements of a phase (e.g. gullies and manholes), will, however, be installed before that phase is brought into operation. All pavement areas will be suitably drained and discharge attenuated and treated as necessary before being brought into operation."

10.7.101. Nevertheless, the ExA still wished to explore relating the construction of the surface and foul water drainage to the commencement of the whole project taking into account possible environmental impacts from construction activity and, in its initial dDCO [[PD-015](#)], the ExA proposed an additional subparagraph - R13(3) - which stated that:

"No part of the authorised development is to commence until the construction of the entire surface and foul water drainage system is completed."

10.7.102. In its revised dDCO submitted at D7a [[REP7a-017](#)] the Applicant proposed modifying this provision to substitute "begin operation" for "commence" and add "for that part", therefore:

"(3) No part of the authorised development is to begin operation until the construction of the entire surface and foul water drainage for that part is completed."

10.7.103. The Applicant explained the rationale for this modification in its written summary of case at ISH8 [[REP8-016](#)]. This stated that:

"The first alteration was necessary because the form of wording put forward did not work in practice. Under the ExA's suggested wording the

surface and foul water drainage system would be part of the authorised development which itself would be prevented from commencing until the surface water and drainage system was in place. The wording was changed so that operation could not begin until the system was in place.

The second alteration was necessary because the authorised development will be carried out over a very large area and in many different parts. For instance, the Northern Grass is a part of the authorised development and it itself will be developed in parts. The revised drafting ensures that the surface and foul water drainage for any part of the development has to be completed before that part comes into operation. It does not require that the drainage system for the whole authorised development site has to be completed before any smaller part becomes operational."

- 10.7.104. The ExA considered the oral submissions made on this issue at ISH8 and the submission made in the Applicant's summary of oral evidence given at ISH8 [[REP8-016](#)] and in DCO.4.20 stated that it was minded to recommend the Applicant's revised wording to the SoS.
- 10.7.105. In its response to DCO.4.2 [[REP9-006](#)] TDC stated that it has no objection to the proposed wording for R13(3).
- 10.7.106. **The ExA concludes and recommends that this amendment be made** and has included these changes in its rdDCO appended to this report at Appendix D.
- 10.7.107. At a more detailed level, in question DCO.2.41, the ExA indicated that it was considering adding "Natural England" after "Kent County Council" in line 2 of sub-clause (2) this Requirement.
- 10.7.108. In its response [[REP6-012](#)] the Applicant accepted this addition, which is reflected in the D6 version of the dDCO.

Requirement 14(1) – Traffic management

- 10.7.109. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA queried why Royal Mail, in particular, had been specified as a consultee. The Applicant's response at the Hearing was that Royal Mail had asked to be specified.

Requirement 16 - Archaeological remains

- 10.7.110. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA noted that the RR from KCC [RR- 0975] states that:

"...a DCO requirement should cover the need to preserve the archaeology including through adjustment of development parameters as well as covering the necessary stages of evaluation and investigation. The requirements should also cover extensive investigation of those areas of the airport where archaeology will be affected by development but is not to be preserved in situ. The County Council welcomes the intention to agree a Written Scheme of Investigation for future archaeological investigations."

10.7.111. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA examined the adequacy of R16 in these respects.

10.7.112. In its response to DCO.1.4. [[REP3-139](#)], KCC states that:

"To achieve the preservation in situ that may be required, KCC will need to have clarified that there is indeed flexibility within the parameters of development - for example, the quantum of development in the Northern Grass Area as was claimed in discussions, but not set out in the DCO. KCC can provide some wording into Requirement 16 that allows for preservation following evaluation of those areas but would need to be sure that this does not counter the principle of the permitted development and make the requirement unworkable. It would be best to agree this requirement with Historic England."

KCC proposed additional wording in its response to DCO.2.42 [[REP6-045](#)] to cover evaluation and preservation in situ, as follows:

"(1) Prior to the submission of details of the final design, parameters and quantum of development in:

- The area of development proposed north of Manston Road known as the North Grass Area;*
- The location of the helicopter facility in the south east of the site*
- The area proposed for HGV access and earthworks north of the western runway were not tested through trial trenching but had significant geophysical survey results;*

and

- The area proposed for a contractor's compound and later car parking;*

A programme of archaeological field evaluation works shall be carried out in that area and reported in accordance with a specification which has been submitted to and approved by the Secretary of State in consultation with Kent County Council and Historic England.

(2) Where archaeological evaluation works referred to in sub-paragraph (1) identify remains that are of a significance to warrant preservation in situ, as advised to the Secretary of State by Kent County Council and Historic England, the design, parameters and quantum of development in that area will be adjusted to ensure the appropriate preservation in situ of the archaeological remains."

10.7.113. KCC adds that:

"the areas listed above in sub paragraph (1) could be included on a drawing that is referenced in the requirement."

10.7.114. More generally, in its comments on the ExA's initial dDCO, KCC stated [[AS-124](#)] that:

"KCC welcomes the text that states that any archaeological remains not previously identified that are subsequently revealed will be reported to

KCC. It may be that Historic England would defer this aspect to KCC's function, other than where remains of national importance are identified."

10.7.115. In its response to DCO.2.43, KCC [[REP6-046](#)] stated that the draft wording provided in DCO.2.42 above has not yet been agreed with the Applicant.

10.7.116. In response to DCO.4.24, KCC stated that:

"KCC is still awaiting the applicant's response to the suggested wording in respect of Requirement 16."

10.7.117. In response to DCO.4.24 [[REP9-006](#)] the Applicant stated that:

"i. Agreement has not yet been reached. However, the Applicant is continuing to engage with KCC and Historic England to agree mutually acceptable wording.

ii. The Applicant has proposed the following amendments to the wording of sub-paragraph (3) of Requirement 3 to address the issues raised by KCC and is awaiting comments from KCC:

a. Sub-paragraph (3)(a) – This sub-paragraph currently provides that the undertaker must carry out an archaeological survey before a masterplan is submitted for approval. However, having reviewed proposed wording from Historic England the Applicant proposes to expand sub-paragraph (3)(a) to provide that the undertaker must also commission a further assessment of the historic character of the airfield and an historic buildings survey and must assess the heritage significance to heritage assets and their settings.

b. Sub-paragraph (3)(c) – This sub-paragraph currently provides that before a masterplan is submitted for approval the undertaker must consult Kent County Council and Historic England on the options for minimising the impacts on archaeological assets which the undertaker is required to consider under sub-paragraph 3(b). However, the Applicant proposes to expand this provision to provide that before a masterplan is submitted under sub-paragraph (1) of Requirement 3, the undertaker must consult the relevant planning authority, Kent County Council and Historic England more generally (i.e. not just on the options for minimising the impacts on archaeological assets) and report on the consultees' recommendations when submitting the masterplan for approval.

Having carefully considered submissions from KCC and Historic England on the need for a requirement to preserve certain heritage assets in situ, the Applicant continues to consider that such a requirement is inappropriate. As provided for in the WSI, preservation in situ will be considered as part of the response to heritage assets discovered on site. However, the Applicant's position is that it is inappropriate to restrict the potential response to assets of importance by including this wording in the dDCO.

This is of particular significance for assets of greater importance where a different response (for example removal to a museum) may be more appropriate. Inclusion of the suggested wording would mean that these assets would have to be preserved in situ even when a different response is preferable.

The Applicant's position is that it should be for the body discharging the requirement to decide the most appropriate response to heritage assets when approving the masterplan."

- 10.7.118. Changes have been proposed in respect of this issue to Article 6 and R3 as described above in this chapter. No changes were proposed to R16 except that at ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)] the ExA proposed substitute the words "Secretary of State" with "Historic England, Kent County Council and the relevant planning authority".
- 10.7.119. Having considered the evidence of both sides, **the ExA concludes and recommends that the flexibility that KCC seek in terms of the parameters of development and potential archaeological finds is provided by proposed changes to R3 - Development masterplans and that consequently in this respect no change is required to R16.**
- 10.7.120. The summary of the Applicant's case put at ISH8 [[REP8-016](#)] stated that:
"The Applicant has accepted that Thanet District Council, rather than the Secretary of State, will be the main party discharging requirements and providing certificates under the dDCO [and] assumes that this change is reflected in future drafts of the dDCO."
- 10.7.121. In its comments on the ExA's initial dDCO, KCC stated [[AS-124](#)] that:
"These sub-sections all insert new requirements for reporting archaeological remains to KCC and for KCC to be consulted before the Secretary of State makes a decision on an application for approval in relation to archaeological remains. KCC has no comments to make on this."
- 10.7.122. **The ExA concludes and recommends that this amendment be made** and has included these changes in its rdDCO appended to this report at Appendix D.

Requirement 17 - Amendments to approved details

- 10.7.123. The signed SoCG between the Applicant and TDC [[REP6-011](#)] states under matters not agreed between the parties at 4.1.14 that:
"To avoid confusion, Requirement 17 should also be amended by adding the underlined text (or wording to a similar effect) below.
"With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes approved under this Schedule, the approved details or schemes are taken to include any amendments that may subsequently be approved in

writing where such amendments are permitted elsewhere in this Order.”
(ExA’s underlining to emphasise)

10.7.124. In its response to DCO.4.21 [[REP9-006](#)] the Applicant stated that:

“It is the Applicant’s view that the proposed amendment does not add anything to the current drafting and should not be made. Any amendment to a document approved under any of the requirements will also be approved under that requirement. For instance, if a masterplan is approved under Requirement 3 then any approved amendment to that masterplan must also be approved under Requirement 3. There is no mechanism ‘elsewhere’ in the Order which would permit such approvals to be amended.”

10.7.125. In its response to DCO.4.21 TDC [[REP9-026](#)] explained that:

“TDC considers that the proposed wording adds clarity, ensuring that this requirement cannot be misinterpreted by any party as allowing amendments to the scheme that would not otherwise be permissible under the Order.”

and went on to state that:

“However, TDC would not maintain an objection if the ExA considered that this additional clarification is not required.”

10.7.126. Having considered both parts of the evidence and whilst it understands the rationale behind the proposed amendment, **the ExA concludes and recommends that it does not consider that the existing clarity is enhanced by the amendment has not, therefore included this change in its rdDCO** appended to this report at Appendix D.

R18 – Community Consultative Committee

10.7.127. In the ExA’s second draft DCO [[PD-018](#)] it proposed that in R18 the phrase “*must be commenced*” is substituted for the phrase “*is to begin operation*” in (1).

10.7.128. The ExA proposes this change in order to seek to secure the establishment of the Community Consultative Committee as set out in Section 8 of the revised draft NMP before the commencement of the Proposed Development.

10.7.129. The ExA notes that, in its comments on the ExA’s second dDCO issued on [[REP9-002](#)], the Applicant stated that it agrees with this amendment.

10.7.130. **The ExA concludes and recommends that this amendment be made** and has included it in the rdDCO appended to this report at Appendix A.

Requirement 19 - Airport-related commercial facilities

10.7.131. R19 is discussed in this Recommendations Report above in the sub-section on Associated Development in this chapter, above.

10.7.132. **The ExA concludes and recommends that R19 - Airport-related commercial facilities should be included in any DCO should it be made but that the wording should be amended to read:**

“Works Nos. 15, 16 and 17 must only be developed and used to have a direct relationship to and support the operation of Works Nos. 1 to 11 and 13.” (ExA underlining added for clarity)

and has included this new Requirement as amended in the rdDCO appended to this report at Appendix D.

10.7.133. However, as this amended wording was not discussed during the Examination, **the ExA concludes and recommends that the SoS should consult IPs on this wording and, in particular, seek the views of the Applicant.**

Schedule 2: Part 2 – Procedure for Discharge of Requirements

10.7.134. The wording for this Part has been discussed under the cross-cutting issue Responsibility and procedure for discharging Requirements, above.

Schedule 10 – Documents to be certified

10.7.135. During the course of the Examination the ExA requested, and was offered, a number of technical notes and other documents prepared by the Applicant which were designed to inform and support the ExA in its assessment of the impacts of the Proposed Development.

10.7.136. As the previous chapters in this report demonstrate, the ExA has drawn on these documents in coming to its conclusions and recommendations.

10.7.137. As such, these notes, explicitly or otherwise, form addenda to the ES. Schedule 10 in the Applicant’s final dDCO [[REP7a-017](#)] already lists the ES as submitted as a document to be certified under Article 41 (the ExA notes that this is listed under the wrong reference number “TR020002/APP/4.6 instead of TR020002/APP/5.2-x” and has rectified it in the rdDCO appended to this report).

10.7.138. The ExA considers that the documents listed below, all of which were submitted during the course of the Examination, should be listed in Schedule 10 as forming part of the ES to be certified by the SoS.

10.7.139. However, in the absence of any final statement by the Applicant as to what it now considers to constitute the ES, **the ExA recommends that the SoS consult with the Applicant on the ExA’s understanding in this respect before additional documents are added to Schedule 10.**

Deadline 1

- Updated Volume 6 (containing the RIAA and Ecological Desk Study) [[REP1-009](#)]

Deadline 3

- The Applicant's Appendices to Answers to First Written Questions TR020002/D3/FWQ/Appendices - Appendix HE.1.2: Heritage Assets and Public Benefit Paper [[REP3-187](#)]
- The Applicant's Appendices to Answers to First Written Questions TR020002/D3/FWQ/Appendices - Appendix CA1.4: Revised Wirelines [[REP3-187](#)]
- The Applicant's Appendices to Answers to First Written Questions TR020002/D3/FWQ/Appendices - Appendix LV.1.2: Landscape Master Plan Drawings [[REP3-187](#)]
- The Applicant's Appendices to Answers to First Written Questions TR020002/D3/FWQ/Appendices - Appendix LV1.31: Landscape Strategy Plans and Site Sections [[REP3-187](#)]
- The Applicant's Appendices to Answers to First Written Questions TR020002/D3/FWQ/Appendices - Appendix LV.1.36: Landscape and Visual Impact Assessment Addendum [[REP3-187](#)]
- The Applicant's Appendices to Answers to First Written Questions TR020002/D3/FWQ/Appendices - Appendix LV.1.41: Engineering Drawings building height [[REP3-187](#)]
- Revised Construction tables in response to ExA question NS.1.22 and car parking noise assessment in response to ExA question NS.1.25 [[REP3-187](#)]

Deadline 4

- Updated noise contour maps [[REP4-021](#)]
- Review of potential noise mitigation measures [[REP4-022](#)]
- Data on disability adjusted life years [[REP4-027](#)]
- Updated ecology noise contour maps [[REP4-018](#)]

Deadline 5

- Revised Transport Assessment [[REP5-021](#)]
- Updated ES Chapter 14 Traffic and Transport [[REP5-022](#)]
- Written summary of oral representation – noise summary and appendices [[REP5-010](#)]
 - Appendix A Eligibility for Manston Noise Insulation and Ventilation Scheme

Deadline 6

- Addendum to ES Chapter 6 [[APP-033](#)] [[REP6-016](#)]
- Appendix OP.2.7 – Environmental Statement Addendum addressing the potential introduction of a Public Safety Zone at Manston Airport [[REP6-014](#)]
- LVIA addendum Appendices: Appendix A [[REP6-026](#)]
- Appendices to Applicant's Responses to Second Written Questions [[REP6-014](#)]
 - Appendix Ec.2.3 Winter bird survey report 2018-2019
 - Appendix Ec.2.5 the Waterbird Disturbance and Mitigation Toolkit 2013
 - Appendix Ec.2.6 Resubmitted figures for RIAA
 - Appendix Ec.2.8 Technical note: quantification of net gain
 - Appendix Ec.2.9 Part A Thanet Parkway Wintering Bird Report

- Appendix Ec.2.9 Part B Report to inform the Habitats Regulation Screening in Appendix Ec. 2.10 Sites of Special Scientific Interest
- Appendix OP.2.11 Part B Wildlife Strike Risk Hazard management for aerodromes

Deadline 7a

- Technical Note: Revised TA - Additional Junction Assessment (Appendix TR3.16) [[REP7a-003](#)]
- REP7a-014 – RIAA Appendix I – Modelling and Assessment of Nitrogen and Acid Deposition [[REP7a-014](#)]
- Appendices to Answers to Third Written Questions [[REP7a-003](#)]
 - Appendix NS.3.2 noise contours for schools
 - Appendix NS.3.3 Part A: combined noise study
 - Appendix NS.3.3 Part B: flow diagram and
 - Appendix NS.3.3 Part C: results tables for combined road and air noise; and Appendix NS.3.7 eligibility for Manston noise insulation and ventilation scheme
- Updated RIAA [[REP7a-014](#)]
- Appendices to Answers to Third Written Questions [[REP7a-002](#)]
 - Appendix Ec. 3.4 Response to Natural England Deadline 6 Submission (Annex 3)

Deadline 8

- Technical Note: Airport Passenger Traffic Generation (Appendix ISH7-30) [[REP8-017](#)]
- Technical Note: Manston Airport DCO Wider Study Area – Proportional Impact Assessment (Appendix ISH7-32) [[REP8-017](#)]
- Technical Note: The Transport Assessment Update (Appendix ISH7-43) [[REP8-017](#)]
- Air Quality and Road Traffic Model Inputs [[REP8-020](#)]
- Manston Noise and Air Quality Flows – KCC Model Year 2 [[REP8-021](#)]
- Road Traffic Model Inputs [[REP8-022](#)]
- Noise and Air Quality Traffic Flows KCC Model [[REP8-023](#)]
- Appendix ISH4 – 5 – Technical note concerning the effect of the Proposed Development on the May 2019 listing, upgrading and relisting of specific heritage assets in Ramsgate [[REP8-014](#)]
- Design Guide [[REP8-014](#)]
- Appendix ISH4 – 7 – Historic Environment Issue Specific Hearing Actions Review of ES Assessments: Examination Authority clarification item 7 [[REP8-014](#)]

Deadline 9

- Revised Archaeological Written Scheme of Investigation (Fourth issue, 28/06/19) [[REP9-008](#)]
- Appendices to Applicant’s Responses to the Examining Authority’s Fourth Written Questions [[REP9-006](#)]
 - Appendix Ec.4.2 Technical Note: North Pegwell Bay and Turnstone

Deadline 10

- Technical Note: A256 - Junctions Assessments (Appendix TR.4.1) [[REP10-003](#)]
- Applicant's Comments on the RIES [[REP10-002](#)]
 - Appendix A North Pegwell Bay: Noise and Turnstone Technical Note

Deadline 11

- REAC [[REP11-008](#)]

Additional Submissions

- Updated versions of the Noise Mitigation Plan final version submitted as an additional submission on the 9 July 2019 [[AS-579](#), [AS-580](#)]

10.8. PROPOSED NEW ARTICLE AND REQUIREMENTS

Proposed new Article

10.8.1. Article 37 - Removal of human remains

10.8.2. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA noted that a RR from John Copeland [[RR-0839](#)] states that:

"Located at Manston are twentieth century war graves."

and examined whether or not there is the need for an additional Article in the dDCO to deal with human remains.

10.8.3. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the Applicant stated [[REP1-004](#)] its belief that the remains that are located at Manston were limited to urns containing cremated remains that were located in the safeguarded area which housed the two museums and the memorial garden.

10.8.4. However, additionally the Applicant noted that it was not possible to guarantee the absence of remains elsewhere and so it would be content to include a provision in the dDCO to deal with that eventuality.

10.8.5. Wording for a new Requirement was included in the Applicant's D3 dDCO [[REP3-186](#)].

10.8.6. In DCO.3.14, the ExA queried whether the Applicant considered that, in addition to the new Article 37, the Protection of Military Remains Act 1986 applies in this case and, if so, whether it should be referenced in the dDCO.

10.8.7. The Applicant's response [[REP7a-002](#)] stated that:

"The application of the Protection of Military Remains Act 1986 is unaffected by Article 37. Article 37 is intended to provide further protection in connection with human remains which do not receive protection under the Protection of Military Remains Act 1986. The

Applicant is not aware of the presence of any military aircraft that would be protected under the Protection of Military Remains Act 1986”.

10.8.8. **The ExA concludes and recommends that the Protection of Military Remains Act 1986 would apply should the remains of, or of a substantial part of, an aircraft specified in s1 of that Act¹⁶⁵ be discovered and, therefore, does not require further specifying in the DCO should it be made.**

10.8.9. KCC’s submission [[AS-124](#)] raised a wider issue about archaeological remains and states that:

“This article covers a process dealing with human remains that may be of more recent date - in the context of the airfield, those as a result of war time casualties. There is a known potential for human remains of Roman date on the site and potential for remains of prehistoric and Saxon date on the site. Such remains are of archaeological interest and would be identified, investigated, removed and studied under the provisions of the archaeological written scheme of investigation. Article 37 should make provision for archaeological matters relating to human remains where this is appropriate”.

10.8.10. The ExA requested KCC to suggest a form of words that achieves this whilst not changing other legal requirements in respect of the discovery of human remains

10.8.11. In its response to DCO.4.16 [[REP9-024](#)], KCC stated that:

“It is suggested that between Article 37 Paras (2) and (3), a new paragraph is inserted that covers human remains of archaeological nature:

“(1) In this article “the specified land” means any land within the Order limits. “Archaeological human remains” means human remains that are not of recent origin, that is dating before 1900.

(2) paragraph to remain unchanged

“(3) Archaeological human remains will be identified, investigated and removed in accordance with the Archaeological Written Scheme of Investigation subject to the provisions of an exhumation licence under the Burial Act 1857. Human remains that are found associated with crashed military aircraft would be dealt with under the provisions of the Protection of Military Remains Act 1986”

“(4) Before human remains that are non-archaeological are removed from the specified land...”

10.8.12. The ExA has considered this proposed wording and recognises the potential value of these amendments. However, it considers that the reference to the Protection of Military Remains Act 1986 is not necessary because, as stated above, this statute is in force and would apply to

¹⁶⁵ Available at: <http://www.legislation.gov.uk/ukpga/1986/35/section/1>

activity related to the Proposed Development without additional reference in the DCO should it be made.

- 10.8.13. Therefore, **the ExA concludes and recommends that these amendments be made** with the exception of the phrase "*Human remains that are found associated with crashed military aircraft would be dealt with under the provisions of the Protection of Military Remains Act 1986*" and has included these changes in its rdDCO appended to this report at Appendix D.

Proposed new Requirements

Requirement 9 – Noise mitigation

- 10.8.14. The issue of noise is considered in full in that section of Chapter 6 in this report, above, that deals with noise.

- 10.8.15. The sub-section below focuses on the provisions in the dDCO relating to the NMP [[APP-009](#) and subsequent amendments to [[AS-579](#)].

- 10.8.16. In the Application version of the dDCO, R9 stated that:

"The authorised development must be operated in accordance with the noise mitigation plan."

- 10.8.17. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA examined:

- a. Whether the wording of this Requirement is sufficiently robust; and
- b. whether the implementation of elements of the NMP should be a Requirement to allow the start of operation of the Proposed Development.

- 10.8.18. On the first of these two issues, TDC proposed amendments to R9 to read:

"The noise mitigation plan must be carried out in full. The authorised development must be operated in full accordance with the noise mitigation plan".

- 10.8.19. These were included in the ExA's initial dDCO [[PD-015](#)] and the ExA notes that, in its comments on the ExA's initial dDCO [[REP7-002](#)] the Applicant states that it is content with this amendment and has included it in its draft submitted at D7a.

- 10.8.20. The Applicant's summary of case at ISH8 [[REP8-016](#)] noted that:

"...the new form of words proposed by the ExA had been separated into two paragraphs in the Applicant's revised dDCO submitted at Deadline 7a."

10.8.21. **The ExA concludes and recommends that these amendments be made** and has included these changes in its rdDCO appended to this report at Appendix D.

10.8.22. During the course of the Examination the ExA proposed four new sub-paragraphs to R9 – Noise mitigation. These are dealt with in order, below¹⁶⁶.

Proposed new Requirement 9(3)

10.8.23. In the first DCO ISH [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA examined whether the implementation of elements of the noise mitigation plan should be a Requirement to allow the start of operation of the Proposed Development.

10.8.24. The ExA followed this in its question DCO.2.50 [[PD-010b](#)], the ExA indicated that was considering whether it should be a Requirement that the Authorised Development must not be commenced until measures set out in sections 2, 3, 4 and 5 of the revised NMP have been implemented.

10.8.25. In its response, the Applicant stated [[REP6-012](#)] that:

“The measures incorporated in sections 2, 3, 4 and 5 of the Noise Mitigation Plan envisage that compensation and mitigation schemes will be established prior to the commencement of the airport operations. The mechanisms for making a claim are adequately set out in the Noise Mitigation Plan and therefore the Applicant does not consider it necessary to add any additional articles or requirements.”

10.8.26. Nevertheless, the ExA pursued this point and proposed in its initial dDCO [[PD-015](#)] to add new R9(a):

“No part of the authorised development must be commenced until measures set out in sections 2, 3, 4 and 5 of the Noise Mitigation Plan have been implemented.”

10.8.27. The ExA notes that, in its Comments on the ExA's initial dDCO [[REP7-002](#)] the Applicant states that it is content with this amendment and has included it in its draft submitted at D7a.

10.8.28. **The ExA concludes and recommends that this amendment be made** and has included these changes in its rdDCO appended to this report at Appendix D.

10.8.29. Further, the ExA notes that the REAC [[APP-010](#)] contains a commitment to establish an Airport Consultative Committee and, at ISH1, examined whether this commitment should be secured through the DCO and the

¹⁶⁶ It should be noted that, for ease of cross-referencing, the discussion of these paragraphs in this report uses the numbering – 9a, 9b, 9c, and 9d - that was used in the examination of these proposals. However, the rdDCO appended to this report at Appendix D uses the standard numbering for a DCO and, thus 9a becomes 9(3), 9b becomes 9(4), 9c becomes 9(5) and 9d becomes 9(6)

possible need for a Requirement to secure the establishment of this Committee.

- 10.8.30. At ISH1, the Applicant noted [[REP1-004](#)] the ExA's comments that a Community Consultative Committee would consider a range of matters wider than noise and confirmed that the Applicant would consider a provision in the dDCO in light of those comments.
- 10.8.31. Issues related to the NMP were also examined in the hearing dealing with environmental issues held on 5 June 2019 (ISH6) [[EV-021](#), [EV-027](#) and [EV-027a](#)]. At that hearing TDC suggested that this new Requirement be further amended to include sections 8 and 9 of the NMP which refer to the setting up of a Community Consultative Committee and the establishment of a Community Trust Fund.
- 10.8.32. The dDCO already contains R18 stating that no part of the Authorised Development is to begin operation until the Consultative Committee is established but there is no such provision for the Community Trust Fund.
- 10.8.33. The ExA can see merits in this proposal and in the Applicant's summary of case at ISH8 [[REP8-016](#)], the Applicant confirmed that the Applicant is content for that amendment to be made.
- 10.8.34. The ExA proposed to add "and 9" after "in sections 2, 3, 4, and 5," to new 9(3) in the ExA's second dDCO [[PD-018](#)] in order to seek to secure the establishment of the Community Trust Fund as set out in section 9 of the revised draft NMP [[AS-579](#)] before the commencement of the Proposed Development.
- 10.8.35. In its comments on the ExA's second dDCO [[REP9-002](#)], the Applicant stated that it agrees with this amendment.
- 10.8.36. **The ExA concludes and recommends that this amendment be made** and has included these changes in its rdDCO appended to this report at Appendix D.

Proposed new Requirement 9(4)

- 10.8.37. In its second dDCO [[PD-018](#)], the ExA proposed a new sub-paragraph to R9 to state that:
- "Residential properties with habitable rooms within the 60dB LAeq (16 hour) day time contour will be eligible for noise insulation and ventilation detailed in Noise Mitigation Plan."*
- 10.8.38. The ExA stated in Table 2 of its second dDCO [[PD-018](#)] that it is proposing this revised daytime threshold in order to align the daytime noise threshold with current and emerging policy including the Government's proposed changes currently the subject of consultation.
- 10.8.39. It notes that the Aviation Policy Framework (2013) paragraph 3.17 states that:

"We will continue to treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance."

- 10.8.40. It notes that the CAA's findings on Aircraft Noise and Annoyance (February 2018) refers to UK policy in relation to an 'annoyance threshold' and highlights 57dB LAeq,16 hour as marking the approximate onset of significant community annoyance. The third paragraph on page 6 states that:

"The government published their Response to their Airspace Consultation in 2017 and acknowledged the evidence from the SoNA study, which showed that sensitivity to aircraft noise has increased, with the same percentage of people reporting to be highly annoyed at a level of 54 dB LAeq,16hr as occurred at 57 dB LAeq,16hr in the past."

- 10.8.41. It notes that paragraph 3.122 of Aviation 2050 states that:

"The government [...] proposes the following noise insulation measures:

- *to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr."*

- 10.8.42. The Applicant objected to the insertion of the proposed new Requirement [[REP9-002](#)] and stated that:

"SOAEL is not something for the Applicant or the ExA to define. It is defined by policy and based on evidence of the levels at which significant effects occur. The 63dB contour that the Applicant has used as the qualifying criteria for noise insulation and ventilation is based on the SOAEL and is consistent with extant government policy on the matter (Aviation Policy Framework, para 3.39). This reflects the level at which significant effects on health and quality of life are observed and the Applicant has based eligibility for insulation under the Noise Mitigation Plan on that SOAEL contour.

The Green Paper, 'Aviation 2050' is a consultation document. It may or may not be adopted as government policy in the future. It proposes (at paragraph 3.122) 'to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr'.

It is not appropriate or necessary to extend the eligibility for noise insulation to the 60dB contour through the ExA's proposed new Requirement.

The Applicant's more detailed reasoning for its opposition to the alteration of its SOAEL to 60dB (and the accompanying change to the noise insulation contour) was set out in its evidence given at ISH6 [see REP8-015 for a summary]"

- 10.8.43. The issue of the level of the SOAEL in this respect is also discussed in detail in the section of Chapter 6, above, that deals with noise. The ExA has had full regard to the Applicant's objection and the issues raised in Chapter 6. It notes that the SOAEL as recommended is consistent with extant government policy on the matter as at the close of the

Examination but has also considered the tenor of the Government's consultation on this issue and has considered the desirability of having a SOAEL level that is both consistent with emerging evidence on the levels at which annoyance occurs and is future-proofed in terms of emerging Government thinking and possible change in policy.

- 10.8.44. For these reasons, whilst recognising the Applicant's objection, **the ExA concludes and recommends that new R9(4) as set out in the ExA's second dDCO [PD-018] be included in any DCO should it be made** and has included it as R9(4) in the rdDCO appended to this report at Appendix D.

Proposed new Requirement 9(5)

- 10.8.45. The ExA proposed the following additional Requirement in the ExA's second dDCO [PD-018].

"(a) The airport will be subject to an annual noise quota of [numeric] between the hours of 0600 and 0700."

"(b) Any aircraft which has a quota count of 8 or 16 cannot be scheduled to take-off or land at the airport between the hours of 0600 and 0700."

- 10.8.46. The ExA stated in Table 2 of its second dDCO [PD-018] that this proposed new Requirement is designed to secure the relevant commitments in paragraphs 1.6 and 1.7 of the revised draft NMP [REP7a-021] through the dDCO whilst taking into account the implications of the restrictions on flights between the hours of 23:00 and 06:00 introduced at R19b (R21(2) in the rdDCO), discussed below.

- 10.8.47. The relevant paragraphs of the then latest revised draft NMP [REP7a-021] were drafted without cognisance of the proposed new R19b and stated at paragraphs 1.6 and 1.7 that:

"Any aircraft which has a quota count of 8 or 16 cannot take-off or land at the airport between the hours of 2300 and 0700.

The airport will be subject to an annual quota between the hours of 2300 and 0700 of 3028."

- 10.8.48. At ISH8 [EV-023, EV-029, EV-029a, EV-029b, EV-029c], the ExA raised the relationship between the existing night quota and the prohibition on aircraft taking-off or being timetabled to land between the hours of 23:00 and 06:00. As recorded in its summary of case at ISH8 [REP8-016], the ExA asked whether it was possible, using the fleet mix, to convert the QC into a notional number of ATMs.

- 10.8.49. The Applicant confirmed [REP8-016] that it was considering the suitability of the night noise QC budget of 3028 given the night ban between 23:00 and 06:00. The Applicant was also looking at the issue of a late arriving aircraft which, due to its late arrival, falls into the 23:00 to 06:00 period.

- 10.8.50. At the ISH, the Applicant stated [REP8-016] that:

"If the quota is tightened then it might prove unacceptable to the Applicant for that aircraft to count towards the quota as it would impact the number of departures possible during the 0600-0700 period."

- 10.8.51. In its comments on the ExA's second dDCO [[REP9-002](#)], the Applicant stated that:

"The Applicant has amended the Noise Mitigation Plan submitted at Deadline 9 to reflect the commitments given in the ExA's draft requirements.

The quota applied to the 0600 to 0700 period in the Noise Mitigation Plan is now 2000.

The Applicant has extended the effect of the ExA's requirement (b) to any aircraft with a quota count of 4 and above.

The Applicant is content that requirements mirroring the Applicant's Noise Mitigation Plan commitments are introduced to the DCO."

- 10.8.52. Noting the Applicant's agreement that Requirements mirroring the Applicant's NMP commitments are introduced to the dDCO, the ExA propose to further amend new R9c to read:

"(a) The airport will be subject to an annual noise quota of 2000 between the hours of 0600 and 0700.

(b) Any aircraft which has a quota count of 4 or above cannot be scheduled to take-off or land at the airport between the hours of 0600 and 0700."

- 10.8.53. Noting the Applicant's agreement, **the ExA concludes and recommends that new R9(5) as further modified, above, be included in any DCO should it be made** and has included it as R9(4) in the rdDCO appended to this report at Appendix D.

Proposed new Requirement 9(6)

- 10.8.54. The ExA proposed the following additional Requirement in its second dDCO [[PD-018](#)].

"The area enclosed by the 50dB(A) Leq16hr (0700-2300) contour shall not exceed 35.8 sq. km, and the area enclosed by the 40dB(A) Leq8hr (23.00-07.00) contour shall not exceed 47.4 sq. km."

- 10.8.55. The ExA stated in Table 2 of its second dDCO [[PD-018](#)] that this proposed new Requirement is designed to secure the relevant commitments in paragraph 1.12 of the revised draft NMP [[AS-579](#)] through the dDCO.

- 10.8.56. At ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)], as confirmed in the written of summary of case [[REP8-016](#)]:

"[The Applicant] confirmed that the Applicant would be content to include that commitment as a requirement in the DCO. As to the consequences

of breaching that contour the Applicant would look at the mechanisms by which the contour would be operated (other airports provide precedent).

While the commitment could include reference to a specific contour it is important to avoid the situation where the Applicant would be subject to criminal enforcement because the wind happened to blow in a certain direction, thus affecting that contour."

10.8.57. In its comments on the ExA's second dDCO [[REP9-002](#)], the Applicant stated that it agrees with this amendment.

10.8.58. Having regard to the Applicant's agreement to this amendment, **the ExA concludes and recommends that this amendment be accepted** and has included this change in its rdDCO appended to this report at Appendix D.

10.8.59. Given these recommended changes, R9 would now read as follows:

"Noise mitigation

9. — (1) The noise mitigation plan must be carried out in full.

(2) The authorised development must be operated in full accordance with the noise mitigation plan.

(3) No part of the authorised development must be commenced until measures set out in sections 2, 3, 4, 5 and 9 of the Noise Mitigation Plan have been implemented.

(4) Residential properties with habitable rooms within the 60dB LAeq (16 hour) day time contour will be eligible for noise insulation and ventilation detailed in Noise Mitigation Plan.

(5) (a) The airport will be subject to an annual noise quota of 2000 between the hours of 0600 and 0700.

(b) Any aircraft which has a quota count of 4 or above cannot be scheduled to take-off or land at the airport between the hours of 0600 and 0700.

(6) The area enclosed by the 50dB(A) Leq16hr (0700-2300) contour shall not exceed 35.8 sq km, and the area enclosed by the 40dB(A) Leq8hr (23.00-07.00) contour shall not exceed 47.4 sq km."

Requirement 1 – Interpretation

10.8.60. As a consequence of the recommended new R9(4), above, in its second dDCO [[PD-018](#)] the ExA proposed a definition of "habitable":

"habitable" means a room used, or intended to be used for dwelling purposes including a kitchen but not a bathroom or utility room "

10.8.61. In its comments on the ExA's second dDCO [[REP9-002](#)], the Applicant stated that it agrees with the definition although the ExA notes that, as shown below, the Applicant does not agree with the inclusion of the Requirement to which it relates.

10.8.62. Noting the Applicant's agreements to this definition, **the ExA concludes and recommends that this amendment be included in any DCO should it be consented** and have included it in the rdDCO appended to this report at Appendix D.

Requirement 19 – Airport-related commercial facilities

10.8.63. R19 – Airport-related commercial facilities was discussed in the section of this chapter on Associated Development, above.

10.8.64. Noting that both TDC and the Applicant state that agreement has been reached on this wording, **the ExA concludes and recommends that 19(2) be added to the DCO should it be made to read:**

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

i) the aerodrome is granted EASA or CAA certification; and

ii) the commencement of operation of Work No.1 (or any part thereof)."

and the ExA has included this wording in its rdDCO appended to this report at Appendix D.

10.8.65. The ExA has added "...or CAA..." to reflect any possibility that the UK may withdraw from EASA Certification processes.

Requirement 20 – Education, employment and skills plan

10.8.66. At ISH1 [[EV-005](#), [EV-006](#), [EV-006a](#), [EV-006b](#), [EV-006c](#)] the ExA noted that the REAC [APP- 010] references:

"Measures to optimise local recruitment during construction and operation, including possible measures to ensure linkages to local training initiatives and/or voluntary agreements relating to local recruitment."

10.8.67. It also noted the references to training 'education' in the PM held the day before.

10.8.68. At the ISH, the ExA examined the possible need for a Requirement designed to promote and secure local employment.

10.8.69. The Applicant followed this in its response to DCO.2.48 [[REP6-012](#)] by stating that:

"The Applicant is keen that local opportunities for recruitment to jobs created, directly or indirectly, by the construction and operation of airport, and for education and training for such jobs are realised. It is expecting to conclude a section 106 agreement with Kent County Council on this topic but would welcome further obligations in this field so that they can be considered to be benefits of the project.

Suggested wording (not currently included in latest draft):

(1) No part of the authorised development is to commence until an employment and skills plan has been submitted to, and approved in writing by, the Secretary of State, following consultation with the relevant planning authority and the relevant local education authority to the extent that it relates to matters relevant to their function.

(2) The employment and skills plan must contain–

(a) chapters addressing:

(i) legal compliance,

(ii) reporting procedures, an

(iii) obligations to be placed upon third parties including local educational establishments and bodies;

(b) plans and policy documents including:

(i) Local Hiring Policy,

(ii) Education and Skills Policy,

(iii) Workplace Training Policy;

(c) provision for the establishment of a Local Employment Partnership Board to include the relevant planning authority and the relevant local education authority and other relevant stakeholders as appropriate, to assist in the delivery of the plans and policies listed under (b); and

(d) provision for a process under which the contents of the employment and skills plan is continually reviewed against relevant best practice and any consequent changes are submitted for approval by the Secretary of State."

10.8.70. This wording was included in the ExA's initial dDCO [[REP7-002](#)] and remained unchanged in successive drafts with the exception of the substitution of "Secretary of State" by "local planning authority".

10.8.71. At ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)] the ExA proposed inserting a new sub-paragraph new (e):

"The employment and skills plan approved under (1) must be implemented in full."

10.8.72. The ExA notes that, in its comments on the ExA's initial dDCO [[REP7-002](#)] the Applicant states that it is content with this amendment and has included it in its draft submitted at D7a.

10.8.73. Noting the Applicant's agreement, **the ExA concludes and recommends that the wording for new R19b (R21(2) in the rdDCO) as set out in the ExA's second dDCO [[PD-018](#)] be included in the DCO should it be made** and has included this change in its rdDCO appended to this report at Appendix D

Proposed new Requirement 21 – Airport operations

- 10.8.74. During the course of the Examination the ExA proposed a new R19a – Airport operations. This is composed of four new sub-paragraphs. These are dealt with in order, below¹⁶⁷.
- 10.8.75. It should be noted that, for ease of cross-referencing, the discussion of these paragraphs in this Report uses the numbering – 19a, 19b, 19c and 19d - that was used in the examination of these proposals including in the ExA’s second dDCO [[PD-018](#)].
- 10.8.76. However, the rdDCO appended to this report at Appendix D uses the standard numbering for a DCO and, following the insertion of new R20 – Education, employment and skills plan (see below), R19a becomes R21(1), R19b becomes 21(2), R19c becomes 21(3) and (4).

Proposed new Requirement 21(1)

- 10.8.77. In DCO.2.46, the ExA indicated that it was considering inserting a new Article under principal powers which specified that the operation of the airport is subject to a total annual air transport movement limit and is subject to a total annual GA movement limit.
- 10.8.78. In its response [[REP6-012](#)], the Applicant stated that:
- “It is the Applicant’s view that having the limits in the Noise Mitigation Plan (as at present) and requiring the development to be operated in accordance with the Noise Mitigation Plan, a certified document, has the same legal effect as having the limits in the DCO itself. The Applicant believes that having all noise mitigation measures (which an ATM limit would principally be) in once place would be more convenient.”*
- 10.8.79. Notwithstanding this response, the ExA considered that this proposed Requirement followed the commitment made in the Applicant’s draft NMP but strengthened its application by bringing it onto the face of the dDCO and proposed in its initial dDCO [[PD-015](#)] that a new R 19a be included in the dDCO to read:

“The operation of the airport is subject to a total annual air transport movement limit and is subject a total annual General Aviation movement.”

- 10.8.80. This was further specified at D7a [[REP7a-017](#)] to read:

“The operation of the airport is subject to

i) a total annual air transport movement limit of 26,468 atms; and

ii) a total annual General Aviation movement limit of 38,000 atms.”

¹⁶⁷ It should be noted that, for ease of cross-referencing, the discussion of these paragraphs in this report uses the numbering – 19a, 19b and 19c - that was used in the Examination of these proposals. However, the rdDCO appended to this report at Appendix D uses the standard numbering for a DCO and, thus 19a becomes 21(1), 19b becomes 21(2) and 19c becomes 21(3) and (4)

10.8.81. At ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)] the Applicant's written summary of case [[REP8-016](#)] records that:

"The ExA stated that it was considering breaking down the component parts of the total annual air transport limit of 26,468 into component parts as assessed in the ES. This would be a cap on freight ATMs of 17,170 and passenger ATMs of 9,298.

[The Applicant] informed the ExA that the Applicant wanted to capture its concerns around potential growth in passenger ATMs which could have higher road trip generation than cargo ATMs. The following wording was suggested on behalf of the Applicant:

'i) a total annual air transport movement limit of 26,468 of which not more than 9,298 can be passenger ATMs'

The result of this revised wording would be that there could be fewer than 9,298 passenger ATMs which could be taken up by cargo ATMs (which have fewer impacts on road traffic). [The Applicant] explained that if there were any residual concerns about the effect of changing the fleet mix on noise impacts then if there were more freight ATMs the proposed noise contour cap would ensure that noise levels could not exceed those that had been assessed.

10.8.82. The ExA's second dDCO [[PD-018](#)] proposed the wording:

"(1) The operation of the airport is subject to—

- a) a total annual cargo air transport movement limit of 17,170;*
- b) a total annual passenger air transport movement limit of 9,298; and*
- c) is subject to a total annual General Aviation movement limit of 38,000."*

10.8.83. The reason given for this in Table 2 of the ExA's second dDCO [[PD-018](#)] is to more closely align this Requirement with the balance of ATMs assessed in the ES.

10.8.84. The Applicant's comments on the ExA's second dDCO [[REP9-002](#)] states that:

"[...] the Applicant is content for Requirement 19a to be modified but prefers the following formulation:

(1) The operation of the airport is subject to-

- (a) a total annual air transport movement limit of 26,468;*
- (b) a total annual passenger air transport movement limit of 9,298; and*
- (c) a total annual General Aviation movement limit of 38,000.*

The resultant wording would have the desired effect of limiting the proportion of passenger air transport movements (and their comparatively greater impacts on road traffic) while, at the same time,

allowing the Applicant the commercial flexibility to take up the annual air transport limit with cargo aircraft.

The effect that an increase in the proportion of cargo air transport movements (and corresponding change in fleet mix) might have on the noise impacts of the development will be addressed by the proposed noise contour cap which will ensure that noise levels cannot exceed those addressed in the environmental statement."

- 10.8.85. The ExA has considered this variation on the proposed wording for new R19a. It recognises that one effect of this could be that, should the total annual passenger air transport movements be less than that specified, the wording of this amendment would provide the operator scope to increase the total annual cargo air transport movements to a level above that assessed in the ES.
- 10.8.86. For this reason, **the ExA conclude and recommend that the wording suggested by the Applicant should not be included in any DCO should it be made.**
- 10.8.87. Given this and noting that the Applicant is content for R19a to be modified, **the ExA concludes and recommends that the wording for new R19a (R21(1) in the rdDCO) as set out in the ExA's second dDCO [PD-018] be included in the DCO should it be made** and has included this change in its rdDCO appended to this report at Appendix D

Proposed new Requirement 21(2)

- 10.8.88. In its question DCO.2.47 [PD-010b], the ExA indicated that it was considering inserting a Requirement into the draft DCO stating that an aircraft cannot take-off or be scheduled to land at night between 23:00 and 06:00 and that 'scheduled' be defined in R1 – Interpretation.
- 10.8.89. The Applicant responded [REP6-012] with reference to its response to DCO.2.46 (see above).
- 10.8.90. Notwithstanding this response, the ExA considered that this Requirement followed the commitment made in the Applicant's draft NMP but strengthened its application by bringing it onto the face of the dDCO and proposed a new Requirement in its initial dDCO [PD-015] that:
- "No aircraft can take-off or be timetabled to land between the hours of 2300 and 0600"*
- 10.8.91. The Applicant's summary of case at ISH8 [REP8-016] stated that:
- "The Applicant agreed to this amendment and that the amendment was included in the Applicant's revised dDCO submitted at Deadline 7a as a new requirement 21(2)."*
- 10.8.92. In its second dDCO [PD-018], the ExA proposed further modifications to R19b to read:

"No aircraft can take-off or be scheduled to land at night between the hours of 2300 and 0600."

replacing the word "timetabled" with the word "scheduled" in order to reflect more common usage in the aviation sector, noting the Applicant's response to DCO.2.47 [REP6-012] that it is content to replace the word 'scheduled' in the NMP with 'timetabled' if that would assist in avoiding ambiguity.

10.8.93. In its comments on the ExA's second dDCO [REP9-002], the Applicant stated that it agrees with this amendment.

10.8.94. Noting the Applicant's agreement, **the ExA concludes and recommends that the wording for new R19b (R21(2) in the rdDCO) as set out in the ExA's second dDCO [PD-018] be included in the DCO should it be made** and has included this change in its rdDCO appended to this report at Appendix D

Proposed new Requirement 21(3)

10.8.95. In its second dDCO [PD-018], the ExA proposed a new R19c to read:

"No passenger air transport departures can take place between the hours of 09.00 and 12.00 and no passenger air transport arrivals can take place between the hours of 07.00 and 08.00."

10.8.96. With the ExA's stated reason [PD-018] for this being that:

"In order to ensure that vehicle movements associated with passenger arrivals and departures do not impact on the am peak period. This is considered necessary as the original Transport Assessment [APP-61] and the revised Transport Assessment [REP5-021] do not model any vehicle movements associated with passenger flight departures or arrivals in the am peak period."

10.8.97. The ExA notes that, in the Revised NMP [REP8-004] submitted at D8, the Applicant proposed additional wording at paragraph 1.6 which states that:

"In order to minimise the effects of traffic during the am peak hour, there will be no passenger flight departures between the hours of 09.00 and 11.30".

and paragraph 2.13 of the summary of oral submissions made at ISH9 (traffic and transport) [REP8-017] states that one passenger flight will be permitted at 11:30 and one at 11:45.

10.8.98. In its response to DCO.4.22 [REP9-006] the Applicant stated that it:

"[...] does not agree with the drafting of this requirement. [...] the Applicant is content to commit to a prohibition on passenger flight departures between 0900 and 1130 but not between 0900 and 1200. The extension of this period by half an hour will be detrimental to the expected operation of the passenger offering at the airport. In the

absence of a ban on passenger flight departures between the hours of 1130 and 1200 the effects associated with passenger flight departures will not exceed those assessed within the Transport Assessments.

10.8.99. In its response to DCO.4.22 [[REP9-006](#)] the Applicant stated that it:

"[...] opposes the imposition of a ban on passenger ATM arrivals between the hours of 0700 and 0800 in its entirety. There is no justification for this prohibition as the effects have been assessed in the Transport Assessments and no significant effects arise."

10.8.100. In Tr.5.1 [[PD-022](#)] it stated that:

"The ExA is considering amending Requirement 19c to read:

"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 only be one scheduled passenger air transport arrival between the hours of 07.00 and 08.00."

10.8.101. The Applicant states in its *Applicant's Cover Letter for Deadline 11 Submissions* [[REP11-001](#)] that it:

"[...] agrees with the proposed change to Requirement 19(c) suggested by the Examining Authority in question Tr.5.1i."

10.8.102. Noting the Applicant's agreement, **the ExA concludes and recommends that the wording for new R19c (R21(3) and (4) in the rdDCO) as set out in the ExA's question Tr.5.1 [PD-022] be included in the DCO should it be made** and has included this change in its rdDCO appended to this report at Appendix D.

Proposed new Requirement 21(4)

10.8.103. As stated in the section of Chapter 6 (above) that deals with traffic and transport, the ExA, through TR.4.6 [[PD-020](#)], advised the Applicant that it was considering the need for an additional Requirement in the dDCO to ensure that there would be no additional impacts from those that had been assessed in the ES in terms of the PM Peak. This would restrict one passenger flight arrival between the hours of 16:00 and 17:00; two passenger flight departures between the hours of 18:00 and 19:00; one passenger flight departure between the hours of 19:00 and 20:00; and no passenger departure flights between the hours of 20:00 and 21:00.

10.8.104. The Applicant, in response [[REP9-006](#)], stated:

"Likely significant effects during the PM peak have been assessed and appropriate mitigation adopted on the basis of that assessment. The residual effects of the development are shown to be acceptable on the highway network. In those circumstances it would be disproportionate and unnecessary to impose additional controls. It is not necessary for the examiner to introduce such a restriction which would serve only to limit

the commercial flexibility of the airport, thereby putting at risk the benefits derived from maximising job creation opportunities at the airport”.

10.8.105. The ExA is particularly mindful that the above flight restrictions between 16:00 and 21:00 reflect those that were assumed and assessed in the ES (Appendix E of the original TA and / or Appendix C of the revised TA). If no restriction was in place to secure these assumptions and additional passenger flights took place, likely significant affects could not be ruled out, as they have simply not been assessed by the Applicant.

10.8.106. On this basis, and following consultation during the Examination, **the ExA concludes and recommends that that Re 21(5) be included in the DCO should it be made to 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.”

and have included this in the rdDCO appended to this report at Appendix D.

10.8.107. However, as this final wording was not agreed during the Examination, **the ExA concludes and recommends that the SoS should consult IPs on this wording and, in particular, seek the views of the Applicant.**

10.8.108. Given these recommended changes, R21 would now read as follows:

"Airport Operation

(1) The operation of the airport is subject to—

- a) a total annual cargo air transport movement limit of 17,170;*
- b) a total annual passenger air transport movement limit of 9,298;*
- and*
- c) a total annual general aviation movement limit of 38,000.*

(2) No aircraft can take-off or be scheduled to land between the hours of 2300 and 0600

(3) 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 only be one scheduled passenger air transport arrival between the hours of 07.00 and 08.00”

(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.”.

Requirement 1 – Interpretation

10.8.109. As a consequence of the recommended new R21, above, at ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)], as confirmed in the Applicant’s written summary of case [[REP8-016](#)], the ExA proposed adding definitions of:

- c. “air transport movement”; and
- d. “General Aviation movement”;

but stated that, additionally, definitions for ‘passenger air transport movement’ and ‘cargo air transport movement’ might also now be needed.

10.8.110. “Air transport movement” and “General Aviation movement” were included in the list of interpretations in the ExA’s initial dDCO [[PD-015](#)] but the definition of air transport movement was superseded by more specific definitions relating to cargo and to passengers.

10.8.111. Additionally, at ISH8 [[EV-023](#), [EV-029](#), [EV-029a](#), [EV-029b](#), [EV-029c](#)] the ExA invited the Applicant to provide wording for the definition of ‘timetabled’ (or alternatively ‘scheduled’) to be used in the dDCO.

10.8.112. The ExA notes that, in its comments on the ExA’s initial dDCO [[REP7-002](#)] the Applicant states that it is content with these amendments.

10.8.113. At ISH8, the written summary of the Applicant’s case [[REP8-016](#)] confirmed that the alternative definitions provided by the CAA and ICAO were being considered by the Applicant. The Applicant would be comfortable with the use and adaptation of those sorts of definitions. The Applicant would be content to consider drafting proposed by the ExA and to comment on that drafting in its response to the ExA’s second dDCO.

10.8.114. In the ExA’s second dDCO [[PD-018](#)], the ExA proposed a change to definitions consequent to proposed new R19a and R19b (see below).

10.8.115. The proposal is to add to “Interpretation”:

““Bellyhold” means the cargo hold of a passenger aircraft used for freight.”

““Cargo Air Transport Movement” means landings or take-offs of aircraft engaged on the transport of freight or mail on commercial terms. All scheduled movements, including those operated empty and loaded charter movements are included, but passenger flights carrying bellyhold freight are not included.”

“General aviation movement” means landings or take-off of all civil aviation operations other than scheduled air services and non-scheduled air transport operations for remuneration or hire. General aviation activities include but are not limited to training, business aviation, recreation, agriculture, transport of dangerously ill people and of urgently needed human organs, medical equipment and medicines, monitoring ground traffic movements from the air, civil search/rescue, law enforcement, aerial survey, pollution control and fire fighting, and flying displays.”

“Passenger Air Transport Movement” means landings or take-offs of aircraft engaged on the transport of passengers on commercial terms. All scheduled movements, including those operated empty, loaded charter and air taxi movements are included.”

“Scheduled” means planned according to a schedule and includes both scheduled and chartered flights.”

10.8.116. In its comments on the ExA’s second dDCO [[REP9-002](#)], the Applicant stated that it agrees to the inclusion of these definitions (subject to comments on other amendments that require the definitions to be included in the dDCO).

10.8.117. Noting the Applicant’s agreements to these amendments, **the ExA concludes and recommends that these amendments be included in any DCO should it be consented** and have included them in the rdDCO appended to this report at Appendix D.

New Requirement 22 – Highways improvements

10.8.118. In the ExA’s second dDCO [[PD-018](#)] the ExA proposed a new Requirement (R22) to state that:

“No part of the authorised development is to commence operation until Works Nos. 26 to 31 have been completed in accordance with article 11 (construction and maintenance of new, altered or diverted streets) of this Order.”

10.8.119. In its comments on the ExA’s second dDCO [[REP9-002](#)], the Applicant stated that it:

“[...] agrees with the insertion of this Requirement but the wording of the Requirement needs to be amended as follows in order to avoid circularity:

‘Works Nos. 26 to 31 must be completed in accordance with article 11 (construction and maintenance of new, altered or diverted streets) of this Order before any of Works Nos. 1, 2, 7, 12 or 15-20 commence operation.’

This effect of this requirement is limited to those Works that have the potential to impact on the road network.”

- 10.8.120. The ExA accept that the Work Nos. set out in the Applicant's suggested wording are all of those that will generate notable traffic movements.
- 10.8.121. **The ExA concludes and recommends that the wording for new R22 as set out above be included in the DCO should it be made** and has included this change in its rdDCO appended to this report at Appendix D.

New Requirement 23 - Monitoring

- 10.8.122. The ExA proposed a change in its second draft DCO [[PD-018](#)] in order to reinforce the establishment of a robust monitoring, auditing and reporting regime for the Proposed Development in line with Schedule 4 Section 7 of the 2017 EIA Regulations.
- 10.8.123. The proposed new Requirement reads:
- "No part of the authorised development is to begin operation until a monitoring, auditing and reporting plan for the register of environmental actions and commitments has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the highway authority, the Environment Agency, Historic England, the Civil Aviation Authority and Natural England to the extent that it relates to matters relevant to their function."*
- 10.8.124. In its comments on the ExA's second dDCO [[REP9-002](#)], the Applicant stated that it agrees with this new Requirement.
- 10.8.125. Having regard to the Applicant's agreement to this amendment, **the ExA concludes and recommends that this amendment be accepted** and has included this change in its rdDCO appended to this report at Appendix D.

Requirement 7(2)(b)(ix)

- 10.8.126. As a consequence of the proposed insertion of the new R23 (above), the ExA proposed in its second dDCO [[PD-018](#)] the deletion of "(ix) Method Statement for Environmental Monitoring" from R7(2)(b) as the proposed new R23 is designed to secure a more robust monitoring regime and the deletion of this sub sub-paragraph will avoid duplication.
- 10.8.127. In its comments on the ExA's second dDCO [[REP9-002](#)], the Applicant stated that it agrees with this amendment.
- 10.8.128. **The ExA concludes and recommends that R7(2)(b)(ix) be deleted** and has included this change in its rdDCO appended to this report at Appendix D.

New Requirement 24 – High Resolution Direction Finder

- 10.8.129. In its written summary of oral submissions put at the January 2019 hearings [[REP1-004](#)], the Applicant stated at paragraph 2.7 that:

"In response to the ExA's query on why relocation of the HRDF was not mentioned in the dDCO or the ES IT confirmed that this was to be achieved by a separate procedure after the DCO was granted. It explained that the Applicant had been in discussions with the Ministry of Defence for several months and was currently awaiting confirmation from the Defence Infrastructure Organisation as to whether a proposed relocation site that had been discussed with them was suitable. The relocation would be achieved under the Town and Country Planning Act 1990. The major consideration was to ensure that the relocated facility was in at least as good a position as the existing one. All options being considered for relocation were outside the Order limits of the dDCO."

10.8.130. Notwithstanding this response and following extensive discussion on the relocation of the HRDF recorded both in that section of Chapter 6 which deals with operations and in Chapter 9, above, on CA, in ExA's question DCO.4.25 [[REP9-006](#)] the ExA stated that:

"The ExA is considering whether there should be a new Requirement securing that no Works within the safeguarded area shown in the Ministry of Defence (RAF Manston) Technical Site Direction 2017 [REP7a-025] shall commence until the Ministry of Defence confirm in writing to the relevant planning authority that the High Resolution Direction Finder (HRDF) has been relocated from its position within the Order Limits and is fully operational to the satisfaction of the Ministry of Defence following, if required by the Ministry of Defence, a period of dual operation of the existing and the relocated HRDF."

10.8.131. In its response to DCO.4.25 [[REP9-006](#)], the Applicant states that:

"The Applicant is totally committed to ensuring that the capability of this critical piece of equipment is both maintained and protected to the satisfaction of the Ministry of Defence (MOD). We would therefore have no issue if such a new requirement were introduced, but suggest that it not be tied to the precise details of the relocation of the HRDF (in case they subsequently change) and simply say:

"no works within the safeguarded area shown in the Ministry of Defence (RAF Manston) Technical Site Direction 2017 [REP7a-025] shall commence while the Direction is in force without the consent of the Ministry of Defence in writing."

In response to DCO.4.25 [[REP9-006](#)], that pre-dates the Applicant's D11 submission detailed below [[REP11-001](#)], the MoD suggest alternative wording for the suggested Requirement and also suggest that further requirements concerning the operation of the new HRDF and removal of the old HRDF has been agreed [[REP9-019](#)], as follows:

"The MOD respectfully requests that the following Requirements are used in this eventuality:

1. No development shall commence unless and until a detailed mitigation scheme to provide an alternate High Resolution Direction Finder (HRDF) has been prepared by the undertaker and submitted to and agreed in writing by the Ministry of Defence to the relevant planning authority. The

detailed mitigation scheme shall include siting location(s) for the alternate HRDF, full specification for the equipment and infrastructure proposed, and the technical performance data necessary to establish Safeguarding criteria to protect its subsequent operation.

2. No development shall commence unless and until the Ministry of Defence confirm in writing to the relevant planning authority that the equipment to provide the function of the High Resolution Direction Finder (HRDF) detailed in the approved detailed mitigation scheme has been provided by the undertaker and is fully operational to the satisfaction of the Ministry of Defence following, if required by the Ministry of Defence, a period of dual operation of the existing HRDF and the alternatively sited equipment to provide the function of the HRDF.

3. No development shall commence unless and until a programme for the decommissioning and removal of the existing High Resolution Direction Finder (HRDF) has been prepared by the undertaker and submitted to and agreed in writing by the Ministry of Defence to the relevant planning authority. The decommissioning and removal of the existing HRDF equipment shall be carried out strictly in accordance with the details approved.

10.8.132. The Applicant states in its D11 cover letter [[REP11-001](#)] that it:

"In response to the Defence Infrastructure Organisation's proposed amendments to the DCO in its Deadline 9 submission, the Applicant agrees to the last four, where the MoD is added as a consultee to Requirements 3, 4, 6 and 15, but does not agree to any of the other proposed changes, as they relate to the HRDF, which will be moved before any construction that intrudes within the safeguarding zone occurs and hence are unnecessary given the provision proposed below."

and that:

"On the subject of the HRDF, the Applicant is prepared to add a requirement as follows:

"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.""

10.8.133. The ExA notes that this proposed new Requirement was submitted on 5 July 2019 – four days before the close of the Examination – and therefore it was not possible for IPs, including the MoD DIO, to be consulted on this proposal.

10.8.134. The ExA also notes that the MoD on 9 July 2019 stated [[AS-287](#)] that the:

"MOD maintains its objection to the development on the basis that the proposals would have a significant and detrimental impact on the capability of safeguarded technical equipment located within the boundaries of the development. At this time, no acceptable scheme

detailing location, specification of equipment or technical mitigation has been submitted for the provision of what would, ultimately, be a replacement HRDF system. This lack of evidence does not currently indicate any prospect that replacement HRDF equipment with the same or better capability could be provided."

- 10.8.135. **First, the ExA concludes and recommends that a new Requirement dealing with the HRDF is necessary in any DCO should it be made.**
- 10.8.136. Bearing in mind that these proposals were submitted too late in the Examination to permit further questioning of the two parties, in considering these two proposed new Requirements suggested by the MoD and by the Applicant, the ExA queries whether, in the case of the MoD's suggested Requirement, it is proportionate to serve to prevent any commencement of any part of the scheme within the Order Limits in order to address an issue that affects an area less than that totality.
- 10.8.137. It also queries whether, in respect of the MoD's part (2) of its suggested Requirement, it is proportionate to, in effect, delay the commencement of any part of the Proposed Development until the HRDF has been relocated, tested and made operational for what may be an indeterminant period.
- 10.8.138. The ExA considers that the Requirement suggested by the Applicant may have this effect but that the effect would be limited to that area of safeguarding that has already been established through regulation.
- 10.8.139. However, the ExA also consider that the Applicant's suggested Requirement does not provide an impetus to an agreed approach to this issue being defined in the way that parts (1) and (3) of the MoDs proposals may.
- 10.8.140. Therefore, **the ExA concludes and recommends that elements of the two proposed Requirements be combined** with the new Requirement to read:

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

(2) 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

(3) No development shall commence unless and until a programme for the decommissioning and removal of the existing High Resolution Direction Finder (HRDF) has been prepared by the undertaker and

submitted to and agreed in writing by the Ministry of Defence to the relevant planning authority. The decommissioning and removal of the existing HRDF equipment shall be carried out strictly in accordance with the details approved.”

and has included this new Requirement in its rdDCO appended to this report at Appendix D.

- 10.8.141. However, in addition, for the reasons given above and recognising the importance of this equipment, **the ExA concludes and recommends that the SoS consult on the inclusion of this proposed Requirement with the Applicant and IPs seeking, in particular, the views of the MoD (DIO).**

10.9. PROPOSED AMENDMENTS TO OTHER SCHEDULES

Schedule 9 – Protective Provisions

- 10.9.1. The Applicant states in its D11 cover letter [[REP11-001](#)] that:

“The Applicant proposes the addition of the protective provisions for the protection of Network Rail set out at Annex 2 below”.

- 10.9.2. Network Rail is a statutory undertaker affected by a request under power of CA and there is a discussion of this in Chapter 9 on CA above.

- 10.9.3. This records the request by Network Rail to have Protective Provisions included in the dDCO that meet the particular requirements of Network Rail.

- 10.9.4. The ExA notes that this proposed new Protective Provision was submitted on 5 July 2019 – four days before the close of the Examination – and therefore it was not possible for IPs, including Network Rail, to be consulted on this proposal.

- 10.9.5. **Given this, the ExA concludes and recommends that it can appreciate the merits of including such a Protective Provision** and has included this change in its rdDCO appended to this report at Appendix D.

- 10.9.6. However, in addition, for the reasons given above **the ExA conclude and recommend that the SoS consult on the inclusion of this proposed Protective Provision with IPs seeking, in particular, the views of Network Rail.**

- 10.9.7. All the remaining proposed amendments to other Schedules in the dDCO are contained in the table in the sub-section (10.10) below.

10.10. PROPOSED MINOR AMENDMENTS TO PROVISIONS

- 10.10.1. This section sets out a table itemising the more minor changes to the provisions of the rdDCO appended to this report at Appendix D, stating the reasons for them.

10.10.2.

The ExA concludes and recommends that all the minor amendments to provisions set out in Table DCO.1, below, be accepted for the reasons given in the table and has included these in the ExA’s rdDCO at Appendix D to this report.

Table DCO1: DCO provisions recommended to be changed

Provision	Examination issue	Recommendations
<p>a) Article 12(6) - Temporary stopping up and restriction of use of streets</p> <p>Insert the words “a valid” before “application”.</p>	<p>The ExA notes that, in its comments on the ExA’s initial dDCO [REP7-002] the Applicant states that it is content with this amendment and has included it in its draft submitted at D7a.</p>	<p>The ExA concludes and recommends that this change be made and has included it in its rdDCO.</p>
<p>Schedule 1</p> <p>Remove point (g) – “works to alter the course of, or otherwise interfere with, a watercourse” - in the list of further associated development at the end of Schedule I.</p>	<p>In DCO.3.12 the ExA asked the Applicant to state whether there are any relevant watercourses within the Order Limits to which point (g) in the list of further associated development at the end of Schedule I will apply.</p> <p>The Applicant’s response [REP7a-002] stated that:</p> <p><i>“Upon further consideration the Applicant has concluded that this item of associated development is unnecessary and it has been removed from the revised dDCO submitted at Deadline 7a”.</i></p>	<p>The ExA concludes and recommends that this change be made and has included it in its rdDCO.</p>

Provision	Examination issue	Recommendations
<p>Schedule 1: Authorised Development</p> <p>Remove "and" from "associated pavement and infrastructure".</p>	<p>In DCO 2.33, the ExA asked the Applicant to describe what is meant by "<i>associated pavement and infrastructure</i>" in the description of Work No. 8.</p> <p>The Applicant responded [REP6-012] that:</p> <p><i>"The word 'and' from the above phrase is superfluous and has been removed from the Deadline 6 version of the DCO. The infrastructure mentioned is the electrical and drainage items which will be within the pavement such as lights, slot drains, electrical ground power cabinets (If needed) and gullies."</i></p>	<p>The ExA concludes and recommends that this change be made and has included it in its rdDCO.</p>
<p>R4(1)</p> <p>Deletion of Work No. 19 (The construction of new or improved facilities to create an airport fuel farm on the site of an existing fuel storage facility) from (1)</p>	<p>This deletion is designed to avoid duplication with R5.</p>	<p>The ExA concludes and recommends that this change be made and has included it in its rdDCO.</p>
<p>R4(1)</p> <p>Amend Requirement 4(1) to include "site access (including</p>	<p>In order to secure approval of access provision, including that of emergency access, in the dDCO.</p>	<p>The ExA concludes and recommends that this change be made and has included it in its rdDCO.</p>

Provision	Examination issue	Recommendations
<p>emergency access)" and, thus, to read:</p> <p><i>"No part of the authorised development may commence until details of the siting, design, external appearance, lighting, site access (including emergency access) and dimensions of any element of Works Nos."</i></p>		
<p>R 7(2)(b) – Operation environmental management plan</p> <p>Addition of item:</p> <p><i>"Lighting Strategy substantially to meet requirements set out in the Draft Lighting Strategy"</i></p>	<p>TDC and the Applicant agreed to support this amendment and this is referenced in TDC's submission at D8 [REP8-029].</p>	<p>The ExA concludes and recommends that this change be made and has included it in its rdDCO.</p>
<p>Schedule 10 - Documents to be Certified</p> <p>Delete</p> <p><i>"Construction Environmental Management Plan: TR020002/APP/2.6: 1"</i></p>	<p>The ExA proposed this change in the ExA's second draft DCO [PD-018] as the <i>"Outline Construction Environmental Management Plan"</i> is already listed in this schedule with the same document reference number and this is the nomenclature used in the provisions in the dDCO.</p> <p>In its comments on the ExA's second dDCO [REP9-002], the Applicant stated</p>	<p>The ExA concludes and recommends that this change be made and has included it in its rdDCO.</p>

Provision	Examination issue	Recommendations
	that it agrees with this amendment.	
<p>Schedule 10 - Documents to be Certified</p> <p>Addition of certified document:</p> <p><i>"Draft Lighting Strategy"</i></p>	Consequential to addition of item to Requirement 7(2)(b)	The ExA concludes and recommends that this change be made and has included it in its rdDCO.
<p>Schedule 10 - Documents to be Certified</p> <p>Rename certified 'masterplan' document as 'outline masterplan' and make consequential amendment in Requirement 3(2)(d)</p>	To avoid confusion between masterplans submitted and approved in R3 and the certified Masterplan submitted as part of the application.	The ExA concludes and recommends that this change be made and has included it in its rdDCO.
<p>Article 2 - Interpretation, definition of "statutory undertaker"</p>	At ISH1 [EV-005] the ExA recommended adding a reference to s138 (4A) and (4B) of the PA2008 to include the reference to 'apparatus'.	The ExA concludes and recommends that this change be made and has included it in its rdDCO.
<p>Article 2 - Interpretation, definition of "traffic regulation order plans"</p>	<p>The ExA noted that Article 2 states that <i>"traffic regulation order plans" means the plans certified by the Secretary of State under article 41 ..."</i></p> <p>At ISH1 [EV-005] the ExA recommended adding a reference to Traffic Regulation Order Plans to</p>	The ExA concludes and recommends that this change be made and has included it in its rdDCO.

Provision	Examination issue	Recommendations
	<p>Schedule 10 and the Applicant stated [REP1-004] that it would consider making the suggested amendment.</p> <p>This amendment was made at D3 [REP3-193]</p>	

11. SUMMARY OF FINDINGS AND CONCLUSIONS

11.1. INTRODUCTION

- 11.1.1. The ExA has examined this application under s105 of the PA2008 as there is no National Policy Statement that has effect in this case.
- 11.1.2. However, in doing so it has had regard to the ANPS as being both an important and relevant consideration.
- 11.1.3. It has also had regard to the NPSNN, the NPPF and to both the saved and emerging policies in Local Plans prepared, or in the course of preparation, by TDC.
- 11.1.4. In reaching its recommendation, full regard has been given to the LIRs submitted and all other matters raised and representations made have been taken into account.
- 11.1.5. In reaching its recommendations, the ExA has had proper regard to the provisions of the HRA1998) and, in particular, Article 6 – Right to fair trial; Article 8 - Right to respect for private and family life; and Article 1 of the First Protocol - Protection of property.
- 11.1.6. In considering these matters the ExA has found no relevant matters of such importance that they would individually or collectively lead to a different recommendation to that set out below.
- 11.1.7. In reaching its recommendations the ExA has considered and taken full account of the several mitigations and restrictions inserted into the dDCO by the Applicant and by the ExA during the course of the Examination and make these recommendations on the basis of the provisions in the rdDCO appended to this report at Appendix D.

11.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

- 11.2.1. We consider that the application fulfils the relevant legal requirements including the UK Government's relevant international obligations.
- 11.2.2. Following Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017, the ExA concludes that it is required to recommend refusal to the Secretary of State as the competent authority for the decision as to whether to grant development consent.
- 11.2.3. The ExA concludes that the Applicant has failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports, and this weighs against making the proposed Order.
- 11.2.4. The ExA concludes that there are impacts of the Proposed Development in terms of air quality which are neutral in any consideration of making the proposed Order.

- 11.2.5. The ExA concludes that there are impacts of the Proposed Development in terms of biodiversity which are neutral in any consideration of making the proposed Order.
- 11.2.6. The ExA concludes that there are impacts of the Proposed Development in terms of climate change which weigh against making the proposed Order.
- 11.2.7. The ExA concludes that there are impacts of the Proposed Development in terms of ground conditions which are neutral in any consideration of making the proposed Order.
- 11.2.8. The ExA concludes that there are impacts of the Proposed Development in terms of heritage and archaeological assets which weigh against making the proposed Order.
- 11.2.9. The ExA concludes that there are impacts of the Proposed Development in terms of landscape and visual impacts which are neutral in any consideration of making the proposed Order.
- 11.2.10. The ExA concludes that there are impacts of the Proposed Development in terms of noise impacts which weigh against making the proposed Order.
- 11.2.11. The ExA concludes that there are impacts of the Proposed Development in terms of operational issues which weigh against making the proposed Order.
- 11.2.12. The ExA concludes that there are impacts of the Proposed Development in terms of socio-economic impacts which weigh in favour of making the proposed Order.
- 11.2.13. The ExA concludes that there are impacts of the Proposed Development in terms of transport which weigh against making the proposed Order.
- 11.2.14. The ExA concludes that there are impacts of the Proposed Development in terms of water quality which are neutral in any consideration of making the proposed Order. It concludes that there is no conflict with the Water Framework Directive.
- 11.2.15. The ExA concludes, therefore, that on balance the benefits of this proposal would not outweigh its impacts.
- 11.2.16. The ExA has considered the requests for powers to compulsorily acquire land and rights which formed part of the application. The ExA concludes that the requests for powers do not meet all the tests set out in statute and in guidance.
- 11.2.17. In reaching this conclusion the ExA has had regard to the HRA1998 and consider that the interference with rights is not proportionate and in the public interest.

- 11.2.18. On the request for CA, the ExA concludes that it cannot be satisfied that there is a compelling case in the public interest for the land and rights over land to be acquired compulsorily.
- 11.2.19. In reaching this conclusion the ExA has had regard to the HRA1998 and considers that the interference with rights is not proportionate and not in the public interest.
- 11.2.20. The ExA has considered whether plots defined as open space satisfy the relevant conditions under s132 of the PA2008 and concludes, taking account of all the evidence that was submitted, that the Order Land, when burdened with the Order right, will be no less advantageous than it was before.
- 11.2.21. In respect to Crown Land, the ExA concludes that in the absence of any statement submitted to the Examination that the appropriate Crown Authority consents to the acquisition, the request for CA in respect of four Crown Authorities be refused and that any provisions relating to these Crown Authorities should not be included in any final DCO should it be made.

11.3. RECOMMENDATION

- 11.3.1. For all of the above reasons and in the light of its findings and conclusions on important and relevant matters set out in this report, **the ExA, under the procedures set down in the PA2008, recommend that the SoS should not grant development consent.**
- 11.3.2. In the event that the SoS reaches different conclusions and decides to grant the Order in the form attached, **the ExA recommends that the SoS considers the list of recommended actions at Annex E to this report;** all of which are consolidated from the main text of this repo

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APPENDICES

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APPENDIX A: THE EXAMINATION

The table below lists the main events occurring during the Examination and the main Procedural Decisions taken by the Examining Authority (ExA).

Event	Date(s)
Preliminary Meeting	9 January 2019
Issue Specific Hearing 1 Dealing with matters relating to the draft Development Consent Order (dDCO)	10 January 2019 (Daytime)
Open Floor Hearing 1	10 January 2019 (Evening)
Open Floor Hearing 2	11 January 2019 (Daytime)
Deadline 1 Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Relevant material requested by the ExA as specified in Annex F to the Rule 6 letter • Written summaries of oral submissions put at the Preliminary Meeting or/ and hearings held on 10 and 11 January 2019 Issue by the ExA of: <ul style="list-style-type: none"> • Examination Timetable Publication of: <ul style="list-style-type: none"> • The ExA's First Written Questions 	18 January 2019
Deadline 2 Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Notification of wish to speak at a Compulsory Acquisition Hearing • Notification of wish to speak at a subsequent Open Floor Hearing • Notification of wish to attend the Accompanied Site Inspection on 19 March 2019 • Notification by Statutory Parties of wish to be considered an Interested Party • Comments on any submissions made to Deadline 1 • Applicant's draft itinerary for the Accompanied Site Inspection to be held on 19 March 2019 	6 February 2019

<p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Notification of date, time and place of hearings to be held between 20 and 22 March 2019 • Notification of date, time and meeting place for Accompanied Site Inspection on 19 March 2019 <p>Publication of:</p> <ul style="list-style-type: none"> • ExA's itinerary for the Accompanied Site Inspection on 19 March 2019 	<p>8 February 2019</p>
<p>Deadline 3</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on Relevant Representations (RRs) • Summaries of all RRs exceeding 1500 words • Written Representations (WRs) • Summaries of all WRs exceeding 1500 words • Local Impact Reports from any Local Authorities • Initial Statements of Common Ground requested by the ExA • Responses to the ExA's Written Questions • An updated version of the Application Document Tracker • First version of the Compulsory Acquisition Status Report • An updated Book of Reference • Applicant's first revised dDCO • Any further information requested by the ExA under Rule 17 of the Exam Rules¹⁶⁸ 	<p>15 February 2019</p>
<p>Deadline 4</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on WRs and responses to comments on RRs • Comments on Local Impact Report(s) • Comments on responses to the ExA's Written Questions • Comments on any further information requested by the ExA and received to Deadline 3 • An updated version of the Application Document Tracker 	<p>8 March 2019</p>

¹⁶⁸ The Infrastructure Planning (Examination Procedure) Rules 2010

<ul style="list-style-type: none"> • An updated version of the Compulsory Acquisition Status Report • Progressed Statements of Common Ground requested by the ExA • Any further information requested by the ExA under Rule 17 of the Exam Rules 	
Open Floor Hearing 3	18 March 2019 (Daytime)
Open Floor Hearing 4	18 March 2019 (Evening)
Accompanied Site Inspection	19 March 2019
Compulsory Acquisition Hearing 1	20 March 2019
Issue Specific Hearing 2 Dealing with matters relating to need and operations	21 March 2019
Issue Specific Hearing 3 Dealing with matters relating to noise	22 March 2019
Deadline 5 Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Written summaries of oral submissions put at hearings held between 18 and 22 March 2019 • Applicant's second revised dDCO • An updated version of the Application Document Tracker • An updated version of the Compulsory Acquisition Status Report • Comments on any further information requested by the ExA and received to Deadline 4 • Any further information requested by the ExA under Rule 17 of the Exam Rules 	29 March 2019
Publication of: <ul style="list-style-type: none"> • The ExA's Second Written Questions 	5 April 2019
Deadline 6 Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Responses to the ExA's Second Written Questions 	3 May 2019

<ul style="list-style-type: none"> • An updated version of the Application Document Tracker • An updated version of the Compulsory Acquisition Status Report • Comments on any further information requested by the ExA and received to Deadline 5 • Any further information requested by the ExA under Rule 17 of the Exam Rules <p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Notification of further hearings to be held in the week beginning 3 June 2019 	
<p>Publication of:</p> <ul style="list-style-type: none"> • The ExA's initial dDCO 	10 May 2019
<p>Deadline 7</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses to the ExA's Second Written Questions • Comments on the ExA's initial dDCO • Final Statements of Common Ground requested by the ExA • Comments on any further information requested by the ExA and received to Deadline 6 • Any further information requested by the ExA under Rule 17 of the Exam Rules 	17 May 2019
<p>Deadline 7a</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to the ExA's Second Written Questions 	
<p>Issue Specific Hearing 4</p> <p>Dealing with matters relating to landscape, design, archaeology and heritage</p>	3 June 2019
<p>Compulsory Acquisition Hearing 2</p>	4 June 2019
<p>Issue Specific Hearing 5</p> <p>Dealing with matters relating to socio-economic issues</p>	5 June 2019 (Morning)
<p>Issue Specific Hearing 6</p> <p>Dealing with matters relating to Habitats Regulations Assessment, biodiversity and other environmental issues</p>	5 June 2019 (Afternoon)

<p>Issue Specific Hearing 7</p> <p>Dealing with matters relating to traffic and transport</p>	<p>6 June 2019</p>
<p>Issue Specific Hearing 8</p> <p>Dealing with matters relating to the dDCO</p>	<p>7 June 2019</p>
<p>Deadline 8</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Written summaries of oral submissions put at hearings held in week beginning 3 June 2019 • Comments on responses to ExA's Third Written Questions received at Deadline 7a • An updated version of the Application Document Tracker • An updated version of the Compulsory Acquisition Status Report • Comments on any further information requested by the ExA and received to Deadline 7 • Any further information requested by the ExA under Rule 17 of the Exam Rules <p>Publication of:</p> <ul style="list-style-type: none"> • The ExA's dDCO 	<p>14 June 2019</p>
<p>Publication of:</p> <ul style="list-style-type: none"> • Report on the Implications for European Sites (RIES) 	<p>17 June 2019</p>
<p>Deadline 9</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on the ExA's dDCO • Comments on any further information requested by the ExA and received to Deadline 8 • Any further information requested by the ExA under Rule 17 of the Exam Rules 	<p>28 June 2019</p>
<p>Deadline 10</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on the RIES • An updated version of the Application Document Tracker • An updated version of the Compulsory Acquisition Status Report 	<p>2 July 2019</p>

Deadline 11

The ExA is under a duty to complete the examination of the application by the end of the period of 6 months

9 July 2019

APPENDIX B: EXAMINATION LIBRARY

TR020002 – Manston Airport Examination Library - Index	
Category	Reference
Application Documents As submitted and amended version received before the Preliminary Meeting (PM). Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
Adequacy of Consultation responses	AoC-xxx
Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority’s questions, s55, and post-Acceptance s51	PD-xxx
Additional Submissions Includes anything accepted at the PM and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the Examination	AS-xxx
Events and hearings Includes agendas for hearings and site inspections, audio recordings, responses to notifications, applicant’s hearing notices, and responses to Rule 6 and Rule 8 letters	EV-xxx
Representations – by Deadline	
Deadline 1	REP1-xxx
Deadline 2	REP2-xxx
Deadline 3	REP3-xxx
Deadline 4	REP4-xxx
Deadline 5	REP5-xxx
Deadline 6	REP6-xxx
Deadline 7	REP7-xxx

Deadline 7a	REP7a-xxx
Deadline 8	REP8-xxx
Deadline 9	REP9-xxx
Deadline 10	REP10-xxx
Deadline 11	REP11-xxx
Other Documents	OD-xxx

**TR020002 – Manston Airport
Examination Library**

Application Documents

APP-001	RiverOak Strategic Partners Ltd 1.1 Application Letter and schedule of compliance with section 55
APP-002	RiverOak Strategic Partners Ltd 1.2 Application Form
APP-003	RiverOak Strategic Partners Ltd 1.3 Planning Inspectorate Electronic Application Index
APP-004	RiverOak Strategic Partners Ltd 1.4 Navigation Document with Glossary
APP-005	RiverOak Strategic Partners Ltd 1.5 Application Document Tracker
APP-006	RiverOak Strategic Partners Ltd 2.1 Draft Development Consent Order
APP-007	RiverOak Strategic Partners Ltd 2.2 Explanatory Memorandum
APP-008	RiverOak Strategic Partners Ltd 2.3 NSIP Justification
APP-009	RiverOak Strategic Partners Ltd 2.4 Noise Mitigation Plan
APP-010	RiverOak Strategic Partners Ltd 2.5 Register of Environmental Actions and Commitments
APP-011	RiverOak Strategic Partners Ltd 2.6 Construction Environmental Management Plan
APP-012	RiverOak Strategic Partners Ltd 3.1 Statement of Reasons
APP-013	RiverOak Strategic Partners Ltd 3.2 Funding Statement
APP-014	RiverOak Strategic Partners Ltd 3.3 Book of Reference

APP-015	RiverOak Strategic Partners Ltd 4.1 Location Plan
APP-016	RiverOak Strategic Partners Ltd 4.2 Land Plans
APP-017	RiverOak Strategic Partners Ltd 4.3 Crown Land Plans
APP-018	RiverOak Strategic Partners Ltd 4.4 Works Plans
APP-019	RiverOak Strategic Partners Ltd 4.5 Special Category Land Plan
APP-020	RiverOak Strategic Partners Ltd 4.6 Access and Rights of Way Plans
APP-021	RiverOak Strategic Partners Ltd 4.7 Stopping up of Streets/Roads and Diversions Plans (Part 1)
APP-022	RiverOak Strategic Partners Ltd 4.7 Stopping up of Streets/Roads and Diversions Plans (Part 2)
APP-023	RiverOak Strategic Partners Ltd 4.8 Traffic Regulation Plans
APP-024	RiverOak Strategic Partners Ltd 4.9 Traffic Regulation Measures Plans
APP-025	RiverOak Strategic Partners Ltd 4.10 Environmental Features Plans
APP-026	RiverOak Strategic Partners Ltd 4.11 Habitats of Protected Species Plan (Part 1)
APP-027	RiverOak Strategic Partners Ltd 4.11 Habitats of Protected Species Plan (Part 2)
APP-028	RiverOak Strategic Partners Ltd 4.12 Heritage Designation Plans (Part 1)
APP-029	RiverOak Strategic Partners Ltd 4.12 Heritage Designation Plans (Part 2)

APP-030	RiverOak Strategic Partners Ltd 4.13 Engineering Drawings and Sections
APP-031	RiverOak Strategic Partners Ltd 4.14 Design Drawings
APP-032	RiverOak Strategic Partners Ltd 5.1 Environmental Statement - Non-Technical Summary
APP-033	RiverOak Strategic Partners Ltd 5.2-1 Environmental Statement - Volume 1 - Main Report- Chapters 1-10
APP-034	RiverOak Strategic Partners Ltd 5.2-2 Environmental Statement - Volume 2 - Chapters 11-16
APP-035	RiverOak Strategic Partners Ltd 5.2-3 Environmental Statement - Volume 3 - Chapters 17-18
APP-036	RiverOak Strategic Partners Ltd 5.2-4 Environmental Statement - Volume 4 - Content and Figures 1.1
APP-037	RiverOak Strategic Partners Ltd 5.2-4 Environmental Statement - Volume 4 - Figures 3.1-3.6
APP-038	RiverOak Strategic Partners Ltd 5.2-4 Environmental Statement - Volume 4 - Figures 3.7-3.11
APP-039	RiverOak Strategic Partners Ltd 5.2-4 Environmental Statement - Volume 4 - Figure 3.12-3.27
APP-040	RiverOak Strategic Partners Ltd 5.2-4 Environmental Statement - Volume 4 - Figures 4.1-9.6
APP-041	RiverOak Strategic Partners Ltd 5.2-4 Environmental Statement - Volume 4 - Figures 11.1-11.40
APP-042	RiverOak Strategic Partners Ltd 5.2-4 Environmental Statement - Volume 4 - Figures 12.1-18.2
APP-043	RiverOak Strategic Partners Ltd 5.2-5 Environmental Statement - Volume 5 - Appendices 1.1-1.3
APP-044	RiverOak Strategic Partners Ltd 5.2-6 Environmental Statement - Volume 6 - Appendices 1.4-7.2

APP-045	RiverOak Strategic Partners Ltd 5.2-7 Environmental Statement - Volume 7 - Appendices 7.3 – 8.1 (part 1)
APP-046	RiverOak Strategic Partners Ltd 5.2-7 Environmental Statement - Volume 7 - Appendices 7.7 - 8.1 (Part 2)
APP-047	RiverOak Strategic Partners Ltd 5.2-7 Environmental Statement - Volume 7 - Appendix 8.1 (Appendices)
APP-048	RiverOak Strategic Partners Ltd 5.2-8 Environmental Statement - Volume 8 - Appendices 8.2 - 9.1 (Part 1)
APP-049	RiverOak Strategic Partners Ltd 5.2-8 Environmental Statement - Volume 8 - Appendices 8.2- 9.1 (Part 1 cont)
APP-050	RiverOak Strategic Partners Ltd 5.2-8 Environmental Statement - Volume 8 – Appendices 8.2 - 9.1 (Part 2)
APP-051	RiverOak Strategic Partners Ltd 5.2-9 Environmental Statement - Volume 9 - Appendix 9.1 and Appendix 9.5 (Part 1)
APP-052	RiverOak Strategic Partners Ltd 5.2-9 Environmental Statement - Volume 9 -Appendix 9.1 and Appendix 9.5 (Part 2)
APP-053	RiverOak Strategic Partners Ltd 5.2-10 Environmental Statement - Volume 10 - Appendix 10.1 Appendix A (Part 1)
APP-054	RiverOak Strategic Partners Ltd 5.2-11 Environmental Statement - Volume 11 - Appendix 10.1 Appendix A (Part 1)
APP-055	RiverOak Strategic Partners Ltd 5.2.11 Environmental Statement - Volume 11 - Appendix 10.1 Appendix A (Part 2)
APP-056	RiverOak Strategic Partners Ltd 5.2-12 Environmental Statement - Volume 12 - Appendices 10.1 Appendix B (Part 1)

APP-057	RiverOak Strategic Partners Ltd 5.2-12 Environmental Statement - Volume 12 - Appendices 10.1 Appendix B – 12.14 (Part 2)
APP-058	RiverOak Strategic Partners Ltd 5.2-13 Environmental Statement - Volume 13 - Appendices 14.1 - 17.3
APP-059	RiverOak Strategic Partners Ltd 5.2-14 Environmental Statement - Volume 14 - Statement of Statutory Nuisance
APP-060	RiverOak Strategic Partners Ltd 5.2-15 Environmental Statement - Volume 15 - Transport Assessment (Part 1)
APP-061	RiverOak Strategic Partners Ltd 5.2-15 Environmental Statement - Volume 15 - Transport Assessment (Part 2)
APP-062	RiverOak Strategic Partners Ltd 5.2-16 Environmental Statement - Volume 16 - Transport Assessment Appendices A-C and Appendix D (Junctions 1-13)
APP-063	RiverOak Strategic Partners Ltd 5.2-17 Environmental Statement - Volume 17 - Transport Assessment Appendix D (Junctions 15-21A)
APP-064	RiverOak Strategic Partners Ltd 5.2-18 Environmental Statement - Volume 18 - Transport Assessment Appendix D (Junction 21B-28) and Appendix E
APP-065	RiverOak Strategic Partners Ltd 5.2-19 Environmental Statement - Volume 19 - Appendices to the Transport Assessment Appendix F (Junction 1A-8B)
APP-066	RiverOak Strategic Partners Ltd 5.2-20 Environmental Statement - Volume 20 - Transport Assessment Appendix F (Junction 9-17A)
APP-067	RiverOak Strategic Partners Ltd 5.2-21 Environmental Statement - Volume 21 - Transport Assessment Appendix F (Junction 20A-20B)
APP-068	RiverOak Strategic Partners Ltd 5.2-22 Environmental Statement - Volume 22 - Transport Assessment Appendix F (Junction 21B-27A)

APP-069	RiverOak Strategic Partners Ltd 5.2-23 Environmental Statement - Volume 23 -Transport Assessment Appendix F (Junction 27B-28) and Appendices G-J
APP-070	RiverOak Strategic Partners Ltd 5.2-24 Environmental Statement - Volume 24 -Transport Assessment Appendix J (Junction 15-21A)
APP-071	RiverOak Strategic Partners Ltd 5.2-25 Environmental Statement - Volume 25 - Transport Assessment Appendix J (Junction 21B) and Appendices K-O (Part 1)
APP-072	RiverOak Strategic Partners Ltd 5.2-25 Environmental Statement - Volume 25 - Transport Assessment Appendix J (Junction 21B) Appendices K-O (Part 2)
APP-073	RiverOak Strategic Partners Ltd 5.2-25 Environmental Statement - Volume 25 - Transport Assessment - Appendix J (21B) Appendices K-O (Part 3)
APP-074	RiverOak Strategic Partners Ltd 5.2-26 Environmental Statement - Volume 26 - Utilities Infrastructure Report
APP-075	RiverOak Strategic Partners Ltd 6.1 Consultation Report
APP-076	RiverOak Strategic Partners Ltd 6.2 Consultation Report Appendices 1-10
APP-077	RiverOak Strategic Partners Ltd 6.2 Consultation Report Appendices 11-36
APP-078	RiverOak Strategic Partners Ltd 6.2 Consultation Report Appendices -37-62
APP-079	RiverOak Strategic Partners Ltd 7.1 Masterplan
APP-080	RiverOak Strategic Partners Ltd 7.2 Planning Statement
APP-081	RiverOak Strategic Partners Ltd 7.3 Design and Access Statement (Part 1)
APP-082	RiverOak Strategic Partners Ltd

	7.3 Design and Access Statement (Part 2)
APP-083	RiverOak Strategic Partners Ltd 7.3 Design and Access Statement (Part 3)
APP-084	RiverOak Strategic Partners Ltd 7.3 Design and Access Statement (Part 4)
APP-085	RiverOak Strategic Partners Ltd 7.4 Azimuth Report
APP-086	RiverOak Strategic Partners Ltd 7.5 Civil Aviation Authority Interface Document
APP-087	RiverOak Strategic Partners Ltd 7.6 Details of other consents and licences that may be required
Adequacy of Consultation Responses	
AoC-001	Surrey County Council Adequacy of Consultation Representation
AoC-002	London Borough of Bexley Adequacy of Consultation Representation
AoC-003	Kent County Council Adequacy of Consultation Representation
AoC-004	Dover District Council Adequacy of Consultation Representation
AoC-005	Thanet District Council Adequacy of Consultation Representation
AoC-006	Thanet District Council Appendix A to Adequacy of Consultation Representation - Appendix A
AoC-007	Medway Council Adequacy of Consultation Representation
AoC-008	Canterbury City Council Adequacy of Consultation Representation
Relevant Representations	

-	<p>To assist navigation of this Examination Library, the Relevant Representations are recorded in a separate library available here:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020002/TR020002-002807-Final%20Relevant%20Rep%20library%20JB%20RP.pdf</p>
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 51 advice to the Applicant
PD-003	Section 55 Checklist
PD-004	<p>Response to s102A application – Denis Smith</p> <p>Letter from the Examining Authority regarding an application to become an Interested Party under section 102A of the Planning Act 2008</p>
PD-005	Rule 6 letter - Notification of the preliminary meeting and matters to be discussed
PD-006	Rule 8 – notification of timetable for the examination
PD-007	Written Questions
PD-008	Notification of March Hearings 2019 (Rule 13) and Accompanied Site Inspection (Rule 16)
PD-009	<p>Notification of Procedural Decision</p> <p>Invitation to Independent Commission on Civil Aviation Noise (ICCAN) to speak at the Issue Specific Hearing on Noise</p>
PD-010	Variation to Timetable – Rule 8(3)
PD-010a	Variation to Timetable – Rule 8(3)
PD-010b	<p>Written Questions</p> <p>Examining Authority's Second Written Questions</p>
PD-011	<p>Further Written Questions</p> <p>Addendum to Examining Authority's Second Written Questions - Traffic and Transport</p>
PD-012	Notification of June Hearings 2019 (Rule 13) and clarification in respect of the Planning Inspectorate's redaction policy
PD-013	Variation to Timetable - Rule 8 (3)

PD-014	The Examining Authority's Third Written Questions and requests for information (ExQ3)
PD-015	Examining Authority's initial draft Development Consent Order
PD-016	Notification of Procedural Decision Response to Stone Hill Park Ltd in respect of cross questioning
PD-017	Variation to Timetable - Rule 8 (3)
PD-018	Examining Authority's second draft Development Consent Order Published on 14 June 2019
PD-019	Report on the Implications for European Sites (RIES) Issued by the Examining Authority - 17 June 2019
PD-020	The Examining Authority's Fourth Written Questions
PD-021	Section 102A letter to Helix AV Letter from Examining Authority regarding potential request to become an Interested Party
PD-022	The Examining Authority's Fifth Written Questions
PD-023	Notification of the completion of the Examining Authority's Examination
Additional Submissions	
AS-001	Keith Middleton Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-002	Isabel Tittensor Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-003	P Cooper Representation accepted at the discretion of the Examining Authority on 26 October 2018
AS-004	Mervyn Gidman Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-005	Dr Jack Cohen Representation accepted at the discretion of the Examining Authority on 26 October 2018.

AS-006	Chris Howe Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-007	Gordon Warren Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-008	Betty Renz Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-009	Michael Berry Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-010	Robin Dulson Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-011	Graham Crowley Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-012	Mr C Cade Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-013	Mrs V Marcantonio Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-014	Canterbury City Council Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-015	John Sheppard Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-016	Paul Moony Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-017	Lorraine Bryant

	Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-018	Jackie and John McCrae Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-019	Kevin Parr Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-020	Marion Wilkinson Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-021	Philip Reeve Representation accepted at the discretion of the Examining Authority on 26 October 2018.
AS-022	Jane Rose Representation accepted at the discretion of the Examining Authority on 02 November 2018
AS-023	PJ Godfrey Representation accepted at the discretion of the Examining Authority on 28 November 2018
AS-024	Various Interested Parties Representation accepted at the discretion of the Examining Authority on 20 December 2018
AS-025	Mark de Pulford Representation accepted at the discretion of the Examining Authority on 31 January 2019
AS-026	Ann Marie Belsey Late submission for Deadline 1 accepted at the discretion of the Examining Authority on 28 January 2019
AS-027	Georgina Rooke Late Submission for Deadline 1 accepted at the discretion of the Examining Authority on 28 January 2019
AS-028	Ros McIntyre Late submission for Deadline 1 accepted at the discretion of the Examining Authority on 28 January 2019

AS-029	Ronald Blay on behalf of OAPs against a 24/7 freight hub Late submission for Deadline 1 accepted at the discretion of the Examining Authority on 28 January 2019
AS-030	Mr & Mrs G Tobin Representation accepted at the discretion of the Examining Authority on 31 January 2019
AS-031	Harlaxton Energy Networks Ltd Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-032	Georgina Martin and Rex Cadman Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-033	Cllr Jonathan Curran Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-034	David Dawdge Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-035	Neil Kuhl Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-036	Janice Willson Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-037	Martin Welch Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-038	David Dyer Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-039	Thelma Franks Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-040	Anne Kleszcz

	Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-041	Cllr Rev. Stuart Piper Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-042	Anne Hancox Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-043	Roger Thorold Representation accepted at the discretion of the Examining Authority on 28 January 2019
AS-044	Canterbury City Council Late submission for Deadline 1 accepted at the discretion of the Examining Authority on 28 January 2019
AS-045	Catherine Gardiner Additional Submission - Accepted at the discretion of the Examining Authority
AS-046	Neil Morgan Additional Submission - Accepted at the discretion of the Examining Authority
AS-047	Victoria Morgan Additional Submission - Accepted at the discretion of the Examining Authority
AS-048	Veronica Cox Additional Submission - Accepted at the discretion of the Examining Authority
AS-049	Jonathan Bradley Additional Submission - Accepted at the discretion of the Examining Authority
AS-050	Mr S Fleming Additional Submission - Accepted at the discretion of the Examining Authority
AS-051	Sherie Jacques Additional Submission - Accepted at the discretion of the Examining Authority

AS-052	Geoffrey and Carolyn Illsley Additional Submission - Accepted at the discretion of the Examining Authority
AS-053	Peter Gibson Additional Submission - Accepted at the discretion of the Examining Authority
AS-054	Steve Licence Additional Submission - Accepted at the discretion of the Examining Authority
AS-055	Chris Hynes Additional Submission - Accepted at the discretion of the Examining Authority
AS-056	Barbara Newnham Additional Submission - Accepted at the discretion of the Examining Authority
AS-057	E.Goldring Additional Submission - Accepted at the discretion of the Examining Authority
AS-058	John Grant Additional Submission - Accepted at the discretion of the Examining Authority
AS-059	Malcolm Bernardes Additional Submission - Accepted at the discretion of the Examining Authority
AS-060	Lucia Stuart Additional Submission - Accepted at the discretion of the Examining Authority
AS-061	Stephen Hurst Additional Submission - Accepted at the discretion of the Examining Authority
AS-062	Melanie Hetfield Additional Submission - Accepted at the discretion of the Examining Authority
AS-063	Michael Child

	Additional Submission - Accepted at the discretion at the Examining Authority
AS-064	Adem Mehmet Additional Submission - Accepted at the discretion of the Examining Authority
AS-065	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-066	Cathy Rogers Additional Submission - Accepted at the discretion of the Examining Authority
AS-067	Georgina Rooke Additional Submission - Accepted at the discretion of the Examining Authority
AS-068	Ian Scott Additional Submission - Accepted at the discretion of the Examining Authority
AS-069	Mark de Pulford Additional Submission - Accepted at the discretion of the Examining Authority
AS-070	Paul Dawkins Additional Submission - Accepted at the discretion of the Examining Authority
AS-071	Richard Card Additional Submission - Accepted at the discretion of the Examining Authority
AS-072	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority
AS-073	Samara Jones-Hall Additional Submission - Accepted at the discretion of the Examining Authority
AS-074	Samara Jones-Hall Additional Submission - Accepted at the discretion of the Examining Authority

AS-075	Stone Hill Park Limited Additional Submission - Accepted at the discretion of the Examining Authority
AS-076	Ben and Emma Irvine Additional Submission - Accepted at the discretion of the Examining Authority
AS-077	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority
AS-078	Adem Mehmet Additional Submission - Accepted at the discretion of the Examining Authority
AS-079	Angela Stevens Additional Submission - Accepted at the discretion of the Examining Authority
AS-080	Richard Card Additional Submission - Accepted at the discretion of the Examining Authority
AS-081	Samara Jones-Hall Additional Submission - Accepted at the discretion of the Examining Authority
AS-082	Adem Mehmet Additional Submission - Accepted at the discretion of the Examining Authority
AS-083	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-084	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority
AS-085	Andrew McCullouch Additional Submission - Accepted at the discretion of the Examining Authority
AS-086	Carole Copeland

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-087	Christine Retallick Additional Submission - Accepted at the discretion of the Examining Authority
AS-088	Deborah Shotton Additional Submission - Accepted at the discretion of the Examining Authority
AS-089	Discovery Park Additional Submission - Accepted at the discretion of the Examining Authority
AS-090	K.Crowhurst Additional Submission - Accepted at the discretion of the Examining Authority
AS-091	Lynda Kay Additional Submission - Accepted at the discretion of the Examining Authority
AS-092	M. C. Munnich Additional Submission - Accepted at the discretion of the Examining Authority
AS-093	Malcolm Hodgson Additional Submission - Accepted at the discretion of the Examining Authority
AS-094	Nigel Erricker Additional Submission - Accepted at the discretion of the Examining Authority
AS-095	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority
AS-096	Richard Card Additional Submission - Accepted at the discretion of the Examining Authority
AS-097	Alan Welcome Additional Submission - Accepted at the discretion of the Examining Authority

AS-098	Angela Stevens Additional Submission - Accepted at the discretion of the Examining Authority
AS-099	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority
AS-100	Ronald Blay Additional Submission - Accepted at the discretion of the Examining Authority
AS-101	Save Manston Airport Association Additional Submission - Accepted at the discretion of the Examining Authority
AS-102	Stone Hill Park Limited Additional Submission - Accepted at the discretion of the Examining Authority
AS-103	Terence Huckstep Additional Submission - Accepted at the discretion of the Examining Authority
AS-104	Jean Mancini Additional Submission - Accepted at the discretion of the Examining Authority
AS-105	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority
AS-106	Raymond May Additional Submission - Accepted at the discretion of the Examining Authority
AS-107	Stone Hill Park Limited Additional Submission - Accepted at the discretion of the Examining Authority
AS-108	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-109	Richard Card

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-110	Save Manston Airport Association Additional Submission - Accepted at the discretion of the Examining Authority
AS-111	Susan and John Hennessy Additional Submission - Accepted at the discretion of the Examining Authority
AS-112	Tim Garbutt Additional Submission - Accepted at the discretion of the Examining Authority
AS-113	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-114	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-115	Bill Williamson Additional Submission - Accepted at the discretion of the Examining Authority
AS-116	Ceri Diffley Additional Submission - Accepted at the discretion of the Examining Authority
AS-117	Civil Aviation Authority Additional Submission - Accepted at the discretion of the Examining Authority
AS-118	Dr R. John Pritchard Additional Submission - Accepted at the discretion of the Examining Authority
AS-119	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-120	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority

AS-121	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-122	Georgina Rooke Additional Submission - Accepted at the discretion of the Examining Authority
AS-123	John Knight Additional Submission - Accepted at the discretion of the Examining Authority
AS-124	Kent County Council Additional Submission - Accepted at the discretion of the Examining Authority, comprising comments on the Examining Authority's dDCO issued on 10 May 2019
AS-125	Liam Coyle Additional Submission - Accepted at the discretion of the Examining Authority
AS-126	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority
AS-127	Richard Card Additional Submission - Accepted at the discretion of the Examining Authority
AS-128	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Appendix TR3.27
AS-129	Samara Jones-Hall Additional Submission - Accepted at the discretion of the Examining Authority
AS-130	Stone Hill Park Limited Additional Submission - Accepted at the discretion of the Examining Authority
AS-131	Stone Hill Park Limited Additional Submission - Accepted at the discretion of the Examining Authority
AS-132	Terence Huckstep

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-133	Terence Huckstep Additional Submission - Accepted at the discretion of the Examining Authority
AS-134	Terence Huckstep Additional Submission - Accepted at the discretion of the Examining Authority
AS-135	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-136	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-137	Kenneth Norrington Additional Submission - Accepted at the discretion of the Examining Authority
AS-138	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-139	Ceri Diffley Additional Submission - Accepted at the discretion of the Examining Authority
AS-140	Paul Dawkins Additional Submission - Accepted at the discretion of the Examining Authority
AS-141	Ramsgate Town Council Additional Submission - Accepted at the discretion of the Examining Authority
AS-142	Richard Card Additional Submission - Accepted at the discretion of the Examining Authority
AS-143	Ronald Blay Additional Submission - Accepted at the discretion of the Examining Authority

AS-144	Tim Garbutt Additional Submission - Accepted at the discretion of the Examining Authority
AS-145	Barbara Warner Additional Submission - Accepted at the discretion of the Examining Authority
AS-146	Ceri Diffley Additional Submission - Accepted at the discretion of the Examining Authority
AS-147	Geoff Booth Additional Submission - Accepted at the discretion of the Examining Authority
AS-148	James Chappell Additional Submission - Accepted at the discretion of the Examining Authority
AS-149	Jane Roberts Additional Submission - Accepted at the discretion of the Examining Authority
AS-150	Jenny Dawes Additional Submission - Accepted at the discretion of the Examining Authority
AS-151	Jodie Hudson Additional Submission - Accepted at the discretion of the Examining Authority
AS-152	Kit Jolly Additional Submission - Accepted at the discretion of the Examining Authority
AS-153	Laurie Hudson Additional Submission - Accepted at the discretion of the Examining Authority
AS-154	Mari Shingu Additional Submission - Accepted at the discretion of the Examining Authority
AS-155	Martin Hudson

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-156	No Night Flights Additional Submission - Accepted at the discretion of the Examining Authority
AS-157	Adem Mehmet Additional Submission - Accepted at the discretion of the Examining Authority
AS-158	Andrew Hodder Additional Submission - Accepted at the discretion of the Examining Authority
AS-159	Anne-Marie Nixey Additional Submission - Accepted at the discretion of the Examining Authority
AS-160	Barbara Warner Additional Submission - Accepted at the discretion of the Examining Authority
AS-161	Catherine Gardiner Additional Submission - Accepted at the discretion of the Examining Authority
AS-162	Chris Lowe Additional Submission - Accepted at the discretion of the Examining Authority
AS-163	Chris Lowe Additional Submission - Accepted at the discretion of the Examining Authority
AS-164	Christabel Bradley Additional Submission - Accepted at the discretion of the Examining Authority
AS-165	Cllr Rev. Stuart Piper Additional Submission - Accepted at the discretion of the Examining Authority
AS-166	Dani Flowerdew Additional Submission - Accepted at the discretion of the Examining Authority

AS-167	Daryl Booth Additional Submission - Accepted at the discretion of the Examining Authority
AS-168	David Stevens Additional Submission - Accepted at the discretion of the Examining Authority
AS-169	Deborah Shotton Additional Submission - Accepted at the discretion of the Examining Authority
AS-170	Denis Booth Additional Submission - Accepted at the discretion of the Examining Authority
AS-171	Doreen Brown Additional Submission - Accepted at the discretion of the Examining Authority
AS-172	Homeowners Against Manston Cargo Hub Additional Submission - Accepted at the discretion of the Examining Authority
AS-173	J & R Everest Additional Submission - Accepted at the discretion of the Examining Authority
AS-174	Jacqueline Ansell Additional Submission - Accepted at the discretion of the Examining Authority
AS-175	Jane Hetherington Additional Submission - Accepted at the discretion of the Examining Authority
AS-176	Janice Best Additional Submission - Accepted at the discretion of the Examining Authority
AS-177	Jennifer and Nicholas Selmes Additional Submission - Accepted at the discretion of the Examining Authority
AS-178	Jill Saunder-Airs

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-179	Jonathan Bradley Additional Submission - Accepted at the discretion of the Examining Authority
AS-180	Julian Perry Additional Submission - Accepted at the discretion of the Examining Authority
AS-181	Karen Hodgson Additional Submission - Accepted at the discretion of the Examining Authority
AS-182	Ken Wraight Additional Submission - Accepted at the discretion of the Examining Authority
AS-183	Kenneth Wildon Additional Submission - Accepted at the discretion of the Examining Authority
AS-184	Kim Edgington Additional Submission - Accepted at the discretion of the Examining Authority
AS-185	Margaret Mabey Additional Submission - Accepted at the discretion of the Examining Authority
AS-186	Margot Bandola Additional Submission - Accepted at the discretion of the Examining Authority
AS-187	Marie Besley Additional Submission - Accepted at the discretion of the Examining Authority
AS-188	Matt Savidge Additional Submission - Accepted at the discretion of the Examining Authority
AS-189	Nethercourt Action Group Additional Submission - Accepted at the discretion of the Examining Authority

AS-190	Nethercourt Action Group Additional Submission - Accepted at the discretion of the Examining Authority
AS-191	Paul Hudson Additional Submission - Accepted at the discretion of the Examining Authority
AS-192	RAF Manston Spitfire & Hurricane Memorial Museum Additional Submission - Accepted at the discretion of the Examining Authority
AS-193	Ramsgate Town Team Additional Submission - Accepted at the discretion of the Examining Authority
AS-194	Rebecca Wing Additional Submission - Accepted at the discretion of the Examining Authority
AS-195	Richard Card Additional Submission - Accepted at the discretion of the Examining Authority
AS-196	Ruth Baird Additional Submission - Accepted at the discretion of the Examining Authority
AS-197	Samantha Holmans Thompson Additional Submission - Accepted at the discretion of the Examining Authority
AS-198	Samantha Smith Additional Submission - Accepted at the discretion of the Examining Authority
AS-199	Supporters of Manston Airport Additional Submission - Accepted at the discretion of the Examining Authority
AS-200	Supporters of Manston Airport Additional Submission - Accepted at the discretion of the Examining Authority
AS-201	Barbara Warner

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-202	Chris Lowe Additional Submission - Accepted at the discretion of the Examining Authority
AS-203	Christine Redmond Additional Submission - Accepted at the discretion of the Examining Authority
AS-204	Deborah Shotton Additional Submission - Accepted at the discretion of the Examining Authority
AS-205	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-206	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-207	Stone Hill Park Limited Additional Submission - Accepted at the discretion of the Examining Authority
AS-208	Ceri Diffley Additional Submission - Accepted at the discretion of the Examining Authority
AS-209	Chris Lowe Additional Submission - Accepted at the discretion of the Examining Authority
AS-210	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-211	C Cairney Additional Submission - Accepted at the discretion of the Examining Authority
AS-212	Heather Gunton Additional Submission - Accepted at the discretion of the Examining Authority

AS-213	June Kelly Additional Submission - Accepted at the discretion of the Examining Authority
AS-214	Kenneth Norrington Additional Submission - Accepted at the discretion of the Examining Authority
AS-215	Michelle Thomas Additional Submission - Accepted at the discretion of the Examining Authority
AS-216	Mrs Bushby Additional Submission - Accepted at the discretion of the Examining Authority
AS-217	Andrew Montgomery Additional Submission - Accepted at the discretion of the Examining Authority
AS-218	Barry James Additional Submission - Accepted at the discretion of the Examining Authority
AS-219	Bernard Kirkham Additional Submission - Accepted at the discretion of the Examining Authority
AS-220	Clive Aslet Additional Submission - Accepted at the discretion of the Examining Authority
AS-221	David Burgess Additional Submission - Accepted at the discretion of the Examining Authority
AS-222	Edwina Steed Additional Submission - Accepted at the discretion of the Examining Authority
AS-223	Gary Ottewill Additional Submission - Accepted at the discretion of the Examining Authority
AS-224	Iain Heatlie

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-225	Julian Eagle Additional Submission - Accepted at the discretion of the Examining Authority
AS-226	Ken Wraight Additional Submission - Accepted at the discretion of the Examining Authority
AS-227	Margaret Sole Additional Submission - Accepted at the discretion of the Examining Authority
AS-228	Naomi Friend Additional Submission - Accepted at the discretion of the Examining Authority
AS-229	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority
AS-230	Richard Card Additional Submission - Accepted at the discretion of the Examining Authority
AS-231	Richard Ryan Additional Submission - Accepted at the discretion of the Examining Authority
AS-232	Rob Yates Additional Submission - Accepted at the discretion of the Examining Authority
AS-233	Ron and Helen Webster Additional Submission - Accepted at the discretion of the Examining Authority
AS-234	Adem Mehmet Additional Submission - Accepted at the discretion of the Examining Authority
AS-235	Adem Mehmet Additional Submission - Accepted at the discretion of the Examining Authority

AS-236	Adem Mehmet Additional Submission - Accepted at the discretion of the Examining Authority
AS-237	Andrew Joynes Additional Submission - Accepted at the discretion of the Examining Authority
AS-238	Angela Stevens Additional Submission - Accepted at the discretion of the Examining Authority
AS-239	Angela Stevens Additional Submission - Accepted at the discretion of the Examining Authority
AS-240	Annie Webster Additional Submission - Accepted at the discretion of the Examining Authority
AS-241	Anthony and Diane Statham Additional Submission - Accepted at the discretion of the Examining Authority
AS-242	Ben Irvine Additional Submission - Accepted at the discretion of the Examining Authority
AS-243	Bill Williamson Additional Submission - Accepted at the discretion of the Examining Authority
AS-244	Carol Morgan Additional Submission - Accepted at the discretion of the Examining Authority
AS-245	Ceri Diffley Additional Submission - Accepted at the discretion of the Examining Authority
AS-246	Chris Lowe Additional Submission - Accepted at the discretion of the Examining Authority
AS-247	Chris Warner

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-248	Christine Holmes Additional Submission - Accepted at the discretion of the Examining Authority
AS-249	Clive Dunsby Additional Submission - Accepted at the discretion of the Examining Authority
AS-250	Colin David Sutton Additional Submission - Accepted at the discretion of the Examining Authority
AS-251	Colin Matthews Additional Submission - Accepted at the discretion of the Examining Authority
AS-252	Dina Dale Additional Submission - Accepted at the discretion of the Examining Authority
AS-253	Dr J Gledhill Additional Submission - Accepted at the discretion of the Examining Authority
AS-254	Dr R. John Pritchard Additional Submission - Accepted at the discretion of the Examining Authority
AS-255	Dr R. John Pritchard Additional Submission - Accepted at the discretion of the Examining Authority
AS-256	Dr R. John Pritchard Additional Submission - Accepted at the discretion of the Examining Authority
AS-257	Georgina Rooke Additional Submission - Accepted at the discretion of the Examining Authority
AS-258	Georgina Rooke Additional Submission - Accepted at the discretion of the Examining Authority

AS-259	Graham Denton Additional Submission - Accepted at the discretion of the Examining Authority
AS-260	J K Rainey Additional Submission - Accepted at the discretion of the Examining Authority
AS-261	Jan Hirst Additional Submission - Accepted at the discretion of the Examining Authority
AS-262	Judith Castle Additional Submission - Accepted at the discretion of the Examining Authority
AS-263	Kevin Pressland Additional Submission - Accepted at the discretion of the Examining Authority
AS-264	Lee H Bates Additional Submission - Accepted at the discretion of the Examining Authority
AS-265	Lesley Robertson Additional Submission - Accepted at the discretion of the Examining Authority
AS-266	Margaret Cook Additional Submission - Accepted at the discretion of the Examining Authority
AS-267	Martin Sutton Additional Submission - Accepted at the discretion of the Examining Authority
AS-268	Mat Thomas Additional Submission - Accepted at the discretion of the Examining Authority
AS-269	Maureen Elenor Additional Submission - Accepted at the discretion of the Examining Authority
AS-270	Mike White

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-271	Mitchell Perry Additional Submission - Accepted at the discretion of the Examining Authority
AS-272	Naomi Neathey Additional Submission - Accepted at the discretion of the Examining Authority
AS-273	Nicolette McKenzie Additional Submission - Accepted at the discretion of the Examining Authority
AS-274	Penelope Warn Additional Submission - Accepted at the discretion of the Examining Authority
AS-275	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority
AS-276	Residents Against Night Flights Additional Submission - Accepted at the discretion of the Examining Authority
AS-277	Richard Burke Additional Submission - Accepted at the discretion of the Examining Authority
AS-278	Richard Burke Additional Submission - Accepted at the discretion of the Examining Authority
AS-279	Richard Card Additional Submission - Accepted at the discretion of the Examining Authority
AS-280	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority
AS-281	Sarah Chudleigh Additional Submission - Accepted at the discretion of the Examining Authority

AS-282	Stacy Keeler Additional Submission - Accepted at the discretion of the Examining Authority
AS-283	Tony Laming Additional Submission - Accepted at the discretion of the Examining Authority
AS-284	Tony Uden Additional Submission - Accepted at the discretion of the Examining Authority
AS-285	V M and A R Robbins Additional Submission - Accepted at the discretion of the Examining Authority
AS-286	Winbourne Martin French Additional Submission - Accepted at the discretion of the Examining Authority
AS-287	Defence Infrastructure Organisation Additional Submission - Accepted at the discretion of the Examining Authority
AS-288	A. Pajdowska Additional Submission. Accepted at the Discretion of the Examining Authority
AS-289	Aaron Oldale Additional Submission - Accepted at the discretion of the Examining Authority
AS-290	Adam Rogers Additional Submission - Accepted at the discretion of the Examining Authority
AS-291	Adam Sharpe Additional Submission - Accepted at the discretion of the Examining Authority
AS-292	Alan Root Additional Submission. Accepted at the Discretion of the Examining Authority
AS-293	Alex Sarafoglou

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-294	Anatole Franklin Additional Submission. Accepted by the discretion of the Examining Authority.
AS-295	Andrea Batcheler Additional Submission. Accepted at the Discretion of the Examining Authority
AS-296	Andrew Hodder Additional Submission - Accepted at the discretion of the Examining Authority
AS-297	Andrew Jordan Additional Submission. Accepted at the Discretion of the Examining Authority
AS-298	Andrew Kane Additional Submission. Accepted by the discretion of the Examining Authority.
AS-299	Andrew Mansfield Additional Submission - Accepted at the discretion of the Examining Authority
AS-300	Andy Ball Additional Submission - Accepted at the discretion of the Examining Authority
AS-301	Anette Mutton Additional Submission - Accepted at the discretion of the Examining Authority
AS-302	Ann Scott Additional Submission. Accepted by the discretion of the Examining Authority.
AS-303	Anne Marie Nixey Additional Submission - Accepted at the discretion of the Examining Authority
AS-304	Antonia Courcier Additional Submission - Accepted at the discretion of the Examining Authority

AS-305	Barbara Warner Additional Submission - Accepted at the discretion of the Examining Authority
AS-306	Barbara Warner Additional Submission - Accepted at the discretion of the Examining Authority
AS-307	Barney Harsent Additional Submission - Accepted at the discretion of the Examining Authority
AS-308	Barry Latchford Additional Submission - Accepted at the discretion of the Examining Authority
AS-309	Barry Quinn Additional Submission - Accepted at the discretion of the Examining Authority
AS-310	Ben Irvine Additional Submission. Accepted at the discretion of the Examining Authority
AS-311	Bettina Eichenberger Additional Submission. Accepted at the Discretion of the Examining Authority
AS-312	Camille Sutton Additional Submission - Accepted at the discretion of the Examining Authority
AS-313	Carmel Togher Additional Submission. Accepted by the discretion of the Examining Authority
AS-314	Carol and John Aitken Additional Submission - Accepted at the discretion of the Examining Authority
AS-315	Carol Deer Additional Submission. Accepted by the discretion of the Examining Authority
AS-316	Caroline Hamilton

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-317	Cat Blaker Additional Submission - Accepted at the discretion of the Examining Authority
AS-318	Ceri Diffley Additional Submission - Accepted at the discretion of the Examining Authority
AS-319	Cheryl Nichol Additional Submission. Accepted by the discretion of the Examining Authority
AS-320	Chiara Hendry Additional Submission. Accepted at the Discretion of the Examining Authority
AS-321	Chloe Ralph-Harding Additional Submission - Accepted at the discretion of the Examining Authority
AS-322	Chris Lowe Additional Submission - Accepted at the discretion of the Examining Authority
AS-323	Chris Parks Additional Submission. Accepted by the discretion of the Examining Authority
AS-324	Chris Warner Additional Submission - Accepted at the discretion of the Examining Authority
AS-325	Christa Drennan Additional Submission. Accepted by the discretion of the Examining Authority
AS-326	Christabel and Jonathan Bradley Additional Submission - Accepted at the discretion of the Examining Authority
AS-327	Christabel Bradley Additional Submission - Accepted at the discretion of the Examining Authority

AS-328	Christabel Smith Additional Submission - Accepted at the discretion of the Examining Authority
AS-329	Christine Isteed Additional Submission. Accepted by the discretion of the Examining Authority
AS-330	Christopher Warner Additional Submission. Accepted by the discretion of the Examining Authority
AS-331	Claire Fahy Additional Submission. Accepted at the Discretion of the Examining Authority
AS-332	Clare Dove Additional Submission - Accepted at the discretion of the Examining Authority
AS-333	Clive Holland Additional Submission - Accepted at the discretion of the Examining Authority
AS-334	Cllr A Ovenden Additional Submission. Accepted by the discretion of the Examining Authority
AS-335	Cllr Mark Hopkinson Additional Submission. Accepted by the discretion of the Examining Authority
AS-336	Col Longmore Additional Submission. Accepted at the Discretion of the Examining Authority
AS-337	Colin Brathwaite Additional Submission - Accepted at the discretion of the Examining Authority
AS-338	Commuters Against the Cargo Hub Additional Submission - Accepted at the discretion of the Examining Authority
AS-339	Conor Masterson

	Additional Submission. Accepted at the Discretion of the Examining Authority
AS-340	Corinna Huxley Additional Submission. Accepted by the discretion of the Examining Authority
AS-341	Dani Flowerdew Additional Submission - Accepted at the discretion of the Examining Authority
AS-342	Darren Smart Additional Submission - Accepted at the discretion of the Examining Authority
AS-343	David Frankel Additional Submission. Accepted at the Discretion of the Examining Authority
AS-344	David Green Additional Submission - Accepted at the discretion of the Examining Authority
AS-345	David Green Additional Submission - Accepted at the discretion of the Examining Authority Note: Duplicate
AS-346	David Jennings Additional Submission - Accepted at the discretion of the Examining Authority
AS-347	David Long Additional Submission. Accepted by the discretion of the Examining Authority.
AS-348	David Stevens Additional Submission - Accepted at the discretion of the Examining Authority
AS-349	Deanna Panzetta Additional Submission - Accepted at the discretion of the Examining Authority
AS-350	Deborah Shotton Additional Submission - Accepted at the discretion of the Examining Authority

AS-351	Deborah Shotton Additional Submission - Accepted at the discretion of the Examining Authority
AS-352	Deborah Shotton Additional Submission - Accepted at the discretion of the Examining Authority
AS-353	Dr Linda Koch Additional Submission - Accepted at the discretion of the Examining Authority
AS-354	Dr R. John Pritchard Additional Submission - Accepted at the discretion of the Examining Authority
AS-355	Elaine Aherne Additional Submission. Accepted at the Discretion of the Examining Authority
AS-356	Elizabeth Seward Additional Submission - Accepted at the discretion of the Examining Authority
AS-357	Emily Peasgood Additional Submission - Accepted at the discretion of the Examining Authority
AS-358	Emma Blau Additional Submission. Accepted at the Discretion of the Examining Authority
AS-359	Emma Lloyd Additional Submission. Accepted by the discretion of the Examining Authority
AS-360	Eunice Wright Additional Submission. Accepted by the discretion of the Examining Authority
AS-361	Evelyn Mathews Additional Submission. Accepted by the discretion of the Examining Authority
AS-362	Fiona Stewart

	Additional Submission. Accepted by the discretion of the Examining Authority
AS-363	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-364	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-365	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
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AS-371	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-372	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-373	Five10Twelve Ltd Additional Submission - Accepted at the discretion of the Examining Authority

AS-374	Francina Van Twest Additional Submission. Accepted at the Discretion of the Examining Authority
AS-375	Gareth Gerrard Additional Submission - Accepted at the discretion of the Examining Authority
AS-376	Gary Ottewill Additional Submission. Accepted by the discretion of the Examining Authority
AS-377	Gemma Dempsey Additional Submission - Accepted at the discretion of the Examining Authority
AS-378	George Everett Additional Submission - Accepted at the discretion of the Examining Authority
AS-379	Georgina Rooke Additional Submission - Accepted at the discretion of the Examining Authority
AS-380	Gillian Farrell Additional Submission - Accepted at the discretion of the Examining Authority
AS-381	Grace Minton Additional Submission - Accepted at the discretion of the Examining Authority
AS-382	Graeme Rolbiecki Additional Submission - Accepted at the discretion of the Examining Authority
AS-383	Grahame Birchall Additional Submission. Accepted by the discretion of the Examining Authority
AS-384	Grant Duncan Additional Submission. Accepted at the Discretion of the Examining Authority
AS-385	Greg Shapland

	Additional Submission. Accepted at the Discretion of the Examining Authority
AS-386	Harriet Steddy Additional Submission - Accepted at the discretion of the Examining Authority
AS-387	Heather James Additional Submission - Accepted at the discretion of the Examining Authority
AS-388	Helen Crittenden Additional Submission. Accepted at the Discretion of the Examining Authority
AS-389	Hilary Scott Additional Submission - Accepted at the discretion of the Examining Authority
AS-390	Hubertina Frencken Additional Submission. Accepted at the Discretion of the Examining Authority
AS-391	Ian and Hilary Scott Additional Submission - Accepted at the discretion of the Examining Authority
AS-392	Ian Dodds Additional Submission - Accepted at the discretion of the Examining Authority
AS-393	Ian Scott Additional Submission - Accepted at the discretion of the Examining Authority
AS-394	Jacqueline McBride Additional Submission - Accepted at the discretion of the Examining Authority
AS-395	Jacqui Ansell Additional Submission. Accepted by the discretion of the Examining Authority
AS-396	James Andrews Additional Submission. Accepted at the discretion of the Examining Authority

AS-397	James Chappell Additional Submission - Accepted at the discretion of the Examining Authority
AS-398	Jan Petersen Additional Submission. Accepted by the discretion of the Examining Authority
AS-399	Jane Hetherington Additional Submission. Accepted at the Discretion of the Examining Authority
AS-400	Jane Hetherington Additional Submission. Accepted at the Discretion of the Examining Authority
AS-401	Jane Hetherington Additional Submission - Accepted at the discretion of the Examining Authority Note: Duplicate
AS-402	Jane Hetherington Additional Submission. Accepted at the Discretion of the Examining Authority
AS-403	Jane Roberts Additional Submission - Accepted at the discretion of the Examining Authority
AS-404	Jane Southouse Additional Submission. Accepted at the Discretion of the Examining Authority
AS-405	Janice Gibbs Additional Submission - Accepted at the discretion of the Examining Authority
AS-406	Jason Robbins Additional Submissions. Accepted at the discretion of the Examining Authority
AS-407	Jean Mancini Additional Submission. Accepted at the Discretion of the Examining Authority
AS-408	Jean Tedder

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-409	Jemima Brown Additional Submission. Accepted by the discretion of the Examining Authority
AS-410	Jenny Rath Additional Submission - Accepted at the discretion of the Examining Authority
AS-411	Jill Pullman Additional Submission - Accepted at the discretion of the Examining Authority
AS-412	Jill Pulman Additional Submission. Accepted by the discretion of the Examining Authority
AS-413	Jill Saunders-Airs Additional Submission. Accepted by the discretion of the Examining Authority
AS-414	Jo Dale Additional Submission. Accepted by the discretion of the Examining Authority
AS-415	John Hall Additional Submission - Accepted at the discretion of the Examining Authority
AS-416	John Knight Additional Submission - Accepted at the discretion of the Examining Authority
AS-417	John Laven Additional Submission. Accepted at the Discretion of the Examining Authority
AS-418	Jon Barrett Additional Submission - Accepted at the discretion of the Examining Authority
AS-419	Jonathan Dahms Additional Submission - Accepted at the discretion of the Examining Authority

AS-420	Jonathan Fowler Additional Submission - Accepted at the discretion of the Examining Authority
AS-421	Joseph Dance Additional Submission. Accepted at the Discretion of the Examining Authority
AS-422	Joseph Dance Additional Submission. Accepted at the Discretion of the Examining Authority
AS-423	Josephine Canty Additional Submission - Accepted at the discretion of the Examining Authority
AS-424	Julia Gavriel Additional Submission - Accepted at the discretion of the Examining Authority
AS-425	Julia Rogers Additional Submission. Accepted by the discretion of the Examining Authority
AS-426	Julian Bigg Additional Submission. Accepted at the discretion of the Examining Authority
AS-427	Julie Anderson Additional Submission. Accepted at the discretion of the Examining Authority
AS-428	Julie Phibbs Additional Submission. Accepted by the discretion of the Examining Authority
AS-429	Karen Constantine Additional Submission - Accepted at the discretion of the Examining Authority
AS-430	Kay Norton Additional Submission - Accepted at the discretion of the Examining Authority
AS-431	Keith Ross

	Additional Submission. Accepted at the Discretion of the Examining Authority - Note: Duplicate
AS-432	Keith Ross Additional Submission. Accepted at the Discretion of the Examining Authority
AS-433	Ken Mathews Additional Submission. Accepted by the discretion of the Examining Authority
AS-434	Ken Wraight. Additional Submission - Accepted at the discretion of the Examining Authority
AS-435	Kent County Council Additional Submission - Accepted at the discretion of the Examining Authority
AS-436	Kent County Council Additional Submission - Accepted at the discretion of the Examining Authority
AS-437	Kent Facilities Limited Additional Submission - Accepted at the discretion of the Examining Authority
AS-438	Kim Edgington Additional Submission. Accepted at the discretion of the Examining Authority
AS-439	Kim Edgington on behalf of Residents of Guildford Lawn Additional Submission. Accepted at the discretion of the Examining Authority
AS-440	Kit Jolly Additional Submission. Accepted at the Discretion of the Examining Authority
AS-441	Lara Clifton Additional Submission - Accepted at the discretion of the Examining Authority
AS-442	Laura Lee Additional Submission. Accepted at the Discretion of the Examining Authority

AS-443	Laura Lee Additional Submission. Accepted at the Discretion of the Examining Authority. Note: Duplicate
AS-444	Laura Marks Additional Submission - Accepted at the discretion of the Examining Authority
AS-445	Laura Marks Additional Submission - Accepted at the discretion of the Examining Authority. Note: Duplicate
AS-446	Laurence Guedon-Powers Additional Submission. Accepted at the Discretion of the Examining Authority
AS-447	Lawrence Norton Additional Submission - Accepted at the discretion of the Examining Authority
AS-448	Lee Philips Additional Submission. Accepted at the Discretion of the Examining Authority
AS-449	Lee Philips Additional Submission. Accepted at the Discretion of the Examining Authority. Note: Duplicate
AS-450	Lee Sellman Additional Submission - Accepted at the discretion of the Examining Authority
AS-451	Leonara Shapland Additional Submission - Accepted at the discretion of the Examining Authority
AS-452	Liverpool Lawn and Adelaide Gardens Residents Association Additional Submission. Accepted by the discretion of the Examining Authority
AS-453	Liz Green Additional Submission - Accepted at the discretion of the Examining Authority
AS-454	Lizzie Warner

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-455	Lucy Mills Additional Submission. Accepted at the Discretion of the Examining Authority
AS-456	Lucy Upward Additional Submission. Accepted at the Discretion of the Examining Authority
AS-457	Lynne Wallis Additional Submission. Accepted at the Discretion of the Examining Authority
AS-458	Lynne Wallis Additional Submission. Accepted at the Discretion of the Examining Authority Note: Duplicate
AS-459	Maj Smith Additional Submission. Accepted at the Discretion of the Examining Authority
AS-460	Mandy Hawting Additional Submission. Accepted at the Discretion of the Examining Authority
AS-461	Marc Henry Additional Submission. Accepted at the Discretion of the Examining Authority
AS-462	Marc Phibbs Additional Submission. Accepted at the Discretion of the Examining Authority
AS-463	Marc Ralph Additional Submission - Accepted at the discretion of the Examining Authority
AS-464	Margaret Mabey Additional Submission - Accepted at the discretion of the Examining Authority
AS-465	Margaret Searles Additional Submission. Accepted at the Discretion of the Examining Authority

AS-466	Margaret Symonds Additional Submission. Accepted at the Discretion of the Examining Authority
AS-467	Margarita Moscoso Additional Submission - Accepted at the discretion of the Examining Authority
AS-468	Margot Bandola Additional Submission - Accepted at the discretion of the Examining Authority
AS-469	Marianne Dissard Additional Submission - Accepted at the discretion of the Examining Authority
AS-469	Mariette Castellino Additional Submission. Accepted by the discretion of the Examining Authority
AS-470	Mark Bandola Additional Submission - Accepted at the discretion of the Examining Authority
AS-471	Mark Tilton Additional Submission. Accepted by the discretion of the Examining Authority
AS-472	Martin Duce Additional Submission - Accepted at the discretion of the Examining Authority
AS-473	Martin O'Hara Additional Submission - Accepted at the discretion of the Examining Authority
AS-474	Matt Feekings Additional Submission - Accepted at the discretion of the Examining Authority
AS-475	Matthew Scott Additional Submission - Accepted at the discretion of the Examining Authority
AS-476	Maureen Elliott

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-477	Megan Garrett-Jones Additional Submission - Accepted at the discretion of the Examining Authority
AS-478	Melanie Lee Additional Submission - Accepted at the discretion of the Examining Authority
AS-479	Meredith Cork Additional Submission - Accepted at the discretion of the Examining Authority
AS-480	Michael Bannon Additional Submission. Accepted by the discretion of the Examining Authority
AS-481	Michael J McEvoy Additional Submission. Accepted at the Discretion of the Examining Authority
AS-482	Michael Newth Additional Submission. Accepted at the Discretion of the Examining Authority
AS-483	Michael Newth Additional Submission. Accepted at the Discretion of the Examining Authority Note: Duplicate
AS-484	Michele Gregson Additional Submission. Accepted at the Discretion of the Examining Authority
AS-485	Michelle Meyer-Masterson Additional Submission. Accepted at the Discretion of the Examining Authority
AS-486	Michelle Meyer-Masterson Additional Submission. Accepted at the Discretion of the Examining Authority Note: Duplicate
AS-487	Mike Garner Additional Submission - Accepted at the discretion of the Examining Authority

AS-488	Mike Skerratt Additional Submission - Accepted at the discretion of the Examining Authority
AS-489	Mr and Mrs Mallett Additional Submission - Accepted at the discretion of the Examining Authority
AS-490	Mr and Mrs Robert Kirkum Additional Submission. Accepted at the Discretion of the Examining Authority
AS-491	Mrs Laven Additional Submission. Accepted at the Discretion of the Examining Authority
AS-492	Natasha Hobbins Additional Submission. Accepted at the Discretion of the Examining Authority
AS-493	Nethercourt Action Group Additional Submission - Accepted at the discretion of the Examining Authority
AS-494	Nethercourt Action Group Additional Submission - Accepted at the discretion of the Examining Authority
AS-495	Neville Redvers-Mutton Additional Submission - Accepted at the discretion of the Examining Authority
AS-496	Niall McLaughlin Additional Submission - Accepted at the discretion of the Examining Authority
AS-497	Niamh MacMahon Additional Submission - Accepted at the discretion of the Examining Authority
AS-498	Nicholas Page Additional Submission - Accepted at the discretion of the Examining Authority
AS-499	Nick Cumber

	Additional Submission. Accepted by the discretion of the Examining Authority
AS-500	Nigel Phethean Additional Submission - Accepted at the discretion of the Examining Authority
AS-501	Nikke Hollins Additional Submission - Accepted at the discretion of the Examining Authority
AS-502	Owen Minton Additional Submission - Accepted at the discretion of the Examining Authority
AS-503	Owen Thomas Additional Submission. Accepted at the Discretion of the Examining Authority
AS-504	Pat Makinson Additional Submission - Accepted at the discretion of the Examining Authority
AS-505	Patricia Austin Additional Submission - Accepted at the discretion of the Examining Authority
AS-506	Patricia Cullen Additional Submission - Accepted at the discretion of the Examining Authority
AS-507	Paul Hudson Additional Submission. Accepted by the discretion of the Examining Authority
AS-508	Paul Naudin Additional Submission - Accepted at the discretion of the Examining Authority
AS-509	Peter Batt Additional Submission - Accepted at the discretion of the Examining Authority
AS-510	Peter Binding Additional Submission - Accepted at the discretion of the Examining Authority

AS-511	Peter Binding Additional Submission — Accepted at the discretion of the Examining Authority Note: Duplicate
AS-512	Peter Scott Additional Submission. Accepted by the discretion of the Examining Authority
AS-513	Phil Neale Additional Submission - Accepted at the discretion of the Examining Authority
AS-514	Philip Davies Additional Submission - Accepted at the discretion of the Examining Authority
AS-515	Raushan Rahman Additional Submission. Accepted by the discretion of the Examining Authority
AS-516	Raymond Burns Additional Submission - Accepted at the discretion of the Examining Authority
AS-517	Rebecca Wing Additional Submission - Accepted at the discretion of the Examining Authority
AS-518	Richard Lockwood Additional Submission - Accepted at the discretion of the Examining Authority
AS-519	Richard Ryan Additional Submission. Accepted at the Discretion of the Examining Authority
AS-520	Richard Ryan Additional Submission. Accepted at the Discretion of the Examining Authority Note: Duplicate
AS-521	Rita Burns Additional Submission - Accepted at the discretion of the Examining Authority
AS-522	RiverOak Strategic Partners

	Additional Submission - Accepted at the discretion of the Examining Authority Applicant's Cover Letter for Deadline 12 Submission
AS-523	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority
AS-524	Robert Beattie Additional Submission - Accepted at the discretion of the Examining Authority
AS-525	Robert Newman Additional Submission. Accepted by the discretion of the Examining Authority
AS-526	Robin Hyman Additional Submission - Accepted at the discretion of the Examining Authority
AS-527	Rosie Sutherland Additional Submission. Accepted by the discretion of the Examining Authority
AS-528	Ross Shields Additional Submission - Accepted at the discretion of the Examining Authority
AS-529	Russell White Additional Submission. Accepted by the discretion of the Examining Authority
AS-530	Ruth Baird Additional Submission - Accepted at the discretion of the Examining Authority
AS-531	Ruth Clarke. Additional Submission - Accepted at the discretion of the Examining Authority
AS-532	Sally Smart Additional Submission - Accepted at the discretion of the Examining Authority
AS-533	Sally Tedder Additional Submission - Accepted at the discretion of the Examining Authority

AS-534	Sam Causer Additional Submission. Accepted by the discretion of the Examining Authority
AS-535	Samantha Holmans Additional Submission - Accepted at the discretion of the Examining Authority
AS-536	Samantha Smith Additional Submission - Accepted at the discretion of the Examining Authority
AS-537	Samara Jones-Hall Additional Submission - Accepted at the discretion of the Examining Authority
AS-538	Sarah Duncan Additional Submission - Accepted at the discretion of the Examining Authority
AS-539	Sean Litham Additional Submission - Accepted at the discretion of the Examining Authority
AS-540	Sean Riddington Additional Submission. Accepted at the Discretion of the Examining Authority
AS-541	Shelley Brathwaite Additional Submission - Accepted at the discretion of the Examining Authority
AS-542	Simon Boswell Additional Submission. Accepted by the discretion of the Examining Authority
AS-543	Simon Burbridge Additional Submission - Accepted at the discretion of the Examining Authority
AS-544	Sonja Bigg Additional Submission. Accepted by the discretion of the Examining Authority
AS-545	Sophie Burch

	Additional Submission. Accepted by the discretion of the Examining Authority
AS-546	Sophie Fowler Additional Submission - Accepted at the discretion of the Examining Authority
AS-547	Stacy Keeler Additional Submission. Accepted at the Discretion of the Examining Authority
AS-548	Stephen Davies Additional Submission. Accepted at the Discretion of the Examining Authority
AS-549	Stephen Frost Additional Submission - Accepted at the discretion of the Examining Authority
AS-550	Stephen Frost Additional Submission - Accepted at the discretion of the Examining Authority Note: Duplicate
AS-551	Steve Wheeler Additional Submission. Accepted by the discretion of the Examining Authority
AS-552	Stone Hill Park Ltd Additional Submission - Accepted at the discretion of the Examining Authority
AS-553	Sue Horne Additional Submission - Accepted at the discretion of the Examining Authority
AS-554	Sue Shove - Secretary - Liverpool Lawn and Adeliade Gardens Residents Association Additional Submission. Accepted by the discretion of the Examining Authority
AS-555	Supporters of Manston Airport Additional Submission - Accepted at the discretion of the Examining Authority
AS-556	Suzanne French Additional Submission - Accepted at the discretion of the Examining Authority

AS-557	Suzy Humphries Additional Submission - Accepted at the discretion of the Examining Authority
AS-558	Sylvia Ross Additional Submission. Accepted at the Discretion of the Examining Authority
AS-559	Sylvie Bolioli Additional Submission - Accepted at the discretion of the Examining Authority
AS-560	T McElligot Additional Submission. Accepted at the Discretion of the Examining Authority
AS-561	Thanet Green Party Additional Submission - Accepted at the discretion of the Examining Authority
AS-562	The Ramsgate Society and the Ramsgate Heritage and Design Forum Additional Submission - Accepted at the discretion of the Examining Authority
AS-563	Theresa Smith Additional Submission. Accepted by the discretion of the Examining Authority
AS-564	Tim Spencer Additional Submission - Accepted at the discretion of the Examining Authority
AS-565	Tony Harley Additional Submission - Accepted at the discretion of the Examining Authority
AS-566	Tracey Carpenter Additional Submission - Accepted at the discretion of the Examining Authority
AS-567	Tracey McEvoy Additional Submission. Accepted by the discretion of the Examining Authority
AS-568	Tricia Hartley

	Additional Submission - Accepted at the discretion of the Examining Authority
AS-569	Trudi Sarafoglou Additional Submission - Accepted at the discretion of the Examining Authority
AS-570	Val Whitehouse Additional Submission - Accepted at the discretion of the Examining Authority
AS-571	Veronica Pratt Additional Submission. Accepted by the discretion of the Examining Authority
AS-572	Vivienne Yankah Additional Submission. Accepted at the Discretion of the Examining Authority
AS-573	Wednesday Lyle Additional Submission - Accepted at the discretion of the Examining Authority
AS-574	Xanthe Pitt Additional Submission. Accepted by the discretion of the Examining Authority
AS-575	Ylande Evison Additional Submission - Accepted at the discretion of the Examining Authority
AS-576	Alan Welcome on behalf of No Night Flights Additional Submission - Accepted at the discretion of the Examining Authority
AS-577	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Updated 1.5 Application Document Tracker
AS-578	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Updated 1.5 Application Document Tracker (Tracked)
AS-579	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Revised 2.4 Noise Mitigation Plan

AS-580	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Revised 2.4 Noise Mitigation Plan (Tracked)
AS-581	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Updated 3.3 Book of Reference
AS-582	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Schedule of Changes to Book of Reference
AS-583	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Applicant's s106 obligation in favour of Kent County Council
AS-584	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Applicant's s106 obligation in favour of Thanet District Council
AS-585	RiverOak Strategic Partners Additional Submission - Accepted at the discretion of the Examining Authority Compulsory Acquisition Status Report Final
AS-586	Helix AV Additional Submission - Section 102A response from Helix AV - Accepted at the discretion of the Examining Authority
Events and Hearings	
Preliminary Meeting - 9 January 2019	
EV-001	Preliminary Meeting Note
EV-002	Recording of Preliminary Meeting (PM) - Morning Session Part 1 - 09 January 2019
EV-002a	Recording of Preliminary Meeting (PM) - Afternoon Session - 09 January 2019
EV-002b	Recording of Preliminary Meeting (PM) - Morning Session Part 2 - 09 January 2019
Accompanied Site Visits and Hearings	

EV-003	Accompanied Site Inspection Itinerary Itinerary for the Accompanied Site Inspection to be held on 19 March 2019
EV-004	Note of Unaccompanied Site Inspection - 8 January 2019
Issue Specific Hearing 1 - 10 January 2019	
EV-005	Agenda for Issue Specific Hearing Detailed agenda for Issue Specific Hearing 1 dealing with matters relating to the draft Development Consent Order scheduled for 10 January 2019
EV-006	Recording of Issue Specific Hearing - Morning Session Part 1 Issue Specific hearing relating to the draft Development Consent Order -
EV-006a	Recording of Issue Specific Hearing - Morning Session Part 2 Issue Specific hearing relating to the draft Development Consent Order -
EV-006b	Recording of Issue Specific Hearing - Afternoon Session Part 1 Recording of Hearing Issue Specific Hearing 1 on draft DCO - 10 January
EV-006c	Recording of Issue Specific Hearing 1 - Afternoon Session Part 2
Open Floor Hearing 1 and 2 - 10 / 11 January 2019	
EV-007	Agenda for Opening Floor Hearings
EV-008	Recording of Open Floor Hearing 1 - Evening Session
EV-008a	Recording of Open Floor Hearing 2 - Morning Session Part 1
EV-008b	Recording of Open Floor Hearing - Morning Session Part 2
EV-008c	Recording of Hearing - Open Floor Hearing 2 Afternoon Session
Open Floor 3 and 4, Accompanied Site Inspection, Compulsory Acquisition Hearing 1, Issue Specific Hearing 2 and Issue Specific Hearing 3 – March 22019	
EV-009	Agendas for Open Floor Hearings 3 and 4 Agendas for Open Floor Hearings 3 and 4 scheduled for 3pm and 7pm on 18 March 2019
EV-010	Recording of Open Floor Hearing 3 - Part 1
EV-010a	Recording of Open Floor Hearing 3 - Part 2
EV-010b	Recording of Open Floor Hearing 4 - Part 1
EV-010c	Recording of Open Floor Hearing 4 - Part 2

EV-011	Agenda for Compulsory Acquisition Hearing Detailed agenda for the Compulsory Acquisition Hearing scheduled for 20 March 2019
EV-012	Recording of Compulsory Acquisition Hearing - Part 1
EV-012a	Recording of Compulsory Acquisition Hearing - Part 2
EV-012b	Recording of Compulsory Acquisition Hearing - Part 3
EV-012c	Recording of Compulsory Acquisition Hearing - Part 4
EV-013	Agenda for Issue Specific Hearing 2 Detailed agenda for Issue Specific Hearing 2 dealing with matters relating to need and operation scheduled for 21 March 2019
EV-014	Recording of Issue Specific Hearing 2 - Part 1
EV-014a	Recording of Issue Specific Hearing 2 - Part 2
EV-014b	Recording of Issue Specific Hearing 2 - Part 3
EV-014c	Recording of Issue Specific Hearing 2 - Part 4
EV-015	Agenda for Issue Specific Hearing 3 Detailed agenda for Issue Specific Hearing 3 dealing with matters relating to noise and vibration scheduled for 22 March 2019
EV-016	Recording of Issue Specific Hearing 3 - Part 1
EV-016a	Recording of Issue Specific Hearing 3 - Part 2
EV-016b	Recording of Issue Specific Hearing 3 - Part 3
EV-017	List of documents arising from ISH3 List of documents Interested Parties committed to submit to Deadline 5 in the Examination Timetable
Issue Specific Hearing 4, Compulsory Acquisition Hearing 2, Issue Specific Hearing 5, Issue Specific Haring 6, Issue Specific Hearing 7 and Issue Specific Hearing 8	
EV-018	Agenda for Compulsory Acquisition Hearing 2 Detailed agenda for Compulsory Acquisition Hearing 2 scheduled for 4 June 2019
EV-019	Agenda for Issue Specific Hearing 4 Detailed agenda for Issue Specific Hearing 4 dealing with matters relating to landscape, design, archaeology and heritage scheduled for 3 June 2019
EV-020	Agenda for Issue Specific Hearing 5

	Detailed agenda for Issue Specific Hearing 5 dealing with matters relating to socio-economics scheduled for 5 June 2019
EV-021	Agenda for Issue Specific Hearing 6 Detailed agenda for Issue Specific Hearing 6 dealing with Habitats Regulations, biodiversity and other environmental matters scheduled for 5 June 2019
EV-022	Agenda for Issue Specific Hearing 7 Detailed agenda for Issue Specific Hearing 7 dealing with matters relating to traffic and transport scheduled for 6 June 2019
EV-023	Agenda for Issue Specific Hearing 8 Detailed agenda for Issue Specific Hearing 8 dealing with matters relating to the draft Development Consent Order scheduled for 7 June 2019
EV-024	Recording of Issue Specific Hearing 4 - Part 1 of 2 Recording of Issue Specific Hearing dealing with matters relating to landscape, design, archaeology and heritage – 3 June 2019
EV-024a	Recording of Issue Specific Hearing 4 - Part 2 of 2 Recording of Issue Specific Hearing dealing with matters relating to landscape, design, archaeology and heritage – 3 June 2019
EV-025	Recording of Compulsory Acquisition Hearing 2 - Part 1 of 4
EV-025a	Recording of Compulsory Acquisition Hearing 2 - Part 2 of 4
EV-025b	Recording of Compulsory Acquisition Hearing 2 - Part 3 of 4
EV-025c	Recording of Compulsory Acquisition Hearing 2 - Part 4 of 4
EV-026	Recording of Issue Specific Hearing 5 - Part 1 of 2 Recording of Issue Specific Hearing dealing with matters relating to socio-economic issues– 5 June 2019 (am)
EV-026a	Recording of Issue Specific Hearing 5 - Part 2 of 2 Recording of Issue Specific Hearing dealing with matters relating to socio-economic issues– 5 June 2019 (am)
EV-027	Recording of Issue Specific Hearing 6 - Part 1 of 2 Recording of Issue Specific Hearing dealing with matters relating to Habitats Regulations Assessment, biodiversity and other issues – 5 June 2019 (pm)
EV-027a	Recording of Issue Specific Hearing 6 - Part 2 of 2

	Recording of Issue Specific Hearing dealing with matters relating to Habitats Regulations Assessment, biodiversity and other issues – 5 June 2019 (pm)
EV-028	Recording of Issue Specific Hearing 7 - Part 1 of 4 Recording of Issue Specific Hearing dealing with matters relating to traffic and transport – 6 June 2019
EV-028a	Recording of Issue Specific Hearing 7 - Part 2 of 4 Recording of Issue Specific Hearing dealing with matters relating to traffic and transport – 6 June 2019
EV-028b	Recording of Issue Specific Hearing 7 - Part 3 of 4 Recording of Issue Specific Hearing dealing with matters relating to traffic and transport – 6 June 2019
EV-028c	Recording of Issue Specific Hearing 7 - Part 4 of 4 Recording of Issue Specific Hearing dealing with matters relating to traffic and transport – 6 June 2019
EV-029	Recording of Issue Specific Hearing 8 - Part 1 of 4 Recording of Issue Specific Hearing dealing with matters relating to the draft Development Consent Order – 7 June 2019
EV-029a	Recording of Issue Specific Hearing 8 - Part 2 of 4 Recording of Issue Specific Hearing dealing with matters relating to the draft Development Consent Order – 7 June 2019
EV-029b	Recording of Issue Specific Hearing 8 - Part 3 of 4 Recording of Issue Specific Hearing dealing with matters relating to the draft Development Consent Order – 7 June 2019
EV-029c	Recording of Issue Specific Hearing 8 - Part 4 of 4 Recording of Issue Specific Hearing dealing with matters relating to the draft Development Consent Order – 7 June 2019
EV-030	Action points arising from June 2019 hearings List of action points recorded by the Planning Inspectorate

Representations

Deadline 1

- Relevant material requested by the ExA as specified in Annex F to the Rule 6 letter

- Written summaries of oral submissions put at the Preliminary Meeting or/ and hearings held on 10 and 11 January 2019

REP1-001	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - Cover Letter
REP1-002	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 1.5 Document Tracker (Clean)
REP1-003	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 1.5 Document tracker (Tracked Version)
REP1-004	RiverOak Strategic Partners Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-005	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 2.3 NSIP Justification (Clean version)
REP1-006	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 2.3 NSIP Justification (Tracked version)
REP1-007	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - HRA
REP1-008	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - Environmental Statement 5.2-4 Volume 4
REP1-009	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 5.2-6 Environmental Statement Volume 6 (clean)
REP1-010	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - Environmental Statement 5.2-6 Volume 6 (Tracked Version)
REP1-011	RiverOak Strategic Partners

	Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 5.2-8 Environmental Statement Volume 8
REP1-012	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 5.2-8 Environmental Statement Volume 8 (Tracked version)
REP1-013	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter- 5.2.-12 Environmental Statement Volume 12
REP1-014	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 5.2-12 Environmental Statement Volume 12 (Tracked version)
REP1-015	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 5.2-15 Environmental Statement Volume 15
REP1-016	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 5.2-15 Environmental Statement Volume 15 (tracked version)
REP1-017	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 5.2-25 Environmental Statement Volume 25
REP1-018	RiverOak Strategic Partners Deadline 1 Submission - Material requested by the Examining Authority in Annex F to the Rule 6 letter - 5.2-25 Environmental Statement Volume 25 (tracked changes)
REP1-019	Samara Jones-Hall Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-020	Simon Crow Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-021	Quod on behalf of Stone Hill Park Limited Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019

REP1-022	Quod on behalf of Stone Hill Park Limited Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-023	Quod on behalf of Stone Hill Park Limited Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-024	Save Manston Airport Association Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-025	Save Manston Airport Association Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-026	Save Manston Airport Association Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-027	Save Manston Airport Association Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-028	TG Aviation Limited Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-029	Sam Bambridge Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-030	OAPs against a 24/7 freight hub Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-031	Mark de Pulford Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-032	Residents Against Night Flights Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-033	Richard Card Deadline 1 Submission - under s96 of the Planning Act 2008

REP1-034	Rex Goodban Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-035	Ramsgate Town Council Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-036	Michael Child Deadline 1 Submission - under s96 of the Planning Act 2008
REP1-037	RAF Manston Spitfire & Hurricane Memorial Museum Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-038	John Davison Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-039	Keith C Nicholls Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-040	James Hose Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-041	James Hose Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-042	Ian Hide Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-043	Ian Hide Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-044	Jason Jones-Hall Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-045	Jason Jones-Hall Deadline 1 Submission - under s96 of the Planning Act 2008

REP1-046	Lab-Tools LTD Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-047	Kent Needs Manston Airport Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-048	Laura Marks Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-049	David Green Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-050	Graham Birchall Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-051	Dover District Council Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-052	Deborah Shotton Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019 and submission(s) under s96 of the Planning Act 2008
REP1-053	Dr R Symonds Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-054	Thanet District Council Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-055	Historic England Deadline 1 Submission - under s96 of the Planning Act 2008
REP1-056	Dr Philip Shotton Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019 and submission(s) under s96 of the Planning Act 2008
REP1-057	Dr John Pritchard

	Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-058	Concrete Solutions Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-059	Ann Marie Besley Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
REP1-060	Network Rail Deadline 1 Submission - under s96 of the Planning Act 2008
REP1-061	Adem Mehmet Deadline 1 Submission - under s96 of the Planning Act 2008
REP1-062	Laura Marks Deadline 1 Submission - under s96 of the Planning Act 2008
REP1-063	Chris Lowe Deadline 1 Submission - under s96 of the Planning Act 2008
REP1-064	John Laven Deadline 1 Submission - under s96 of the Planning Act 2008
REP1-065	Judith Castle-Lewis Deadline 1 Submission - under s96 of the Planning Act 2008
REP1-066	Gordon Warren Deadline 1 Submission - Written summary of oral submissions put at Examination events in January 2019
<p>Deadline 2:</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Notification of wish to speak at a Compulsory Acquisition Hearing • Notification of wish to speak at a subsequent Open Floor Hearing • Notification of wish to attend the Accompanied Site Inspection on 19 March 2019 • Notification by Statutory Parties of wish to be considered an Interested Party • Comments on any submissions made to Deadline 1 • Applicant's draft itinerary for the Accompanied Site Inspection to be held on 19 March 2019 	
REP2-001	NATS Safe Guarding Office Deadline 2 Submission - Comments on Deadline 1 Submissions

REP2-002	Ann Burrows Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-003	Ken Wraight Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-004	Ian and Hilary Scott Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-005	Adem Mehmet Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-006	Philip Shotton Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-007	Deborah Shotton Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-008	Sheila M Hayes Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-009	Laura Marks Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-010	Georgina Rooke Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-011	Michael Poulter Deadline 2 Submission - Comments on Deadline 1 Submissions
REP2-012	Five10Twelve Ltd Deadline 2 Submission - Late submission - Comments on Deadline 1 Submissions - accepted at the discretion of the Examining Authority on 8 February 2019
REP2-013	Samara Jones-Hall Late submission for Deadline 2 - Comments on Deadline 1 Submissions - accepted at the discretion of the Examining Authority on 8 February 2019
REP2-014	Samara Jones-Hall Late submission for Deadline 2 (Appendix 1) - Comments on Deadline 1 Submissions - accepted at the discretion of the Examining Authority on 8 February 2019

REP2-015	Samara Jones-Hall Late submission for Deadline 2 (Appendix 2) - Comments on Deadline 1 Submissions - accepted at the discretion of the Examining Authority on 8 February 2019
REP2-016	Samara Jones-Hall Late submission for Deadline 2 (Appendix 3) - Comments on Deadline 1 Submissions - accepted at the discretion of the Examining Authority on 8 February 2019
REP2-017	Defence Infrastructure Organisation Safeguarding Deadline 2 Submission - Comments on Deadline 1 Submissions

Deadline 3:

Deadline for receipt by the ExA of:

- Comments on Relevant Representations (RRs)
- Summaries of all RR's exceeding 1500 words
- Written Representations (WRs)
- Summaries of all WRs exceeding 1500 words
- Local Impact Reports from any Local Authorities
- Initial Statements of Common Ground requested by the ExA
- Responses to the ExA's Written Questions
- An updated version of the Application Document Tracker
- First version of the Compulsory Acquisition Status Report
- An updated Book of Reference
- Applicant's first revised dDCO
- Any further information requested by the ExA under Rule 17 of the Exam Rules

REP3-001	Barry James Deadline 3 Submission - Written Representation
REP3-002	Vince Francis Deadline 3 Submission - Written Representation
REP3-003	Winbourne Martin French Deadline 3 Submission - Written Representation
REP3-004	Trevor Roper Deadline 3 Submission - Written Representation

REP3-005	Tricia Hartley Deadline 3 Submission - Written Representation
REP3-006	RiverOak Strategic Partners Deadline 3 Submission - Compulsory Acquisition Status Report
REP3-007	Way Forward Deadline 3 Submission - Written Representation
REP3-008	The Ramsgate Society Deadline 3 Submission - Written Representation
REP3-009	Tina Brown Deadline 3 Submission - Written Representation
REP3-010	Thanet District Council Deadline 3 Submission - Local Impact Report
REP3-011	Thanet Green Party Deadline 3 Submission - Written Representation
REP3-012	The 250 members of NAG living in Nethercourt Deadline 3 Submission - Written Representation
REP3-013	The Royal Society for the Protection of Birds Deadline 3 Submission - Written Representation
REP3-014	Thanet District Council Deadline 3 Submission - Written Representation
REP3-015	Thomas Norton Deadline 3 Submission - Written Representation
REP3-016	Timothy Bentley Deadline 3 Submission - Written Representation
REP3-017	The Ramsgate Heritage and Design Forum Deadline 3 Submission - Written Representation
REP3-018	Thanet District Council Deadline 3 Submission - Response to Examining Authority's Written Questions
REP3-019	Terence Huckstep Deadline 3 Submission - Written Representation

REP3-020	Stonehill Park Limited Deadline 3 Submission - Summary of Relevant Representations
REP3-021	Simon Crow Deadline 3 Submission - Written Representation
REP3-022	Self-employed against Manston Cargo Hub Deadline 3 Submission - Written Representation
REP3-023	Sheila Bransfield Deadline 3 Submission - Written Representation
REP3-024	Susan and John Hennessy Deadline 3 Submission - Written Representation
REP3-025	Stonehill Park Limited Deadline 3 Submission - Written Representation
REP3-026	Save Manston Airport Association Deadline 3 Submission - SMA members give their support to Manston Airport - Key Videos
REP3-027	Sue Bailey Deadline 3 Submission - Written Representation
REP3-028	Susan Firmin Deadline 3 Submission - Written Representation
REP3-029	Save Manston Airport Association Deadline 3 Submission - SMA members give their support to Manston Airport - Key Texts and Poem
REP3-030	Save Manston Airport Association Deadline 3 Submission - Thanet District Council Aviation Reports
REP3-031	Sue Horne Deadline 3 Submission - Written Representation
REP3-032	Susan Carroll Deadline 3 Submission - Written Representation
REP3-033	Save Manston Airport Association Deadline 3 Submission - Transport Select Committee
REP3-034	Sue Maynard

	Deadline 3 Submission - Written Representation
REP3-035	Save Manston Airport Association Deadline 3 Submission - Examination Agenda - Appendix A - Initial Assessment of Principal Issues – Education
REP3-036	Save Manston Airport Association Deadline 3 Submission - Meeting 2015-02-02
REP3-037	Save Manston Airport Association Deadline 3 Submission - SMA members give their support to Manston Airport - Key Images
REP3-038	Save Manston Airport Association Deadline 3 Submission - Falcon Report and SMA comment
REP3-039	Save Manston Airport Association Deadline 3 Submission - Index Investment, Jobs and Regeneration
REP3-040	Save Manston Airport Association Deadline 3 Submission - Index Investment, Jobs and Regeneration (a)
REP3-041	Save Manston Airport Association Deadline 3 Submission - Estimates of Significance of RSP funding to local economy
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REP4-003	RiverOak Strategic Partners Deadline 4 Submission - Statement of Common Ground between the Applicant and Dover District Council
REP4-004	RiverOak Strategic Partners Deadline 4 Submission - Statement of common Ground between the Applicant and South Eastern Power Networks plc
REP4-005	RiverOak Strategic Partners Deadline 4 Submission - Statement of common Ground between the Applicant and the Environment Agency
REP4-006	RiverOak Strategic Partners Deadline 4 Submission - Statement of Common Ground between the Applicant and The Civil Aviation Authority
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REP4-008	RiverOak Strategic Partners Deadline 4 Submission - Draft Statement of Common Ground between the Applicant and Public Health England
REP4-009	RiverOak Strategic Partners Deadline 4 Submission - Statement of Common Ground between the Applicant and Southern Water
REP4-010	RiverOak Strategic Partners Deadline 4 Submission - Draft Statement of common Ground between the Applicant and Canterbury City Council
REP4-011	RiverOak Strategic Partners Deadline 4 Submission - Draft (not agreed) Statement of Common Ground between the Applicant and British Telecommunications plc
REP4-012	RiverOak Strategic Partners Deadline 4 Submission - Draft (not agreed) Statement of Common Ground between the Applicant and Kent Wildlife Trust
REP4-013	RiverOak Strategic Partners Deadline 4 Submission - Draft (not agreed) Statement of Common Ground between the Applicant and Stone Hill Park
REP4-014	RiverOak Strategic Partners Deadline 4 Submission - Draft Statement of Common Ground between the Applicant and and The Ministry of Defence, Defence Infrastructure Organisation and NATS
REP4-015	RiverOak Strategic Partners Deadline 4 Submission - Draft (not agreed) Statement of Common Ground between the Applicant and Cogent Land LLP
REP4-016	RiverOak Strategic Partners Deadline 4 Submission - Draft (not agreed) Statement of Common Ground between the Applicant and The Ministry of Defence relating to interests other than the HRDF
REP4-017	RiverOak Strategic Partners Deadline 4 Submission - Draft Statement of Common Ground between the Applicant and National Air Traffic Services
REP4-018	RiverOak Strategic Partners Deadline 4 Submission - Ecology Noise Contour Maps
REP4-019	RiverOak Strategic Partners

	Deadline 4 Submission - Draft Written Scheme of Investigation
REP4-020	RiverOak Strategic Partners Deadline 4 Submission - Updated Register of Environmental Actions and Commitments
REP4-021	RiverOak Strategic Partners Deadline 4 Submission - Updated Noise Contour Maps
REP4-022	RiverOak Strategic Partners Deadline 4 Submission - Review of Potential Noise Mitigation Measures
REP4-023	RiverOak Strategic Partners Deadline 4 Submission - Revised Noise Mitigation Plan
REP4-024	RiverOak Strategic Partners Deadline 4 Submission - Design Guide
REP4-025	RiverOak Strategic Partners Deadline 4 Submission - Comments on Written Representations
REP4-026	RiverOak Strategic Partners Deadline 4 Submission - Application Document Tracker (clean)
REP4-027	RiverOak Strategic Partners Deadline 4 Submission - Data on Disability Adjusted Life Years
REP4-028	RiverOak Strategic Partners Deadline 4 Submission - Comments on Local Impact Reports
REP4-029	RiverOak Strategic Partners Deadline 4 Submission - Comments on Responses to First Written Questions
REP4-030	RiverOak Strategic Partners Deadline 4 Submission - Application Document Tracker (tracked)
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REP4-040	Five10Twelve Ltd Deadline 4 Submission - Comments on Responses to Examining Authority's Written Questions - Appendix Section G1-003 Appendices
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REP4-044	Five10Twelve Ltd Deadline 4 Submission - Response to Deadline 4
REP4-045	Five10Twelve Ltd Deadline 4 Submission - Comments on Responses to Examining Authority's Written Questions - Appendix Section G1-CC Planning (listed Buildings and Conservation Areas) Act 1990

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REP4-047	Five10Twelve Ltd Deadline 4 Submission - Comments on Responses to Examining Authority's Written Questions- Appendix Section G1-BB The setting of Heritage Assets
REP4-048	Five10Twelve Ltd Deadline 4 Submission - Comments on the Applicant's Responses to the Examining Authority's First Written Questions submitted for Examination at Deadline 3
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REP4-050	Five10Twelve Ltd Deadline 4 Submission - Comments on Responses to Examining Authority's Written Questions - Appendix Section G1-DD
REP4-051	Five10Twelve Ltd Deadline 4 Submission - Comments on Applicants response to Examining Authority's first written questions (Noise Vibrations)
REP4-052	Five10Twelve Ltd Deadline 4 Submission - Comments on Applicants Response to Examining Authority's first written questions (Socioeconomic)
REP4-053	Five10Twelve Ltd Deadline 4 Submission - Comments on Statement of Common Ground
REP4-054	Five10Twelve Ltd Deadline 4 Submission - Comments on Responses to Examining Authority's Written Questions - Appendix Section G1-016 Appendices
REP4-055	Five10Twelve Ltd Deadline 4 Submission - Comments on Responses to the Examining Authority's Written Questions
REP4-056	No Night Flights Deadline 4 Submission - Comments on Responses to the Examining Authority's Written Questions

REP4-057	Natural England Deadline 4 Submission - comments on the Applicant's responses to the Examining Authority's First written questions
REP4-058	Historic England Deadline 4 Submission - Additional Written Representations
REP4-059	Lab-Tools Ltd Deadline 4 Submission - Comments on the York Report - Travel times
REP4-060	The Ramsgate Society Deadline 4 Submission - Comments on response to the Examining Authority's First Written Questions - Funding
REP4-061	The Ramsgate Society Deadline 4 Submission - Comments on Historic England's Written Representation to the Examining Authority
REP4-062	The Ramsgate Society Deadline 4 Submission - Comments on response to the Examining Authority's First Written Questions - Historic Environment
REP4-063	The Ramsgate Society and The Ramsgate Heritage and Design Forum Deadline 4 Submission - Response to Deadline 4
REP4-064	Stone Hill Park Deadline 4 Submission - Cover Letter
REP4-065	Stone Hill Park Deadline 4 Submission - Annex 1 - Appendix 1 - York Aviation report commenting on the Applicant's responses to the ExA's Written Questions (and supporting appendices A-F)
REP4-066	Stone Hill Park Deadline 4 Submission - Annex 2 - Thanet District Council Response to Statutory Consultation (February 2018)
REP4-067	Stone Hill Park Deadline 4 Submission - Annex 1 - Stone Hill Parks comments on the Applicant's Responses to the Written Questions from the Examining Authority
REP4-068	Stone Hill Park Deadline 4 Submission - Annex 1 - Other Appendices
REP4-069	Save Manston Airport Association

	Deadline 4 Submission - Comments on Written Representation
REP4-070	Adem Mehmet Deadline 4 Submission - Comments on Local Impact Report - Thanet District Council
REP4-071	Adem Mehmet Deadline 4 Submission - Comments on Written Representation
REP4-072	Adem Mehmet Deadline 4 Submission - Comments on Local Impact Reports
REP4-073	Adem Mehmet Deadline 4 Submission - Comments on Responses to Examining Authority's Written Questions
REP4-074	Angela Stevens Deadline 4 Submission - Response to Deadline 4
REP4-075	Angela Stevens Deadline 4 Submission - Deadline 3 Response accepted at the discretion of the Examining Authority for Deadline 4
REP4-076	Barbara Warner Deadline 4 Submission - Response to Deadline 4
REP4-077	Barry James Deadline 4 Submission - Comments on Responses to the Examining Authority's Written Questions
REP4-078	Barry James Deadline 4 Submission - Comments on Responses to the Examining Authority's Written Questions - Appendix 2
REP4-079	Christine Redmond Deadline 4 Submission - Response to Deadline 4
REP4-080	Christine Redmond Deadline 4 Submission - Response to Deadline 4
REP4-081	Cllr Chris Wells Deadline 4 Submission - Response to Deadline 4
REP4-082	Chris Lowe Deadline 4 Submission - Comments on Local Impact Report

REP4-083	David Jasper Deadline 4 Submission - Response to Deadline 4
REP4-084	Dr John Pritchard Deadline 4 Submission - Comments on Written Representations , Local Impact Report and responses to the Examining Authority's Written Questions
REP4-085	Gillian Emans Deadline 4 Submission - Response to Deadline 4
REP4-086	Georgina Rooke Deadline 4 Submission - Comments on Responses to Examining Authority's Written Questions
REP4-087	Jason Jones-Hall Deadline 4 Submission - Video Evidence - Flight Royal Harbour
REP4-088	Jason Jones-Hall Deadline 4 Submission - Video Evidence Flight Southwood
REP4-089	Jason Jones-Hall Deadline 4 Submission - Video Evidence - Flight Southwood 2
REP4-090	Jason Jones-Hall Deadline 4 Submission - Video Evidence - Flight Ramsgate Harbour
REP4-091	Michael Redmond Deadline 4 Submission - Response to Deadline 4
REP4-092	Paul Dawkins Deadline 4 Submission - Comments on Responses to the Examining Authority's Written Questions
REP4-093	Paul e Fay Deadline 4 Submission - Written Representation
REP4-094	Peter Binding Deadline 4 Submission - Comments on Written Representation
REP4-095	Phil Rose Deadline 4 Submission - Response to Deadline 4
REP4-096	Richard Card Deadline 4 Submission - Comments on Written Representations

REP4-097	Richard Card Deadline 4 Submission - Comments on Written Representation - Thanet District Council
REP4-098	Richard Card Deadline 4 Submission - Comments on Written Representation - Kent Police
REP4-099	Samara Jones-Hall Deadline 4 Submission - Final Version of Written Representation Summary
REP4-100	Adem Mehmet Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority
REP4-101	Chris Lowe Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority
REP4-102	Dr John Pritchard Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority - Economic impact of tourism Thanet-2017
REP4-103	Dr John Pritchard Deadline 4 Submission - Late submission accepted at the discretion of the Examining Authority - Cambridge Economic Impact Model 2017
REP4-104	Dr John Pritchard Deadline 4 Submission - Written Submission - Late Submission accepted at the discretion of the Examining Authority
REP4-105	Michael Child Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority
REP4-106	RiverOak Strategic Partners Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority - Revised version of the Statements of Common Ground Status Table
REP4-107	RiverOak Strategic Partners Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority - Revised Noise Mitigation Plan (track changed)
REP4-108	RiverOak Strategic Partners

	Deadline 4 Submission - Late submission accepted at the discretion of the Examining Authority - Updated Register of Environmental Actions and Commitments (tracked changes)
Deadline 5	
Deadline for receipt by the ExA of:	
<ul style="list-style-type: none"> • Written summaries of oral submissions put at any hearings held between 18 and 22 March 2019 • Applicant's second revised dDCO • An updated version of the Application Document Tracker • An updated version of the Compulsory Acquisition Status Report • Comments on any further information requested by the ExA and received to Deadline 4 • Any further information requested by the ExA under Rule 17 of the Exam Rules 	
REP5-001	RiverOak Strategic Partners Deadline 5 Submission - Cover Letter
REP5-002	RiverOak Strategic Partners Deadline 5 Submission - Second Revised 2.1 Draft Development Consent Order
REP5-003	RiverOak Strategic Partners Deadline 5 Submission - Second Revised 2.1 Draft Development Consent Order (Tracked changes)
REP5-004	RiverOak Strategic Partners Deadline 5 Submission - Compulsory Acquisition Status Report
REP5-005	RiverOak Strategic Partners Deadline 5 Submission - Updated Application Document Tracker
REP5-006	RiverOak Strategic Partners Deadline 5 Submission - Updated Application Document Tracker (Tracked)
REP5-006a	RiverOak Strategic Partners Deadline 5 Submission - Revised 2.2 Explanatory Memorandum
REP5-007	RiverOak Strategic Partners Deadline 5 Submission - Revised 2.2 Explanatory Memorandum (Tracked changes)
REP5-008	RiverOak Strategic Partners

	Deadline 5 Submission - Revised Noise Mitigation Plan
REP5-009	RiverOak Strategic Partners Deadline 5 Submission - Revised Noise Mitigation Plan (Tracked changes)
REP5-010	RiverOak Strategic Partners Deadline 5 Submission - Written Summary of Oral Representation - Noise summary and appendices
REP5-011	RiverOak Strategic Partners Deadline 5 Submission - Written Summary of Oral Representation put at Compulsory Acquisition Hearing
REP5-012	RiverOak Strategic Partners Deadline 5 Submission - Revised Transport Assessment
REP5-013	RiverOak Strategic Partners Deadline 5 Submission - Transport Assessment Addendum and Appendices
REP5-014	RiverOak Strategic Partners Deadline 5 Submission - Statement of Common Ground with the Met Office
REP5-015	RiverOak Strategic Partners Deadline 5 Submission - Statement of Common Ground with Natural England
REP5-016	RiverOak Strategic Partners Deadline 5 Submission - Statement of Common Ground with Nemo Link LTD
REP5-017	RiverOak Strategic Partners Deadline 5 Submission - Statement of Common Ground with Public Health England
REP5-018	RiverOak Strategic Partners Deadline 5 Submission - Draft (not agreed) Statement of Common Ground with Thanet District Council
REP5-019	RiverOak Strategic Partners Deadline 5 Submission - Draft (not agreed) Statement of Common Ground with Ministry of Defence
REP5-020	RiverOak Strategic Partners Deadline 5 Submission - Statement of Common Ground with NATS

REP5-021	RiverOak Strategic Partners Deadline 5 Submission - Response to the Examining Authority's Rule 8(3) - Late submission accepted at the discretion of the Examining Authority
REP5-022	RiverOak Strategic Partners Deadline 5 Submission - Response to the Examining Authority's Rule 8(3) - Late submission accepted at the discretion of the Examining Authority
REP5-023	RiverOak Strategic Partners Deadline 5 Submission - Response to the Examining Authority's Rule 8(3) date 03 April 2019 - Late submission accepted at the discretion of the Examining Authority
REP5-024	RiverOak Strategic Partners Deadline 5 Submission - Late submission accepted at the discretion of the Examining Authority - Applicant's Written Summary of Case put Orally Need and Operation Hearing and associated appendices
REP5-025	Thanet District Council Deadline 5 Submission - Note on Noise monitoring stations
REP5-026	Civil Aviation Authority Deadline 5 Submission - Response to Deadline 5
REP5-027	Stone Hill Park Deadline 5 Submission - Cover Letter
REP5-028	Stone Hill Park Deadline 5 Submission - Comments on Applicant's comments on the Written Representation
REP5-029	Stone Hill Park Deadline 5 Submission - Written Summary of Oral Representation - Issue Specific Hearing 21 March 2019
REP5-030	Stone Hill Park Deadline 5 Submission - Written Summary of Oral Representation - Evidence for Compulsory Acquisition Hearing
REP5-031	Stone Hill Park Deadline 5 Submission - Written Summary of Oral Representation - Compulsory Acquisition Hearing 20 March 2019
REP5-032	Stone Hill Park Deadline 5 Submission - Oral Evidence given by York Aviation for Stone Hill Park

REP5-033	Harlaxton Energy Networks Ltd Deadline 5 Submission - Written Summary of Oral Representation
REP5-034	Adem Mehmet Deadline 5 Submission - Response to Deadline 5
REP5-035	Adem Mehmet Deadline 5 Submission - Response to Deadline 5
REP5-036	Adem Mehmet Deadline 5 Submission - Response to Deadline 5
REP5-037	Adem Mehmet Deadline 5 Submission - Response to Deadline 4 Submission
REP5-038	Adem Mehmet Deadline 5 Submission - Response to Funding Statement
REP5-039	Adem Mehmet Deadline 5 Submission - Response to Night Flights
REP5-040	Alan Welcome Deadline 5 Submission - Written Summary of Oral Representation
REP5-041	Alan Welcome Deadline 5 Submission - Suggested Site Visit Location
REP5-042	Andrea Slaughter Deadline 5 Submission - Written Summary of Oral Representation
REP5-043	Angela Stevens Deadline 5 Submission - Written Summary of Oral Representation
REP5-044	Angela Stevens Deadline 5 Submission - Written Summary of Oral Submission
REP5-045	Barbara Warner Deadline 5 Submission - Written Summary of Oral Representation
REP5-046	Barry James Deadline 5 Submission - Transcript of Stone Hill Park and Dr. Sally Dixon Thursday 21st March 2019
REP5-047	Barry James

	Deadline 5 Submission - Response to Deadline 4 Submission - Public Safety Zones
REP5-048	Barry James Deadline 5 Submission - Response to Funding Statement
REP5-049	Barry James Deadline 5 Submission - Response Noise Disturbance
REP5-050	Barry James Deadline 5 Submission - Viability
REP5-051	Chris Lowe Deadline 5 Submission - Written Summary of Oral Representation
REP5-052	Chris Lowe Deadline 5 Submission - Comments on the revised Noise Management Plan
REP5-053	Chris Welch Deadline 5 Submission - Written Summary of Oral Representation
REP5-054	Christabel Bradley Deadline 5 Submission - Written Summary of Oral Representation
REP5-055	Christabel Bradley Deadline 5 Submission - Written Summary of Oral Representation
REP5-056	Christine Redmond Deadline 5 Submission - Written Summary of Oral Submission
REP5-057	Cllr Paul Messenger Deadline 5 Submission - Written Summary of Oral Representation
REP5-058	Cllr Rev. Stuart Piper Deadline 5 Submission - Written Summary of Oral Representation
REP5-059	Cognet Land LLP Deadline 5 Submission - Comments on the Development Consent Order
REP5-060	Cognet Land LLP Deadline 5 Submission - Response to Deadline 5
REP5-061	Cognet Land LLP Deadline 5 Submission - Site Plan

REP5-062	Cognet Land LLP Deadline 5 Submission - Technical Note on Noise
REP5-063	David Drozdowski Deadline 5 Submission - Written Summary of Oral Representation
REP5-064	David Steed Deadline 5 Submission - Response to Deadline 5
REP5-065	David Stevens Deadline 5 Submission - Written Submission of Oral Submission
REP5-066	Deborah Shotton Deadline 5 Submission - Response to Deadline 5
REP5-067	Diana Bourne Deadline 5 Submission - Response to Deadline 5
REP5-068	Dr Philip Shotton Deadline 5 Submission - Response to Deadline 5
REP5-069	Dr R. John Pritchard Deadline 5 Submission - Written Summary of Oral Representation - Late submission accepted at the discretion of the Examining Authority
REP5-070	Dr. Beau Webber Deadline 5 Submission - Written Summary of Oral Representation
REP5-071	Five10Twelve Ltd Deadline 5 Submission - Written Summary of Oral Representation
REP5-072	Five10Twelve Ltd Deadline 5 Submission - Written Summary of Oral Representation
REP5-073	Five10Twelve Ltd Deadline 5 Submission - Written Summary of Oral Representation
REP5-074	Five10Twelve Deadline 5 Submission - Response to Deadline 4 submission
REP5-075	Five10Twelve Deadline 5 Submission - Response to Deadline 4 on Tourism
REP5-076	Gareth Inko Deadline 5 Submission - Comments on Azimuth report

REP5-077	Georgina Rooke Deadline 5 Submission - Written Summary of Oral Representation
REP5-078	Gillian Emans Deadline 5 Submission - Written Summary of Oral Representation
REP5-079	Greg Shapland Deadline 5 Submission - Written Summary of Oral Representation
REP5-080	Hal Holmans-Thomson Deadline 5 Submission - Written Summary of Oral Representation
REP5-081	Harriett Steddy Deadline 5 Submission - Response to Deadline 5
REP5-082	Ian Nicholls Deadline 5 Submission - Written Summary of Oral Representation
REP5-083	Ian W B Hide Deadline 5 Submission - Suggested Accompanied Site Inspection locations
REP5-084	Jackie Marks Deadline 5 Submission - Written Summary of Oral Representation
REP5-085	James Hose Deadline 5 Submission - Written Summary of Oral Representation
REP5-086	James Hose Deadline 5 Submission - Response to Deadline 5
REP5-087	Jane Hetherington Deadline 5 Submission - Written Summary of Oral Representation
REP5-088	Jane Hetherington Deadline 5 Submission - Response to Deadline 5
REP5-089	Janet Davies Deadline 5 Submission - Written Summary of Oral Representation
REP5-090	Jenny Dawes Deadline 5 Submission - Written Summary of Oral Submission
REP5-091	John Davison Deadline 5 Submission - Written Summary of Oral Representation

REP5-092	John Laven Deadline 5 Submission - Written Summary of Oral Representation
REP5-093	Jonathan Bradley Deadline 5 Submission - Comments on Noise
REP5-094	Kenneth Wraight Deadline 5 Submission - Written Summary of Oral Representation
REP5-095	Kent Needs Manston Airport Deadline 5 Submission - Written Summary of Oral Representation
REP5-096	Kent Needs Manston Airport Deadline 5 Submission - Written Summary of Oral Representation - Open Floor Hearing 18 March 2019
REP5-097	Kim Eddington Deadline 5 Submission - Written Summary of Oral Representation
REP5-098	Lab-tools ltd and Save Manston Airport Association Deadline 5 Submission - Written Summary of Oral Representation and evidence
REP5-099	Reference not in use
REP5-100	Laura Marks Deadline 5 Submission - Written Summary of Oral Representation - Open Floor Hearing 18 March 2019
REP5-101	Laura Marks Deadline 5 Submission - Written Summary of Oral Representation 22 March 2019
REP5-102	Margarita Moscoso Deadline 5 Submission - Written Summary of Oral Representation
REP5-103	Mark de Pulford Deadline 5 Submission - Written Summary of Oral Representation
REP5-104	Martin O'Hara Deadline 5 Submission - Written Summary of Oral Representation
REP5-105	Reference not in use
REP5-106	Reference not in use

REP5-107	Reference not in use
REP5-108	Mike Jackson Deadline 5 Submission - Response to Deadline 5
REP5-109	Ms Hubetina Frencken Deadline 5 Submission - Response to Deadline 5
REP5-110	Ms Hubertina Frencken and Plains of Waterloo Community Group Deadline 5 Submission - Written Summary of Oral Representation
REP5-111	Nethercourt Action Group Deadline 5 Submission - Written Summary of Oral Representation
REP5-112	Nigel Phethean Deadline 5 Submission - Response to Deadline 5
REP5-113	Kent Needs Manston Airport Deadline 5 Submission - Written Submission and supporting documentation
REP5-114	No Night Flights Deadline 5 Submission - Written Summary of Oral Representation - Issue Specific Hearing 22 March 2019
REP5-115	Peter Binding Deadline 5 Submission - Response to Funding Statement
REP5-116	Phil Rose Deadline 5 Submission - Written Summary of Oral Representation
REP5-117	Phil Rose Deadline 5 Submission - Response to North Point Aviation Report
REP5-118	Richard Oads Deadline 5 Submission - Written Summary of Oral Representation
REP5-119	Ros McIntyre Deadline 5 Submission - Written Summary of Oral Representation - Open Floor Hearing 18 March 2019
REP5-120	Ros McIntyre Deadline 5 Submission - Written Summary of Oral Representation - Issue Specific Hearing 21 March 2019
REP5-121	Samara Jones-Hall

	Deadline 5 Submission - Letter to the Examining Authority
REP5-122	Samara Jones-Hall Deadline 5 Submission - Written Summary of Oral Representation - Issue Specific Hearing 21 March 2019
REP5-123	Samara Jones-Hall Deadline 5 Submission - Written Summary of Oral Representation - Issue Specific Hearing 22 March 2019
REP5-124	Samara Jones-Hall Deadline 5 Submission - Written Summary of Oral Representation - Open Floor Hearing 2019
REP5-125	Samara Jones-Hall Deadline 5 Submission - Comment on Civil Aviation - Response to the Examining Authority's Written Question (REP3-231)
REP5-126	Samara Jones-Hall Deadline 5 Submission - Comments at Issue Specific Hearing
REP5-127	Samara Jones-Hall Deadline 5 Submission - Review of CPO Indemnity Partner Process for Manston Airport 2015
REP5-128	Samara Jones-Hall Deadline 5 Submission - Response to Deadline 5 - Viability report
REP5-129	Samara Jones-Hall Deadline 5 Submission - Response to Deadline 5 - Local Plan Representations review
REP5-130	Samara Jones-Hall Deadline 5 Submission - Response to Deadline 4 - REP4-025
REP5-131	Samara Jones-Hall Deadline 5 Submission - Inside Amazon's Robotic Fulfilment Centre
REP5-132	Samara Jones-Hall Deadline 5 Submission - Kent Economic Indicators
REP5-133	Samara Jones-Hall Deadline 5 Submission - Transport Committee Oral Evidence
REP5-134	Save Manston Airport Association Deadline 5 Submission - Written Summary of Oral Representation

REP5-135	Shirley Hingely Deadline 5 Submission - Written Summary of Oral Representation
REP5-136	Simon Crow Deadline 5 Submission - Written Summary of Oral Representation
REP5-137	Stevie Andrews Deadline 5 Submission - Written Summary of Oral Representation
REP5-138	Sue Girdler Deadline 5 Submission - Written Summary of Oral Representation
REP5-139	Tracey E McEvoy Deadline 5 Submission - Response to Deadline 5
REP5-140	Trevor Roper Deadline 5 Submission - Written Summary of Oral Representation
REP5-141	Way Forward Deadline 5 Submission - Response to Deadline 5
<p>Deadline 6</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Responses to the ExA's second Written Questions • An updated version of the Application Document Tracker • An updated version of the Compulsory Acquisition Status Report • Comments on any further information requested by the ExA and received to Deadline 5 • Any further information requested by the ExA under Rule 17 of the Exam Rules <p>Issue by the ExA of:</p> <ul style="list-style-type: none"> • Notification of further hearings to be held in the week beginning 3 June 2019 	
REP6-001	RiverOak Strategic Partners Deadline 6 Submission - Applicant's Cover Letter
REP6-002	RiverOak Strategic Partners Deadline 6 Submission - Updated 1.5 Application Document Tracker (Tracked)
REP6-003	RiverOak Strategic Partners

	Deadline 6 Submission - Updated 1.5 Application Document Tracker
REP6-004	RiverOak Strategic Partners Deadline 6 Submission - Compulsory Acquisition Status Report
REP6-005	RiverOak Strategic Partners Deadline 6 Submission - The Manston Airport Development Consent Order
REP6-006	RiverOak Strategic Partners Deadline 6 Submission - Agreed (signed) Statement of Common Ground between the Applicant and Dover District Council
REP6-007	RiverOak Strategic Partners Deadline 6 Submission - Agreed (signed) Statement of Common Ground between the Applicant and the Met Office
REP6-008	RiverOak Strategic Partners Deadline 6 Submission - Draft (not agreed) Statement of Common Ground between the Applicant and the Ministry of Defence (HRDF)
REP6-009	RiverOak Strategic Partners Deadline 6 Submission - Agreed (signed) Statement of Common Ground between the Applicant and NATS
REP6-010	RiverOak Strategic Partners Deadline 6 Submission - Agreed (signed) Statement of Common Ground between the Applicant and Stone Hill Park Limited
REP6-011	RiverOak Strategic Partners Deadline 6 Submission - Agreed (signed) Statement of Common Ground between the Applicant and Thanet District Council
REP6-012	RiverOak Strategic Partners Deadline 6 Submission - Applicant's Answers to Second Written Questions
REP6-013	RiverOak Strategic Partners Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-014	RiverOak Strategic Partners Deadline 6 Submission - Appendices to Answers to Second Written Questions - Late submission accepted at the discretion of the Examining Authority
REP6-015	RiverOak Strategic Partners Deadline 6 Submission - Funding Statement

REP6-015a	RiverOak Strategic Partners Deadline 6 Submission - Funding Statement (Tracked)
REP6-016	RiverOak Strategic Partners Deadline 6 Submission - Addendum to the Environmental Statement (App-033) Chapter 6 Air Quality
REP6-017	RiverOak Strategic Partners Applicant's response to TR.2.1, submitted and published early to facilitate Examination
REP6-018	RiverOak Strategic Partners Deadline 6 Submission - Revised 2.1 Draft Development Consent Order
REP6-019	RiverOak Strategic Partners Deadline 6 Submission - Revised 2.1 Draft Development Consent Order (Tracked)
REP6-020	RiverOak Strategic Partners Deadline 6 Submission - Revised 2.2 Explanatory Memorandum (Tracked)
REP6-020a	RiverOak Strategic Partners Deadline 6 Submission - Revised 2.2 Explanatory Memorandum
REP6-021	RiverOak Strategic Partners Deadline 6 Submission - Revised 2.4 Noise Mitigation Plan
REP6-022	RiverOak Strategic Partners Deadline 6 Submission - Revised 2.4 Noise Mitigation Plan (Tracked)
REP6-023	RiverOak Strategic Partners Deadline 6 Submission - SI Template Validation Report
REP6-024	RiverOak Strategic Partners Deadline 6 Submission - Revised Construction Environment Management Plan (Tracked)
REP6-025	RiverOak Strategic Partners Deadline 6 Submission - Revised Construction Environment Management Plan
REP6-026	RiverOak Strategic Partners Deadline 6 Submission - LVIA Addendum Appendices
REP6-027	RiverOak Strategic Partners

	Deadline 6 Submission - SI Template Validation Report
REP6-028	RiverOak Strategic Partners Deadline 6 Submission - Appendices to Answers to Second Written Questions - Late submission accepted at the discretion of the Examining Authority
REP6-029	Canterbury City Council Deadline 6 Submission - ExA's second Written Questions and requests for information
REP6-030	Defence Infrastructure Organisation Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-031	Dover District Council Deadline 6 Submission - Responses to the ExA's second Written Questions
REP6-032	Environment Agency Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-033	Five10Twelve Ltd Deadline 6 Submission - Appendices - Comments on Applicant's Written Summary case put Orally Need and Operation Hearing
REP6-034	Five10Twelve Ltd Deadline 6 Submission - Job Density Trending Up and Economically Inactive Analysis : From Local Business and Interested Party
REP6-035	Five10Twelve Ltd Deadline 6 Submission - Unemployment Trending Down: From Local Business and Interested Party
REP6-036	Five10Twelve Ltd Deadline 6 Submission - Comments on Applicant's Written Summary of Case Put Orally (Noise Hearing)
REP6-037	Five10Twelve Ltd Deadline 6 Submission - Comments on Applicant's Written Summary of Oral Representation put at Compulsory Hearing (REP05-011) and the ExA Second Written Questions published 5 April 2019
REP6-038	Five10Twelve Ltd Deadline 6 Submission - Comments on Applicant's Written Summary of case put Orally Need and Operation Hearing
REP6-039	Five10Twelve Ltd

	Deadline 6 Submission - Comments on Applicant's Written Summary of Oral Submission (Need and Operations)
REP6-040	Health and Safety Executive Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-041	Highways England Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-042	Historic England Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-043	Historic England Deadline 6 Submission - Response to the ExA's second Written Questions Note: Duplicate
REP6-044	Kent County Council Deadline 6 Submission - Cover letter
REP6-045	Kent County Council Deadline 6 Submission - Response to the ExA's Second Written Questions
REP6-046	Kent County Council Deadline 6 Submission - Response to the ExA's Second Written Questions dealing with Traffic and Transport
REP6-047	NATS Safeguarding Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-048	Natural England Deadline 6 Submission - Response to the ExA's second Written Questions and Comments on the Applicant's responses to Written Representations
REP6-049	No Night Flights Deadline 6 Submission - Responses to the ExA's second Written Questions
REP6-050	No Night Flights Deadline 6 Submission - NNF15 - A critique of RiverOak Strategic Partners' Revised Noise Mitigation Plan
REP6-051	Stone Hill Park Limited Deadline 6 Submission - Covering letter from SHP dated 3 May 2019
REP6-052	Stone Hill Park Limited

	Deadline 6 Submission - SHP's Comments on the Applicant's Written summary of oral submissions put at the Compulsory Acquisition hearing held on 20 March 2019
REP6-053	Stone Hill Park Limited Deadline 6 Submission - SHP responses to the Examining Authority's Second Written Questions
REP6-054	Stone Hill Park Limited Deadline 6 Submission - Email from BDB Pitmans dated 5 April 2019
REP6-055	Stone Hill Park Limited Deadline 6 Submission - SHP's Comments on the Applicant's Written summary of oral submissions put at the Need and Operations hearing held on 21 March 2019 (with accompanying appendices)
REP6-056	Thanet District Council Deadline 6 Submission - Covering Letter
REP6-057	Thanet District Council Deadline 6 Submission - Ricardo Report for Thanet District Council following noise hearing
REP6-058	Thanet District Council Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-059	Vattenfall Wind Power Ltd Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-060	Adem Mehmet Deadline 6 Submission - Comments on the email from BDB Pitmans dated 5 April 2019
REP6-061	Barry James Deadline 6 Submission - Outstanding Issues
REP6-062	Chris Lowe Deadline 6 Submission - Additional Evidence: Planning Act, Air Pollution, Impacts on nature, health benefits of green space
REP6-063	Chris Lowe Deadline 6 Submission - Additional Evidence: Noise
REP6-064	Deborah Shotton Deadline 6 Submission - Response to ExA Request for information
REP6-065	Georgina Rooke

	Deadline 6 Submission - Responses to the ExA's second Written Questions
REP6-066	Jeremy D I Baker Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-067	Ken Wraight Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-068	Peter Binding Deadline 6 Submission - Response to the ExA's second Written Questions
REP6-069	Samara Jones-Hall Deadline 6 Submission - Response To Deadline 5
REP6-070	Five10Twelve Ltd Deadline 6 Submission - Comment in Response to Applicant Cover Letter - Late submission accepted at the discretion of the Examining Authority
<p>Deadline 7</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on responses to the ExA's second Written Questions • Comments on the ExA's dDCO issued on 10 May 2019 • Final Statements of Common Ground requested by the ExA • Comments on any further information requested by the ExA and received to Deadline 6 • Any further information requested by the ExA under Rule 17 of the Exam Rules 	
REP7-001	RiverOak Strategic Partners Deadline 7 Submission - Cover Letter
REP7-002	RiverOak Strategic Partners Deadline 7 Submission - Applicant's Comments on the ExA's dDCO issued on 10 May 2019
REP7-003	RiverOak Strategic Partners Deadline 7 Submission - Draft (not agreed) Statement of Common Ground between the Applicant and Highways England
REP7-004	RiverOak Strategic Partners Deadline 7 Submission - Signed Statement of Common Ground between the Applicant and Kent Wildlife Trust
REP7-005	RiverOak Strategic Partners

	Deadline 7 Submission - Signed statement of Common Ground between the Applicant and Network Rail
REP7-006	Five10Twelve Ltd Deadline 7 Submission - Comments on Applicant's Answers to Second Written Questions
REP7-007	Five10Twelve Ltd Deadline 7 Submission - Comment in Response to REP6-012: Pharmaceuticals Move to Sea Freight which is 80% less expensive than air transport
REP7-008	Five10Twelve Ltd Deadline 7 Submission - Comment on Applicant's Appendices to Answer to SWQ
REP7-009	Five10Twelve Ltd Deadline 7 Submission - Ramsgate Business Survey
REP7-010	Five10Twelve Ltd Deadline 7 Submission - Perceptions of Kent and Top 3 Perceptions per Destination
REP7-011	Five10Twelve Ltd Deadline 7 Submission - Thanet's Visitor Economy Published January 2019
REP7-012	Natural England Deadline 7 Submission - Comments on the Applicant's submissions for Deadline 6
REP7-013	Stone Hill Park Limited Deadline 7 Submission - Cover Letter
REP7-014	Stone Hill Park Limited Deadline 7 Submission - Comments on the Applicant's Response to ExA's Second Written Questions
REP7-015	Stone Hill Park Limited Deadline 7 Submission - Comments on the Applicant's Revised Draft DCO and the ExA's Initial Draft DCO
REP7-016	Thanet District Council Deadline 7 Submission - Comments of the Examining Authority 's (ExA) Initial Draft Development Consent Order (DCO)
REP7-017	Chris Lowe Deadline 7 Submission - Additional Questions for the ExA

REP7-018	Chris Lowe Deadline 7 Submission - Additional Evidence Air Pollution - Late submission accepted at the discretion of the Examining Authority
REP7-019	Georgina Rooke Deadline 7 Submission
Deadline 7a:	
Deadline for receipt by the ExA of:	
<ul style="list-style-type: none"> Responses to ExA's third Written Questions issued on 10 May 2019 	
REP7a-001	RiverOak Strategic Partners Deadline 7a Submission - Applicant's Cover Letter
REP7a-002	RiverOak Strategic Partners Deadline 7a Submission - Applicant's Answers to Third Written Questions
REP7a-003	RiverOak Strategic Partners Deadline 7a Submission- Appendices to Answers to Third Written Questions
REP7a-004	RiverOak Strategic Partners Deadline 7a Submission - Copy of Compulsory Acquisition Status Report
REP7a-005	RiverOak Strategic Partners Deadline 7a Submission - Draft (not agreed) Statement of Common Ground between the Applicant and the Ministry of Defence (HRDF)
REP7a-006	RiverOak Strategic Partners Deadline 7a Submission - Funding Statement
REP7a-007	RiverOak Strategic Partners Deadline 7a Submission - Funding Statement (Tracked)
REP7a-008	RiverOak Strategic Partners Deadline 7a Submission - Revised Construction Environment Management Plan
REP7a-009	RiverOak Strategic Partners Deadline 7a Submission - Revised Construction Environment Management Plan (Tracked)

REP7a-010	RiverOak Strategic Partners Deadline 7a Submission - Schedule of Changes to Book of Reference
REP7a-011	RiverOak Strategic Partners Deadline 7a Submission - SI Template Validation Report
REP7a-012	RiverOak Strategic Partners Deadline 7a Submission - Updated Register of Environmental Actions and Commitments
REP7a-013	RiverOak Strategic Partners Deadline 7a Submission - Updated Register of Environmental Actions and Commitments (Tracked)
REP7a-014	RiverOak Strategic Partners Deadline 7a Submission - Updated Report to Inform the Appropriate Assessment
REP7a-015	RiverOak Strategic Partners Deadline 7a Submission - Updated 1.5 application Document Tracker
REP7a-016	Application Document (tracked) Deadline 7a Submission - Updated 1.5 application Document Tracker (Tracked)
REP7a-017	RiverOak Strategic Partners Deadline 7a Submission - Revised 2.1 Draft Development Consent Order
REP7a-018	RiverOak Strategic Partners Deadline 7a Submission - Revised 2.1 Draft Development Consent Order (Tracked)
REP7a-019	RiverOak Strategic Partners Deadline 7a Submission - Revised 2.2 Explanatory Memorandum
REP7a-020	RiverOak Strategic Partners Deadline 7a Submission - Revised 2.2 Explanatory Memorandum (Tracked)
REP7a-021	RiverOak Strategic Partners Deadline 7a Submission - Revised 2.4 Noise Mitigation Plan
REP7a-022	RiverOak Strategic Partners Deadline 7a Submission - Revised 2.4 Noise Mitigation Plan (Tracked)

REP7a-023	RiverOak Strategic Partners Deadline 7a Submission - Updated 3.3 Book of Reference
REP7a-024	Canterbury City Council Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-025	Defence Infrastructure Organisation Deadline 7a Submission - Manston Site Plan
REP7a-026	Defence Infrastructure Organisation Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-027	Dover District Council Deadline 7a Submission - Late submission accepted at the discretion of the Examining Authority
REP7a-028	Environment Agency Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-029	Five10Twelve Ltd Deadline 7a Submission - Late submission accepted at the discretion of the Examining Authority
REP7a-030	Five10Twelve Ltd Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-031	Highways England Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-032	Historic England Deadline 7a Submission - Responses to ExA's third Written Questions by the Historic Buildings and Monuments Commission for England (Historic England)
REP7a-033	Independent Commission on Civil Aviation Noise Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-034	Kent County Council Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019

REP7a-035	Kent Facilities Limited Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-036	NATS Safeguarding Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-037	Natural England Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-038	No Night Flights Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-039	Public Health England Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-040	RAF Manston Spitfire & Hurricane Memorial Museum Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-041	Save Manston Airport Association Deadline 7a Submission - Late submission accepted at the discretion of the Examining Authority
REP7a-042	Savills on behalf of St John's College Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-043	Southern Gas Networks plc Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-044	Stone Hill Park Limited Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-045	Thanet District Council Deadline 7a Submission - Responses to ExA's third Written Questions issued on 10 May 2019
REP7a-046	Samara Jones-Hall

	Deadline 7a Submission - Late submission accepted at the discretion of the Examining Authority
<p>Deadline 8:</p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Written summaries of oral submissions put at hearings held in week beginning 3 June 2019 • Comments on responses to ExA's third Written Questions received at Deadline 7a • An updated version of the Application Document Tracker • An updated version of the Compulsory Acquisition Status Report • Comments on any further information requested by the ExA and received to Deadline 7 • Any further information requested by the ExA under Rule 17 of the Exam Rules <p>Publication of:</p> <p>The ExA's second dDCO</p>	
REP8-001	RiverOak Strategic Partners Deadline 8 Submission - Cover Letter
REP8-002	RiverOak Strategic Partners Deadline 8 Submission - Updated 1.5 Application Document Tracker
REP8-003	RiverOak Strategic Partners Deadline 8 Submission - Updated 1.5 Application Document Tracker (Tracked)
REP8-004	RiverOak Strategic Partners Deadline 8 Submission - Revised 2.4 Noise Mitigation Plan
REP8-005	RiverOak Strategic Partners Deadline 8 Submission - Revised 2.4 Noise Mitigation Plan (Tracked)
REP8-006	RiverOak Strategic Partners Deadline 8 Submission - Applicant's Section 106 Agreement
REP8-007	RiverOak Strategic Partners Deadline 8 Submission - Applicant's Travel Plan
REP8-008	RiverOak Strategic Partners

	Deadline 8 Submission - Compulsory Acquisition Status Report
REP8-009	RiverOak Strategic Partners Deadline 8 Submission - Design Guide
REP8-010	RiverOak Strategic Partners Deadline 8 Submission - Design Guide (Tracked)
REP8-011	RiverOak Strategic Partners Deadline 8 Submission - Summary of Applicant's Oral Submission at the Compulsory Acquisition Hearing on 4th June 2019 and associated appendices
REP8-012	RiverOak Strategic Partners Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 4
REP8-013	RiverOak Strategic Partners Deadline 8 Submission - Summary of Applicant's Case put Orally at the Socio-Economic Hearing and associated appendices
REP8-014	RiverOak Strategic Partners Deadline 8 Submission - Summary of Applicant's Case put Orally - Landscape, Design, Archaeology and Heritage hearing and associated appendices
REP8-015	RiverOak Strategic Partners Deadline 8 Submission - Summary of Applicant's Case put orally at the Biodiversity and Habitat's Regulations Assessment Hearing and associated appendices
REP8-016	RiverOak Strategic Partners Deadline 8 Submission - Summary of Applicant's case put orally - Draft Development Consent Order Hearing and associated appendices
REP8-017	RiverOak Strategic Partners Deadline 8 Submission - Summary of Applicant's Case put Orally - Traffic and Transport Hearing and associated appendices
REP8-018	RiverOak Strategic Partners Deadline 8 Submission - Updated Register of Environmental Actions and Commitments
REP8-019	RiverOak Strategic Partners Deadline 8 Submission - Updated Register of Environmental Actions and Commitments (Tracked)

REP8-020	RiverOak Strategic Partners Deadline 8 Submission - Air Quality Road Traffic Model Inputs
REP8-021	RiverOak Strategic Partners Deadline 8 Submission - Manston Noise and AQ Flows - KCC MODEL Year 2
REP8-022	RiverOak Strategic Partners Deadline 8 Submission - Road Traffic Model Inputs
REP8-023	RiverOak Strategic Partners Deadline 8 Submission - Noises and Air Quality Traffic Flows - KCC Model
REP8-024	RiverOak Strategic Partners Late submission for Deadline 8 – Junction capacity models and Road Safety Audits omitted from Appendix ISH7-44 in 'Summary of Applicant's Case put Orally - Traffic and Transport hearing and associated appendices'
REP8-025	Defence Infrastructure Organisation Deadline 8 Submission - Written summary of oral representations put at Compulsory Acquisition Hearing 2
REP8-026	Historic England Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 4
REP8-027	Kent County Council Deadline 8 Submission - Comments on responses to ExA's Third Written Questions
REP8-028	Natural England Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6
REP8-029	Thanet District Council Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 4,5,6,7 and 8
REP8-030	Stone Hill Park Limited Deadline 8 Submission - Written summary of oral representations put at Compulsory Acquisition Hearing 2
REP8-031	Stone Hill Park Limited Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 5

REP8-032	Stone Hill Park Limited Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6
REP8-033	Stone Hill Park Limited Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 8
REP8-034	Stone Hill Park Limited Deadline 8 Submission - Published early to facilitate Examination - Written summary of oral submissions put at Issue Specific Hearing 8 (dDCO)
REP8-035	Stone Hill Park Limited Deadline 8 Submission - Comments on responses to ExA's Third Written Questions
REP8-036	Stone Hill Park Limited Deadline 8 Submission - Appendix 3.1 -Stansted 106
REP8-037	Adem Mehmet Deadline 8 Submission - Other written submission
REP8-038	Adem Mehmet Deadline 8 Submission - under s96 of the Planning Act 2008
REP8-039	Adem Mehmet Deadline 8 Submission - Other written submission
REP8-040	Alan Welcome Deadline 8 Submission - Other written submission
REP8-041	Andrew Hollins Deadline 8 Submission - Other written submission
REP8-042	Angela Stevens Deadline 8 Submission - Other written submission
REP8-043	Angela Stevens Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6
REP8-044	Barry James Deadline 8 Submission - Other written submission
REP8-045	Cathy Rogers

	Deadline 8 Submission - Comments on responses to ExA's Third Written Questions
REP8-046	Ceri Diffley Deadline 8 Submission - Other written submission
REP8-047	Ceri Diffley Deadline 8 Submission - Other written submission
REP8-048	David Stevens Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 5
REP8-049	David Stevens Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 4
REP8-050	Deborah Shotton Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6
REP8-051	Deborah Shotton Deadline 8 Submission - Other written submission
REP8-052	Deborah Shotton Deadline 8 Submission - Other written submission
REP8-053	Dr Philip Shotton Deadline 8 Submission - Comments on responses to ExA's Third Written Questions
REP8-054	Dr Philip Shotton Deadline 8 Submission - Comments on responses to ExA's Third Written Questions
REP8-055	Dr R. John Pritchard Deadline 8 Submission - Other written submission
REP8-056	Dr R. John Pritchard Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 8
REP8-057	Dr R. John Pritchard Deadline 8 Submission - Other written submission
REP8-058	Dr Rebecca Gordon-Nesbitt

	Deadline 8 Submission - Comments on responses to ExA's Third Written Questions
REP8-059	Elaine Wildash Deadline 8 Submission - Other written submission
REP8-060	Five10Twelve Ltd Deadline 8 Submission - Written summary of oral representations put at Compulsory Acquisition Hearing 2
REP8-061	Five10Twelve Ltd Deadline 8 Submission - Written summary of oral representations put at Compulsory Acquisition Hearing 2 - Late submission accepted at the discretion of the Examining Authority
REP8-062	Five10Twelve Ltd Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6 - Late submission accepted at the discretion of the Examining Authority
REP8-063	Five10Twelve Ltd Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6
REP8-064	Georgina Rooke Deadline 8 Submission - Funding Early Submission
REP8-065	Greyfriars Investments Ltd Deadline 8 Submission - Other written submission
REP8-066	Hilary Scott Deadline 8 Submission - Other written submission
REP8-067	Ian Scott Deadline 8 Submission - Other written submission
REP8-068	Iceni Projects on behalf of Cogent Land LLP Deadline 8 Submission - Written summary of oral representations put at Compulsory Acquisition Hearing 2 and Issue Specific Hearing 5 and 6
REP8-069	James Hose Deadline 8 Submission - Other written submission
REP8-070	James Hose Deadline 8 Submission - Other written submission
REP8-071	James Hose

	Deadline 8 Submission - Other written submission
REP8-072	James Hose Deadline 8 Submission - Other written submission
REP8-073	James Hose Deadline 8 Submission - Other written submission
REP8-074	Jeremy D I Baker Deadline 8 Submission - under s96 of the Planning Act 2008
REP8-075	Ken Wraight Deadline 8 Submission - Written summary of oral representations put at Compulsory Acquisition Hearing 2
REP8-076	Kent Needs Manston Airport Deadline 8 Submission - Other written submission
REP8-077	Lab-Tools Ltd Deadline 8 Submission - Other written submission
REP8-078	Laura Marks Deadline 8 Submission - Comments on responses to ExA's Third Written Questions
REP8-079	Liz Langston Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6
REP8-080	Ms Hubetina Frencken Deadline 8 Submission - Other written submission
REP8-081	Ms Hubetina Frencken Deadline 8 Submission - Other written submission
REP8-082	No Night Flights Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 5
REP8-083	No Night Flights Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6
REP8-084	No Night Flights Deadline 8 Submission - Written summary of oral representations put at Compulsory Acquisition Hearing 2

REP8-085	No Night Flights Deadline 8 Submission - Written summary of oral representations put at Compulsory Acquisition Hearing 2
REP8-086	Norman Winbourne Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 8
REP8-087	Peter Binding Deadline 8 Submission - Other written submission
REP8-088	Philip Shotton Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 7
REP8-089	Rita Burns Deadline 8 Submission - Other written submission
REP8-090	Save Manston Airport Association Deadline 8 Submission - Other written submission
REP8-091	Save Manston Airport Association Deadline 8 Submission - Other written submission
REP8-092	Save Manston Airport Association Deadline 8 Submission - Other written submission
REP8-093	Save Manston Airport Association Deadline 8 Submission - Other written submission
REP8-094	Thomas Norton Deadline 8 Submission - Other written submission
REP8-095	Trevor Roper Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 6
REP8-096	Tricia Hartley Deadline 8 Submission - Other written submission
REP8-097	Unrepresented Thanet residents against a cargo-hub Deadline 8 Submission - Other written submission
REP8-098	Winbourne Martin French

	Deadline 8 Submission - Written summary of oral representations put at Issue Specific Hearing 8
<p>Deadline 9:</p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Responses to the ExA's Fourth Written Questions • Comments on ExA's second dDCO issued on 14 June 2019 • Comments on any further information requested by the ExA and received to Deadline 8 • Any further information requested by the ExA under Rule 17 of the Exam Rules 	
REP9-001	RiverOak Strategic Partners Deadline 9 Submission - Cover Letter
REP9-002	RiverOak Strategic Partners Deadline 9 Submission - Applicant's Comments on the ExA's dDCO issued on 14 June 2019
REP9-003	RiverOak Strategic Partners Deadline 9 Submission - Applicant's Section 106 Agreement
REP9-004	RiverOak Strategic Partners Deadline 9 Submission - Applicant's Section 106 Agreement (Tracked)
REP9-005	RiverOak Strategic Partners Deadline 9 Submission - Revised Surface Access Strategy
REP9-006	RiverOak Strategic Partners Deadline 9 Submission - Applicant's Answers to Fourth Written Questions - Responses to questions ND.4.18 and ND.4.22 were late submissions accepted at the discretion of the Examining Authority
REP9-007	RiverOak Strategic Partners Deadline 9 Submission - Revised Car Parking Management Strategy
REP9-008	RiverOak Strategic Partners Deadline 9 Submission - Archaeological Written Scheme of Investigation
REP9-009	RiverOak Strategic Partners Deadline 9 Submission - Archaeological Written Scheme of Investigation (Tracked)

REP9-010	RiverOak Strategic Partners Deadline 9 Submission - Appendices to Answer to Fourth Written Questions - Appendix TR.4.29ii and Appendix TR.4.31 were late submissions accepted at the discretion of the Examining Authority
REP9-011	RiverOak Strategic Partners Deadline 9 Submission - Operational Environment Management Plan
REP9-012	RiverOak Strategic Partners Deadline 9 Submission - Updated 1.5 Application Document Tracker
REP9-013	RiverOak Strategic Partners Deadline 9 Submission - Updated 1.5 Application Document Tracker (Tracked)
REP9-014	RiverOak Strategic Partners Deadline 9 Submission - Revised 2.4 Noise Mitigation Plan
REP9-015	RiverOak Strategic Partners Deadline 9 Submission - Revised 2.4 Noise Mitigation Plan (Tracked)
REP9-016	RiverOak Strategic Partners Deadline 9 Submission - Revised Travel Plan
REP9-017	RiverOak Strategic Partners Deadline 9 Submission - Revised Construction Environment Management Plan
REP9-018	RiverOak Strategic Partners Deadline 9 Submission - Revised Construction Environment Management Plan (Tracked)
REP9-019	Defence Infrastructure Organisation Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-020	Evershed Sutherland (International) LLP on behalf of Network Rail Infrastructure Limited Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-021	Highways England Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-022	Historic England Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-023	Kent County Council

	Deadline 9 Submission - Late submission accepted at the discretion of the Examining Authority - Appendices to the Responses to the ExA's Fourth Written Questions
REP9-024	Kent County Council Deadline 9 Submission - Late submission accepted at the discretion of the Examining Authority
REP9-025	Natural England Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-026	Thanet District Council Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-027	Thanet Green Party Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-028	Aaron Oldale Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-029	Adem Mehmet Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-030	Adem Mehmet Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-031	Alan Welcome Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-032	Angela Stevens Deadline 9 Submission - Comments on ExA's second dDCO issued on 14 June 2019
REP9-033	Anne Marie Nixey Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-034	Antoinette Girdler Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-035	Antony Harley Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-036	Barbara Warner

	Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-037	Barry James Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-038	Barry James Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-039	Barry James Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-040	Barry James Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-041	Brenda Chubb Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-042	Cathy Rogers Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-043	Ceri Diffley Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-044	Chris Bromley Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-045	Chris Lowe Deadline 9 Submission - Late submission accepted at the discretion of the Examining Authority
REP9-046	Chris Lowe Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-047	Christabel and Jonathan Bradley Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-048	Christine Istead Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-049	Christine Retallick Deadline 9 Submission - Responses to the ExA's Fourth Written Questions

REP9-050	Col Longmore Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-051	Commuters Against The Cargo Hub Deadline 9 Submission - Late submission accepted at the discretion of the Examining Authority - Video files provided in support of this submission could not be published for GDPR reasons
REP9-052	Davena Green Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-053	David Stevens Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-054	Denis and Michele Booth Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-055	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-056	Five10Twelve Ltd Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-057	Five10Twelve Ltd Deadline 9 Submission - Comments on ExA's second dDCO issued on 14 June 2019
REP9-058	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-059	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-060	Five10Twelve Ltd Deadline 9 Submission - Late submission accepted at the discretion of the Examining Authority
REP9-061	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-062	Five10Twelve Ltd

	Deadline 9 Submission - Late submission accepted at the discretion of the Examining Authority
REP9-063	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-064	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-065	Five10Twelve Ltd Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-066	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-067	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-068	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-069	Five10Twelve Ltd Deadline 9 Submission - Comments on ExA's second dDCO issued on 14 June 2019
REP9-070	Five10Twelve Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-071	Five10Twelve Ltd Deadline 9 Submission - Comments on ExA's second dDCO issued on 14 June 2019
REP9-072	Georgina Rooke Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-073	Grant Duncan Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-074	Iceni Projects Limited on behalf of Cogent Land LLP Deadline 9 Submission - Responses to the ExA's Fourth Written Questions

REP9-075	James Chappell Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-076	Jane Hetherington Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-077	Jane Roberts Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-078	Janet Davies Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-079	Jenny Dawes Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-080	John and Susan Hennessy Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-081	John Gordon Sencicle Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-082	John Knight Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-083	Jonathan Fowler Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-084	Karen Roper Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-085	Kenneth Wraight Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-086	Kent Needs Manston Airport Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-087	Kirrien Wilson Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-088	Lab-Tools Ltd Deadline 9 Submission - Responses to the ExA's Fourth Written Questions

REP9-089	Laura Marks Deadline 9 Submission - Comments on ExA's second dDCO issued on 14 June 2019
REP9-090	Laura Marks Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-091	Laurie and Martin Hudson , Geoff Booth Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-092	Len Chubb Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-093	Leslie Bell Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-094	Liam Coyle Deadline 9 Submission - Comments on ExA's second dDCO issued on 14 June 2019
REP9-095	Liam Coyle Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-096	Malcolm Kirkaldie Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-097	Manston Airport Fair Noise Insulation Compensation (MAFNIC) Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-098	Margaret Nicholls Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-099	Margaret Sole Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-100	Margot Bandola Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-101	Mariette Castellino Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-102	Mariette Castellino Deadline 9 Submission - Responses to the ExA's Fourth Written Questions

REP9-103	Melinda Winter Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-104	Mike Jackson Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-105	Mike Poulter Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-106	Mr Lee Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-107	Mr Michael Redmond and Mrs Christine Redmond Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-108	Mrs Gillian Emans and Mr Dennis Flint Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-109	Ms Hubetina Frencken Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-110	Ms Hubetina Frencken Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-111	Nethercourt Action Group Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-112	No Night Flights Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-113	No Night Flights Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-114	No Night Flights Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-115	Paul Tobin Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-116	Peter Quintmere Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-117	Professor Michael Grantham

	Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-118	Ramsgate Town Team Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-119	Raymond Burns Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-120	Residents Against Night Flights Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-121	Rita Burns Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-122	Roger and Ann Price Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-123	Sally Smart Deadline 9 Submission - Late submission accepted at the discretion of the Examining Authority
REP9-124	Samantha Smith Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-125	Sarah Duncan Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-126	Save Manston Airport Association Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-127	Save Manston Airport Association Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-128	Sophie Fowler Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-129	Stone Hill Park Limited Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-130	Stone Hill Park Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-131	Stone Hill Park Ltd

	Deadline 9 Submission - Comments on ExA's second dDCO issued on 14 June 2019
REP9-132	Stone Hill Park Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-133	Stone Hill Park Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-134	Stone Hill Park Ltd Deadline 9 Submission - Comments on any further information requested by the ExA and received to Deadline 8
REP9-135	Sue Shove Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-136	Susan Kennedy Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-137	Susan Kennedy Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-138	Susan Kennedy Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-139	Susan Kennedy Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-140	Tricia Hartley Deadline 9 Submission - Responses to the ExA's Fourth Written Questions
REP9-141	William Cummins Deadline 9 Submission - Responses to the ExA's Fourth Written Questions

Deadline 10:

Deadline for receipt by ExA of:

- **Comments on the RIES**
- **An updated version of the Application Document Tracker**
- **An updated version of the Compulsory Acquisition Status Report**

<ul style="list-style-type: none"> • Any further information requested by the ExA under Rule 17 of the Exam Rules • Comments on any further information requested by the ExA and received to Deadline 9 	
REP10-001	RiverOak Strategic Partners Deadline 10 Submission - Cover Letter
REP10-002	RiverOak Strategic Partners Deadline 10 Submission - Applicant's Comments on the RIES
REP10-003	RiverOak Strategic Partners Deadline 10 Submission - Applicant's Appendix 1.4
REP10-004	RiverOak Strategic Partners Deadline 10 Submission - Updated 1.5 Application Document Tracker
REP10-005	RiverOak Strategic Partners Deadline 10 Submission - Updated 1.5 Application Document Tracker (Tracked)
REP10-006	RiverOak Strategic Partners Deadline 10 Submission - Compulsory Acquisition Status Report
REP10-007	Natural England Deadline 10 Submission - Comments on the Report on the Implications for European Sites (RIES)
Deadline 11: Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Comments on responses to the ExA's Fourth Written Questions received at Deadline 9 • Any further information requested by the ExA under Rule 17 of the Exam Rules • Comments on any further information requested by the ExA and received to Deadline 10 	
REP11-001	RiverOak Strategic Partners Deadline 11 Submission - Cover Letter
REP11-002	RiverOak Strategic Partners Deadline 11 Submission - Applicant's Answers to Fifth Written Questions

REP11-003	RiverOak Strategic Partners Deadline 11 Submission - Appendices to Answers to Fifth Written Questions
REP11-004	RiverOak Strategic Partners Deadline 11 Submission - Compulsory Acquisition Status Report
REP11-005	RiverOak Strategic Partners Deadline 11 Submission - Updated 1.5 Application Document Tracker
REP11-006	RiverOak Strategic Partners Deadline 11 Submission - Updated 1.5 Application Document Tracker (Tracked)
REP11-007	RiverOak Strategic Partners Deadline 11 Submission - Update on Relocation of HRDF
REP11-008	RiverOak Strategic Partners Deadline 11 Submission - Updated register of Environmental Actions and Commitments
REP11-009	RiverOak Strategic Partners Deadline 11 Submission - Updated register of Environmental Actions and Commitments (Tracked)
REP11-010	RiverOak Strategic Partners Deadline 11 Submission - Applicant's Draft Section 106 Agreement
REP11-011	RiverOak Strategic Partners Deadline 11 Submission - Applicant's Draft Section 106 Agreement (Tracked)
REP11-012	RiverOak Strategic Partners Deadline 11 Submission - Public Rights of Way Management Strategy
REP11-013	RiverOak Strategic Partners Deadline 11 Submission - Applicant's Overall Summary of Need Case
REP11-014	RiverOak Strategic Partners Deadline 11 Submission - Applicant's Overall Summary of Case
REP11-015	RiverOak Strategic Partners Deadline 11 Submission - 4.2 Land Plans
REP11-016	Historic England

	Deadline 11 Submission
REP11-017	Kent County Council Deadline 11 Submission - Responses to the Examining Authority's Fifth Written Questions - Late submission accepted at the discretion of the Examining Authority
REP11-018	Kent County Council Deadline 11 Submission - Comments on the Applicant's response to the Fourth Written Questions received at Deadline 9 and on further information requested by the Examining Authority and received to Deadline 10 - Late submission accepted at the discretion of the Examining Authority
REP11-019	Kent County Council Deadline 11 Submission - draft Section 106 Agreement between the RiverOak Fuels Limited, Thanet District Council and Kent County Council with comments from Kent County Council - published early to facilitate the Examination
REP11-020	Adem Mehmet Deadline 11 Submission - Responses to the ExA's Fifth Written Questions
REP11-021	Andy Ball and Eudu De Oliveira Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-022	Anne Marie Nixey Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-023	Barry James Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-024	Barry James Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-025	Chris Lowe Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-026	Chris Lowe Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9

REP11-027	Commuters Against the Cargo Hub Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-028	Diane Heath Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-029	Five10Twelve Ltd Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-030	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10
REP11-031	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10
REP11-032	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10 - Compulsory Acquisition Status Reports
REP11-033	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-034	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-035	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10 - Revised Construction Environment Management Plan and Register of Environmental Actions
REP11-036	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10 - Register of Environmental Actions, Socio-economic- Tourism
REP11-037	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10

REP11-038	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10
REP11-039	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10
REP11-040	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10 - All People - Economically Active - Unemployed (Model Based) Thanet
REP11-041	Five10Twelve Ltd Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-042	Five10Twelve Ltd Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 10 - Thanet District Council Local Impact Report and Additional Evidence
REP11-043	Georgina Rooke Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-044	Grant Duncan Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-045	Greg Shapland Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-046	James Chappell Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-047	Jane Hetherington Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-048	Jean and David Mancini Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9

REP11-049	Kim Edgington Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-050	Laurie Hudson Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-051	Lesley West Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-052	Malcolm Kirkaldie Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-053	Mariette Castellino Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-054	Ms Hubetina Frencken Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-055	No Night Flights Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-056	No Night Flights Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-057	No Night Flights Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-058	No Night Flights Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-059	Penelope Warn Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-060	RAF Manston History Museum Deadline 11 Submission - Responses to the ExA's Fifth Written Questions

REP11-061	RAF Manston Spitfire & Hurricane Memorial Museum Deadline 11 Submission - Responses to the ExA's Fifth Written Questions
REP11-062	Residents Against Night Flights Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-063	Rita Burns Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-064	Stone Hill Park Limited Deadline 11 Submission - Responses to the ExA's Fifth Written Questions
REP11-065	Sue Shove Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-066	Susan Carroll Deadline 11 Submission - Late submission accepted at the discretion of the Examining Authority
REP11-067	Susan Kennedy Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-068	The Ramsgate Society Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
REP11-069	The Ramsgate Society and the Ramsgate Heritage and Design Forum Deadline 11 Submission - Responses to the ExA's Fifth Written Questions
REP11-070	York Aviation LLP Deadline 11 Submission - Comments on any further information requested by the ExA and received to Deadline 9
Other Documents	
OD-001	Manston Airport Regulation 24 Transboundary Screening Document
OD-002	Appointment of the Examining Authority
OD-003	RiverOak Strategic Partners Ltd Section 56 Notice

TR020002 Manston Airport Relevant Representations Library**29 November 2018**

This library is a definitive record of the Relevant Representations received between 3 September 2018 and 8 October 2018. It has been prepared to assist navigation of the core Examination Library, available here: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020002/TR020002-002558-Manston%20Examination%20Library%20Template.pdf>

Ref	Interested Party
RR-0001	Alan Church
RR-0002	A Burton
RR-0003	A J Whiting
RR-0004	A Pittaway
RR-0005	A Taylor
RR-0006	Abigail Beattie
RR-0007	Adam Coney
RR-0008	Adam Rogers
RR-0009	Adem Mehmet
RR-0010	Adrian C. Williams
RR-0011	Adrian Clewley
RR-0012	Adrian Dowling
RR-0013	Adrian Foad
RR-0014	Adrian Hilton
RR-0015	Adrian Mason
RR-0016	Adrienne Ayres
RR-0017	Ailsa Ogilvie
RR-0018	Ala Osmond
RR-0019	Alan Ashby
RR-0020	Alan Barker
RR-0021	Alan Currie
RR-0022	Alan Lee
RR-0023	Alan Michael Stuart
RR-0024	Alan Micheal Dray
RR-0025	Alan Poole
RR-0026	Alan Porter
RR-0027	Alan Razzell
RR-0028	Alan Richard Clark
RR-0029	Alan Roberts
RR-0030	Alan Welcome
RR-0031	Alan West
RR-0032	Alasdair Ogilvie
RR-0033	Albert Journo
RR-0034	Albion House Hotel, Ramsgate

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RR-0035	Rob Kenyon on behalf of Albion Place Heritage
RR-0036	Alec Anthony
RR-0037	Alec Hall
RR-0038	Alec Pettet
RR-0039	Alex Alexandrou
RR-0040	Alex Docherty
RR-0041	Alex Roper
RR-0042	Alex Watson
RR-0043	Alex Wells
RR-0044	Alexander Hay
RR-0045	Alexander Sarafoglou
RR-0046	Alexandra C. Sutton
RR-0047	Alexandra Dwarka
RR-0048	Alexandra Gale
RR-0049	Alfred Day
RR-0050	Alison Austin
RR-0051	Alison Bates
RR-0052	Alison Carty
RR-0053	Alison Humphry
RR-0054	Alison Jane Wilby
RR-0055	Alison Jones
RR-0056	Allan C Vincer
RR-0057	Allan Clifford
RR-0058	Allan Jones
RR-0059	Allan Rogers
RR-0060	Allan Tudor
RR-0061	Allan Winkworth
RR-0062	Allison Elizabeth Coe
RR-0063	Allison Murdoch
RR-0064	Amanda De Pulford
RR-0065	Amanda Mepham
RR-0066	Amanda Woolcott
RR-0067	Amelia Clover
RR-0068	Amie Miles
RR-0069	Amy Booth
RR-0070	Anatole Franklin
RR-0071	Andrew Quinn
RR-0072	Andre Hessler
RR-0073	Andrea Slaughter
RR-0074	Andrew Allen
RR-0075	Andrew Blaydes
RR-0076	Andrew Brown
RR-0077	Andrew Davies
RR-0078	Andrew Doughty
RR-0079	Andrew Gibson
RR-0080	Andrew Hodder
RR-0081	Andrew Hollins

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RR-0082	Andrew Hopper
RR-0083	Andrew Hurst
RR-0084	Andrew Joynes
RR-0085	Andrew Kane
RR-0086	Andrew Kelly
RR-0087	Andrew Kettle
RR-0088	Andrew Langsmead
RR-0089	Andrew Local
RR-0090	Andrew McCulloch
RR-0091	Andrew Phillips
RR-0092	Andrew Reynolds
RR-0093	Andrew Shilling
RR-0094	Andrew Skinner
RR-0095	Andrew Somers
RR-0096	Andrew Spencer-Jones
RR-0097	Andrew Wilby
RR-0098	Andrew William Flett
RR-0099	Andrew Wilson
RR-0100	Andy Ball
RR-0101	Andy Butler
RR-0102	Andy Harvey
RR-0103	Andy Latham
RR-0104	Anette Redvers-Mutton
RR-0105	Angela Braybrook
RR-0106	Angela O
RR-0107	Angela Pavey
RR-0108	Angela Self
RR-0109	Angela Stevens
RR-0110	Angela Sutton
RR-0111	Angela Tighe
RR-0112	Anita Rothermel
RR-0113	Ann Hermitage
RR-0114	Ann Marie Belsey
RR-0115	Ann Mary Lister on behalf of The Lister Household
RR-0116	Ann Morrissey
RR-0117	Ann Smith
RR-0118	Ann Stanton
RR-0119	Anna Alward
RR-0120	Anna Anderson
RR-0121	Anna Bitelli-Charles
RR-0122	Anna Blasiak
RR-0123	Anna Curtis
RR-0124	Anna MacFarlan
RR-0125	Anna Nerilli
RR-0126	Annabel Spicer
RR-0127	Anne Belworthy
RR-0128	Anne Doucet

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RR-0129	Anne Fallis
RR-0130	Anne Hancox
RR-0131	Anne Moloney
RR-0132	Anne Peers
RR-0133	Anne Pittaway
RR-0134	Anne Ward
RR-0135	Anne-Louise McArthur
RR-0136	Anne-Marie Le Roy
RR-0137	Anne-Marie Nixey
RR-0138	Annie Lamb
RR-0139	Annmarie Robertson
RR-0140	Anthony Austen
RR-0141	Anthony Barber
RR-0142	Anthony Barnett
RR-0143	Anthony Bellamy
RR-0144	Anthony Best
RR-0145	Anthony Colin
RR-0146	Anthony Fuller
RR-0147	Anthony Goulden
RR-0148	Anthony Gregory Shapland
RR-0149	Anthony Hodges
RR-0150	Anthony J Bingham TD Dipl Arch ARIBA MRTPI (Retd)
RR-0151	Anthony John
RR-0152	Anthony Rush
RR-0153	Anthony Shephard
RR-0154	Anthony Smith
RR-0155	Anthony White
RR-0156	Anthony Young
RR-0157	Antoinette Girdler
RR-0158	Antonia Courcier
RR-0159	Antony Burgess
RR-0160	Antony Emptage
RR-0161	Antony Nowak
RR-0162	Arion Aviation Ltd
RR-0163	Artist Partners
RR-0164	Ateve Alexandrou
RR-0165	Auke Nauta
RR-0166	B Alexandra von Ronn
RR-0167	B S packman
RR-0168	B.Humphreys
RR-0169	Barbara Cawte
RR-0170	Barbara Parsons
RR-0171	Barbara Roe
RR-0172	Barbara Warner
RR-0173	Barbie Morgan
RR-0174	Barney Harsent
RR-0175	Barrie Coombs

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RR-0176	Barry Finch
RR-0177	Barry Greenleaf
RR-0178	Barry James Honeycombe
RR-0179	Barry King
RR-0180	Barry Latchford
RR-0181	Barry Quinn
RR-0182	Barry Thomas
RR-0183	Belinda Rankin
RR-0184	Ben Copeland
RR-0185	Ben Day
RR-0186	Ben Olins
RR-0187	Benecare Ltd
RR-0188	Benjaman Cardozo
RR-0189	Benn Abel
RR-0190	Bernadette Cunnnane
RR-0191	Bernard Elbourn
RR-0192	Bernice New
RR-0193	Bert Gammon
RR-0194	Bethany Chater
RR-0195	Beverley Thomas
RR-0196	Beverly Lockyer
RR-0197	Big jelly Studios Ltd
RR-0198	Billy Booth
RR-0199	Richard Horlor on behalf of Bowen Court Residents, Ramsgate
RR-0200	Brenda Bowden
RR-0201	Brenda Jones
RR-0202	Brendan Cunningham
RR-0203	Brian Chapman
RR-0204	Brian Daubney
RR-0205	Brian Farrant
RR-0206	Brian Gilbert
RR-0207	Brian J Dickerson
RR-0208	Brian Ridley
RR-0209	Brian Short
RR-0210	Brian Sutton
RR-0211	Brian Watkins
RR-0212	Brian White
RR-0213	Brian Woodland
RR-0214	Bruce Gowland
RR-0215	Bryan Catt
RR-0216	Bryan Craig
RR-0217	Bryan Girdler
RR-0218	Bryan Manning
RR-0219	Bryan Worthington
RR-0220	Bryn Jones
RR-0221	Bukky Adeleke
RR-0222	C.P.C.ter Heege

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RR-0223	Callum Collins
RR-0224	Capt J Garwood
RR-0225	Carine Bishop
RR-0226	Carmel Togher on behalf of Samuel Kane
RR-0227	Carol Alston
RR-0228	Carol Chandler
RR-0229	Carol Considine
RR-0230	Carol Dyer
RR-0231	Carol Messenger
RR-0232	Carol Weale
RR-0233	Carole Copeland
RR-0234	Carole Gowland
RR-0235	Carole Gunning
RR-0236	Carole Mackay Howard
RR-0237	Carole Winter
RR-0238	Caroline Corris
RR-0239	Caroline Hamilton
RR-0240	Caroline Richardson
RR-0241	Caroline Sutherland
RR-0242	Carolyn May
RR-0243	Carolyn Ottewill
RR-0244	Catherine Bunce
RR-0245	Catherine Handley
RR-0246	Cathy Rogers
RR-0247	Cathy Thompson
RR-0248	Celia Russell
RR-0249	Ceri Diffley
RR-0250	Ceri Diffley on behalf of Teachers Against Manston Cargo Hub
RR-0251	Chadlyn Ross-Mackenzie
RR-0252	Charles (Rs) Small
RR-0253	Charles Albert Vint
RR-0254	Charles Daubney
RR-0255	Charles Robert Gibson
RR-0256	Charlie Small
RR-0257	Charlotte Ellis
RR-0258	Charlotte Frorath
RR-0259	Charlotte Wilson
RR-0260	Charmaine Le Blond
RR-0261	Cherisse Thorne
RR-0262	Cherry Walker
RR-0263	Cheryl A Cox
RR-0264	Cheryl Nichol
RR-0265	Chloe
RR-0266	Chloe Ralph Harding
RR-0267	Chris
RR-0268	Chris Barton
RR-0269	Chris Burley

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RR-0270	Chris Davies
RR-0271	Chris Dewhurst
RR-0272	Chris Gillan
RR-0273	Chris Hopson
RR-0274	Chris Jeffries
RR-0275	Chris Kennedy
RR-0276	Chris Lowe
RR-0277	Chris Mullin
RR-0278	Chris Newing
RR-0279	Chris Parks
RR-0280	Chris Shewry
RR-0281	Chris Smith
RR-0282	Chris Warner
RR-0283	Chris Welch
RR-0284	Christa Drennan
RR-0285	Christabel Bradley
RR-0286	Christabel Smith on behalf of Writers Against Manston Cargo Hub
RR-0287	Christine Botley
RR-0288	Christine Clark
RR-0289	Christine Heath
RR-0290	Christine Holmes
RR-0291	Christine Hyde
RR-0292	Christine Istead
RR-0293	Christine Lees
RR-0294	Christine Muscat
RR-0295	Christine Philpott
RR-0296	Christine Pye
RR-0297	Christine Redmond
RR-0298	Christine Robinson
RR-0299	Christopher Bowra
RR-0300	Christopher Bromley
RR-0301	Christopher Brooke-Taylor
RR-0302	Christopher Burrows
RR-0303	Christopher French
RR-0304	Christopher Gadd
RR-0305	Christopher Gray
RR-0306	Christopher Harman
RR-0307	Christopher Lucy
RR-0308	Christopher Mitchell
RR-0309	Christopher Peter Ewins
RR-0310	Christopher Tipping
RR-0311	Christopher Wellard
RR-0312	Christopher Weston
RR-0313	Ciaran Brogan-Dove
RR-0314	Claire Edwards
RR-0315	Claire Miller
RR-0316	Claire Tyler

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RR-0317	Clare Davison
RR-0318	Clare Dove
RR-0319	Claudia Maxtone-Graham
RR-0320	Cliff Tamplin
RR-0321	Clifford Farrall
RR-0322	Clifford Sax
RR-0323	Clifford Starn
RR-0324	Cliffsend Parish Council
RR-0325	Clive Aslet
RR-0326	Clive Cripps
RR-0327	Clive Dunsby
RR-0328	Clive Holland
RR-0329	Clive Houghton
RR-0330	Clive Nixon
RR-0331	Clive Smith
RR-0332	Cllr Lin Fairbrass
RR-0333	Cllr Paul Messenger
RR-0334	Cllr Sarah Larkins
RR-0335	Col Longmore
RR-0336	Colin Cooke
RR-0337	Colin D Sutton
RR-0338	Colin Ellison
RR-0339	Colin Fildes
RR-0340	Colin Foreman
RR-0341	Colin G Griffiths
RR-0342	Colin Heath
RR-0343	Colin John Bandick
RR-0344	Colin Mackay Howard
RR-0345	Colin Parsons
RR-0346	Colin Sisk
RR-0347	Colin Timms
RR-0348	College of St John the Evangelist the University of Cambridge
RR-0349	Julia Rogers on behalf of Community Artists Julia and Viv
RR-0350	TR Fennell on behalf of Commuters Against The Cargo Hub Facebook Group
RR-0351	Conor Masterson
RR-0352	CPRE Kent
RR-0353	Craig Solly
RR-0354	Cris Ford
RR-0355	D Small
RR-0356	Dale Hayton
RR-0357	Dan
RR-0358	Dan Glover
RR-0359	Dan Lewis
RR-0360	Daniel Bradley
RR-0361	Daniel Deegan
RR-0362	Daniel Donoghue

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RR-0364	Daniel Totten
RR-0365	Daniel Whitehead
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RR-0370	Daphne Joynes
RR-0371	Daren Reed
RR-0372	Darren Robinson
RR-0373	Daryl Booth
RR-0374	Dave Arter
RR-0375	Dave Ford
RR-0376	Dave Heenan
RR-0377	Dave Holland
RR-0378	Dave Payne
RR-0379	Dave Roberts
RR-0380	Dave Trew
RR-0381	Davena Green
RR-0382	David Wallin
RR-0383	David A Harcus
RR-0384	David Alan Lister
RR-0385	David Alphonso
RR-0386	David Arthur Braganza
RR-0387	David Black
RR-0388	David Brisley
RR-0389	David Codrai
RR-0390	David Copeman
RR-0391	David Curtis
RR-0392	David Dagley
RR-0393	David Davidge
RR-0394	David Edward Jasper
RR-0395	David Frankel
RR-0396	David Goff
RR-0397	David Gold
RR-0398	David Goldsmith
RR-0399	David Green
RR-0400	David Hammond
RR-0401	David Hayfield
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RR-0405	David Jillings
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RR-0412	David Mannering
RR-0413	David Manser
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RR-0417	David Norris
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RR-0424	David Tyler
RR-0425	David Tyler
RR-0426	David Ward
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RR-0428	David Wilford
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RR-0430	Dawn Speight
RR-0431	Dawn Stockley
RR-0432	Dayle Brain
RR-0433	Dean Charlesworth
RR-0434	Dean Colling-Baugh
RR-0435	Deb Shotton
RR-0436	Debbie Briant
RR-0437	Debbie Mursell
RR-0438	Deborah Ann Nuttall
RR-0439	Deborah Walsh
RR-0440	Deborah Zaman
RR-0441	Debra Boughton
RR-0442	Defence Infrastructure Organisation Safeguarding
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RR-0444	Denis Booth
RR-0445	Denis G.Holton
RR-0446	Denis Taylor
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RR-0448	Denise Moss
RR-0449	Dennis E. Franklin
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RR-0462	Diana Lane
RR-0463	Diane Campbell
RR-0464	Diane Campbell on behalf of Mr Keith Skelsey
RR-0465	Diane Fisher
RR-0466	Diane Harris
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RR-0468	Diane Loveday
RR-0469	Dianna Midgely
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RR-0481	Doreen Margaret Fearn
RR-0482	Doreen Shrubsole
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RR-0484	Dorothy Catt
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RR-0486	Douglas George Bates
RR-0487	Douglas Hack
RR-0488	Douglas John Harding
RR-0489	Douglas Kness
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RR-0491	Dr M Brown
RR-0492	Dr Michael Jeffrey Hughes
RR-0493	Dr Philip Shotton
RR-0494	Dr R L Symonds
RR-0495	Dr Rebecca Gordon-Nesbitt
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RR-0497	Dr Sheila Macdonald
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RR-0515	Elaine Aherne
RR-0516	Elaine Flower
RR-0517	Elaine Harris
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RR-0522	Elizabeth Green
RR-0523	Elizabeth Marion Gourlay
RR-0524	Elizabeth Miller
RR-0525	Elizabeth Shea
RR-0526	Elizabeth Warner
RR-0527	Ellen French
RR-0528	Emily Agolini on behalf of Ben Agolini
RR-0529	Emma bassett
RR-0530	Emma Blau
RR-0531	Emma Dawson
RR-0532	Emma Gaskill
RR-0533	Emma Kenyon
RR-0534	Emma Lloyd
RR-0535	Emma McMorrow
RR-0536	Enjoy Knight
RR-0537	Enrique Castro Sanchez
RR-0538	Environment Agency
RR-0539	Eric Hill
RR-0540	Ernest Pay
RR-0541	Ernest Perkins
RR-0542	Eva Little-Cardozo
RR-0543	Evelyn Mathews
RR-0544	Eversheds Sutherland (International) LLP (Eversheds Sutherland (International) LLP) on behalf of Network Rail
RR-0545	Fabienne Thomson
RR-0546	Fabienne Thomson on behalf of Darcy Thomson
RR-0547	Fabienne Thomson on behalf of Harry Thomson
RR-0548	Fabienne Thomson on behalf of Nick Thomson
RR-0549	Fatima Booth

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RR-0560	Francesca Alphonso
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RR-0589	Geoffrey Arthur Woods
RR-0590	Geoffrey German
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RR-0623	Graham Farrant
RR-0624	Graham Goldsmith
RR-0625	Graham Herbert
RR-0626	Graham Higgs
RR-0627	Graham Keith Denton
RR-0628	Graham Martin Cosby
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RR-0631	Graham Redwood
RR-0632	Graham Rogers
RR-0633	Graham Silsbury
RR-0634	Graham Wallin
RR-0635	Grahame George Birchall
RR-0636	Grahame Peter Lawrence
RR-0637	Grange Road Residents
RR-0638	Grant Mackay-Howard
RR-0639	Greg Ward
RR-0640	Gregory Nocentini
RR-0641	Gualtiero Nobili Vitelleschi
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RR-0645	Guy Foord-Kelcey
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RR-0650	Hannah Luckie
RR-0651	Hannah Tudor
RR-0652	Harbour Towers Residents Association
RR-0653	Harvey Blaymire
RR-0654	Haydon Rouse
RR-0655	Hayley Bradley
RR-0656	Hayley Corker
RR-0657	Hayley Francis
RR-0658	Heather Gunton
RR-0659	Heather Nunn
RR-0660	Heathrow Airport Limited
RR-0661	Heidi Newton - Edwards
RR-0662	Helen Audley
RR-0663	Helen Crittenden
RR-0664	Helen Dean
RR-0665	Helen Howe
RR-0666	Helen Marsh
RR-0667	Helen Newton
RR-0668	Helen Parkhurst
RR-0669	Helen Robson
RR-0670	Henry Borton
RR-0671	Herne Bay Coastal Community Team
RR-0672	Maureen Griffin on behalf of Herne Bay Labour
RR-0673	Highways England
RR-0674	Hilary Dyett
RR-0675	Hilary Scott
RR-0676	Historic England
RR-0677	Holiday Homes Against Manston
RR-0678	Holly Booth
RR-0679	Christabel Bradley on behalf of Homeowners Against Manston Cargo Hub
RR-0680	Hotel Continental
RR-0681	Howard Ross-Parker
RR-0682	Hubertina Frencken
RR-0683	Hugh Cripps
RR-0684	Hugh Langston
RR-0685	Humberto Pena Sanjurjo
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RR-0698	Ian Munday
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RR-0700	Ian Sequeira
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RR-0704	Igor Sliwa
RR-0705	Irene Horwood
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RR-0707	Irene Seijo
RR-0708	Ivan Pullen
RR-0709	J C Davies
RR-0710	J D I Baker
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RR-0712	Jacqueline Ansell
RR-0713	Jacqueline Danton
RR-0714	Jacqueline Smith
RR-0715	Jacqueline Ann Sloat
RR-0716	Jacqueline Marks
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RR-0718	James Booth
RR-0719	James Brown
RR-0720	James Campbell
RR-0721	James Chappell on behalf of James Chappell & Marva Rees
RR-0722	James Flower
RR-0723	James Hose
RR-0724	James Joyce
RR-0725	James Morris
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RR-0741	Jane Hetherington on behalf of The A Mcevoy and M Macmillan Family
RR-0742	Jane Lee-Hopkinson
RR-0743	Jane Roberts
RR-0744	Jane Southouse
RR-0745	Jane Stow
RR-0746	Jane Travers
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RR-0749	Janet Eagle
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RR-0767	Jean Cumbers
RR-0768	Jean Ebberson
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RR-0771	Jean Muslun
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RR-0774	Jean Tedder
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RR-0793	Jennifer Rath
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RR-0795	Jennifer Simmons
RR-0796	Jennifer Stevens
RR-0797	Jenny Baker
RR-0798	Jenny Dawes
RR-0799	Jenny Moyse
RR-0800	Jenny Solley
RR-0801	Jeremy de Rose
RR-0802	Jeremy Gledhill
RR-0803	Jeremy James Green
RR-0804	Jeremy Scarlett
RR-0805	Jess Hampshire
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RR-0807	Jessica Lauren
RR-0808	Jill Gardner
RR-0809	Jill Iggulden Stevens
RR-0810	Jill Pulman
RR-0811	Jill Saunder-Airs
RR-0812	Jilly Sterry
RR-0813	Jim Driver
RR-0814	Jim Samme
RR-0815	Jm burley
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RR-0818	Joann Rhodes
RR-0819	Joanna Drake
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RR-0836	John Chater
RR-0837	John Cole
RR-0838	John Cole
RR-0839	John Copeland
RR-0840	John Davis
RR-0841	John Davison
RR-0842	John Dimmock
RR-0843	John Dunkley
RR-0844	John Engwell
RR-0845	John Faull
RR-0846	John Flood
RR-0847	John Forrest
RR-0848	John Gisbey
RR-0849	John Gordon Sencilce
RR-0850	John green
RR-0851	John Haslett
RR-0852	John Heesom
RR-0853	John Hennessy
RR-0854	John Hermitage
RR-0855	John Ing
RR-0856	John Jones
RR-0857	John Jones
RR-0858	John Kealy
RR-0859	John Kelly
RR-0860	John Kemp
RR-0861	John Knight
RR-0862	John Laven
RR-0863	John Lawrence
RR-0864	John Mackins
RR-0865	John Millar
RR-0866	John Miller
RR-0867	John Mills
RR-0868	John Minnis
RR-0869	John Minor
RR-0870	John Murdoch
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RR-0880	John Thompson
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RR-0883	John Wallace
RR-0884	JoJo Dawn
RR-0885	Jon Boulter
RR-0886	Jon Nickoll
RR-0887	Jonathan Bailey
RR-0888	Jonathan Barrett
RR-0889	Jonathan Bradley
RR-0890	Jonathan Dahms
RR-0891	Jonathan Fowler
RR-0892	Jonathan Pearson
RR-0893	Jonathan Tapp
RR-0894	Joseph Dance
RR-0895	Jospeh Cube-Romero
RR-0896	Joyce Coomber Sewell
RR-0897	Judith Castle
RR-0898	Judith Gregory
RR-0899	Judy Hemingway
RR-0900	Jules Barnett
RR-0901	Julia Gavriel
RR-0902	Julia Heckles
RR-0903	Julia Morawiec
RR-0904	Julia Morrissey
RR-0905	Julia Phibbs
RR-0906	Julian Bigg
RR-0907	Julian Eagle
RR-0908	Julian Jennings
RR-0909	Julian Perry
RR-0910	Julian Vince
RR-0911	Julie Anderson
RR-0912	Julie Jarrett
RR-0913	Julie Roberts
RR-0914	Julie Wickenden
RR-0915	Julie Windsor
RR-0916	Juliet Anne Brazil
RR-0917	June Dark
RR-0918	June Kelly
RR-0919	June Waller
RR-0920	K Doulton
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RR-0922	Kai Toenjes Stringed Instruments & Claire Dugué Hurdy-gurdies
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RR-0929	Karen Scott
RR-0930	Karen West
RR-0931	Karim Zaman
RR-0932	Karina
RR-0933	Kate Baker
RR-0934	Kate Tedman
RR-0935	Katharine Walters
RR-0936	Katharine Willis-Crowley
RR-0937	Kathleen Benfield
RR-0938	Kathleen Blackwell
RR-0939	Kathleen Matharu
RR-0940	Kathleen Symes
RR-0941	Kathryn Reilly
RR-0942	Kathy Stevens
RR-0943	Katie Cox
RR-0944	Katie Newham
RR-0945	Katy Richardson
RR-0946	Katy Tearle
RR-0947	Kay Akast
RR-0948	Kay pettman
RR-0949	Kay Smith
RR-0950	Kay Tomczak
RR-0951	Kaye Nightingale
RR-0952	Keat Farm Ltd.
RR-0953	Keith Barton
RR-0954	Keith C Nicholls
RR-0955	Keith Evans
RR-0956	Keith Guilder
RR-0957	Keith Hewish
RR-0958	Keith Jones
RR-0959	Keith Jones
RR-0960	Keith Owen
RR-0961	Keith Peter Adams
RR-0962	Keith Ross
RR-0963	Keith Sawyer
RR-0964	Keith Taylor
RR-0965	Keith Wyatt
RR-0966	Kelly Ann Beasley
RR-0967	Kelvin Hailey
RR-0968	Ken Hardiman
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RR-0978	Kent Wildlife Trust
RR-0979	Kerry Such
RR-0980	Kerry Thorpe
RR-0981	Kevin Bird
RR-0982	Kevin clark
RR-0983	Kevin Donnithorne
RR-0984	Kevin Lewis
RR-0985	Kevin Michael Spain
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RR-0989	Kim Edgington
RR-0990	Kim Mason
RR-0991	Kim Palmer
RR-0992	Kirstie Awan
RR-0993	Kirsty Peterkin
RR-0994	Kit Jolly
RR-0995	Kyriacos Kyriacou
RR-0996	L King
RR-0997	Lab-Tools Ltd.
RR-0998	Laura Marks
RR-0999	Laura Nickoll
RR-1000	Laura Wyness
RR-1001	Laurence Davies
RR-1002	Laurence Richard Muston
RR-1003	Laurie Bulmer
RR-1004	Laurie Dunn
RR-1005	Laurie Hudson
RR-1006	Lawrence Norton
RR-1007	Lawrence Potter
RR-1008	Leanda Hilton
RR-1009	Lee Booth
RR-1010	Lee Herapath Bates
RR-1011	Lee Sellman
RR-1012	Lee Woolcott-Ellis
RR-1013	Len Blake
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RR-1015	Leonard Atkins
RR-1016	Leonard Burlace
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RR-1024	Lesley Robertson
RR-1025	Leslie K Bell
RR-1026	Leslie Murray
RR-1027	Liam Coyle
RR-1028	Linda Fox
RR-1029	Linda James
RR-1030	Linda Koch
RR-1031	Linda Mockett
RR-1032	Linda Richmond
RR-1033	Linda Stubbings
RR-1034	Linda Wood
RR-1035	Lindsey Booth
RR-1036	Lindsey Harris
RR-1037	Lindsey Harris on behalf of Simon Harris
RR-1038	Lisa Jones
RR-1039	Lisa Jordan
RR-1040	Lisa Kalloo
RR-1041	Lisa Moulton
RR-1042	Lisa Vagnarelli
RR-1043	Lizbeth Langston
RR-1044	Lizzie Deegan
RR-1045	London East Kent Coast Airport (Manston) Limited (London East Kent Coast Airport (Manston) Limited)
RR-1046	Lorna Campbell
RR-1047	Lorna Dallas-Conte
RR-1048	Lorraine Caldwell
RR-1049	Lorraine Pullman
RR-1050	Louis Mark Negin
RR-1051	Louise Brafman
RR-1052	Louise Hynes
RR-1053	Louise Langley
RR-1054	Luke Hudson
RR-1055	Lyanne Nicholl
RR-1056	Lyle Shepherd
RR-1057	Lynda Cooper
RR-1058	Lynda Kay
RR-1059	Lynn Yvonne Webber
RR-1060	Lynne Ashbee
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RR-1062	Lynne Holbrook
RR-1063	Lynne Hunter

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RR-1065	Lynne Webster
RR-1066	Lynsey Fox
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RR-1070	Maggie Bateson
RR-1071	Malcolm Fairman
RR-1072	Malcolm Kirkaldie
RR-1073	Malcolm Leslie Sadler
RR-1074	Malcolm McMillan
RR-1075	Malcolm Rendle
RR-1076	Malcolm Reynolds
RR-1077	Malcolm Story
RR-1078	Mali Perdeaux
RR-1079	Mandy Cotter
RR-1080	Mandy Hawting on behalf of John Hawting
RR-1081	Manyweathers Properties Ltd
RR-1082	Marc Perrott
RR-1083	Marcel Peen
RR-1084	Marcus J Russell
RR-1085	Maree Choie
RR-1086	Margaret Davies
RR-1087	Margaret Denyer
RR-1088	Margaret E Nicholls
RR-1089	Margaret Fields
RR-1090	Margaret Mabey
RR-1091	Margaret Sole
RR-1092	Margaret Symonds
RR-1093	Margaret Walker
RR-1094	Margaret Watts
RR-1095	Margarita Moscoso
RR-1096	Margate Civic Society
RR-1097	Margot Bandola
RR-1098	Mari Spain-Booth
RR-1099	Maria Reynolds
RR-1100	Maria Winter
RR-1101	Marianne Dissard
RR-1102	Marie Geurts
RR-1103	Marie-Agnes Johnson
RR-1104	Marie-Louise Curtis
RR-1105	Mariette Castellino
RR-1106	Mario Portelli
RR-1107	Mark Bandola
RR-1108	Mark Bedingfield
RR-1109	Mark Coulthwaite
RR-1110	Mark Crutchlow

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RR-1111	Mark Daley
RR-1112	mark de pulford
RR-1113	Mark Dowling
RR-1114	Mark Ellcock
RR-1115	Mark Huttley
RR-1116	Mark McGowan
RR-1117	Mark Pepper
RR-1118	Mark Snape
RR-1119	Marlene Simpson
RR-1120	Marshall Marchetti
RR-1121	Marta Kucharska
RR-1122	Martin English
RR-1123	Martin Gilham
RR-1124	Martin Harrison-Smith
RR-1125	Martin Hopkinson
RR-1126	Martin Hudson
RR-1127	Martin Hughes
RR-1128	Martin Jewell
RR-1129	Martin Knight
RR-1130	Martin Northrop
RR-1131	Martin O'Hara
RR-1132	Martin Rogers
RR-1133	Martin Savage
RR-1134	Martin Sutton
RR-1135	Martin Ward
RR-1136	Martin Weller
RR-1137	Martin Wise
RR-1138	Martyn Ward
RR-1139	Mary Bradley-Cox
RR-1140	Mary Dianellou
RR-1141	Mary Parbuono
RR-1142	Mary Sharrock
RR-1143	Mary Smith
RR-1144	Mary Winfield
RR-1145	Marylyn Vincer
RR-1146	Matt Corker
RR-1147	Matt Feekings
RR-1148	Matthew Burton
RR-1149	Matthew Connell
RR-1150	Matthew Delaney
RR-1151	Matthew Gee
RR-1152	Matthew Griffiths
RR-1153	Matthew Savidge
RR-1154	Matthew Scott
RR-1155	Matthew Weston
RR-1156	Matthew Wolpert
RR-1157	Maureen Pearce

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RR-1158	Maureen Stovell
RR-1159	Maurice Loft
RR-1160	Max Houghton
RR-1161	Max Tilling
RR-1162	Med Clean South
RR-1163	Meditation by the Bay
RR-1164	Megan Garrett-Jones
RR-1165	Melanie Khan
RR-1166	Melanie Loxley
RR-1167	Melissa Hodder
RR-1168	Met Office
RR-1169	Mia Little-Cardozo
RR-1170	Michael Abbott
RR-1171	Michael Ansell
RR-1172	Michael Bannon
RR-1173	Michael Carr
RR-1174	Michael Chaplin
RR-1175	Michael Chidley
RR-1176	Michael Corris
RR-1177	Michael Cutts
RR-1178	Michael Dark
RR-1179	Michael Davies
RR-1180	Michael Denyer
RR-1181	Michael Foley
RR-1182	Michael Glover
RR-1183	Michael Grantham
RR-1184	Michael Harrison
RR-1185	Michael Hart
RR-1186	Michael Hawkins
RR-1187	Michael Hersey
RR-1188	Michael Hunter
RR-1189	Michael James Short
RR-1190	Michael Jupp
RR-1191	Michael L Cox
RR-1192	Michael Liston
RR-1193	Michael Morton
RR-1194	Michael Murray
RR-1195	Michael O'Connor
RR-1196	Michael Palmer
RR-1197	Michael Pearce
RR-1198	Michael Pearce
RR-1199	Michael Poulter
RR-1200	Michael Ray
RR-1201	Michael Redmond
RR-1202	Michael S G Child
RR-1203	Michael Sharpe
RR-1204	Michael Sole

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RR-1205	Michael Thompson
RR-1206	Michael Topliss
RR-1207	Michael Wheatley-Ward
RR-1208	Michael Wilson
RR-1209	Michele Booth
RR-1210	Michele Turriani
RR-1211	Michelle Dennis
RR-1212	Michelle fenner
RR-1213	Michelle Meyer-Masterson on behalf of Elegantly Papered Limited
RR-1214	Michelle Moss
RR-1215	Michelle Thomas
RR-1216	Mieke Vrijhof
RR-1217	Mike Chappell
RR-1218	Mike Harman
RR-1219	Mike Harris
RR-1220	Mike Heath
RR-1221	Mike Jackson
RR-1222	Mike Morrison
RR-1223	Mike Rowney
RR-1224	Mike Straw
RR-1225	Miss Caroline Knott
RR-1226	Miss Janet Moulder
RR-1227	Miss Joanna Kurn
RR-1228	Miss Jordan Alexandrou
RR-1229	Miss Katie R Allen
RR-1230	Miss Kim Priestley
RR-1231	Miss Pamela Smith
RR-1232	Miss R J Swanston
RR-1233	Miss Sarah Hart
RR-1234	Miss Shelia Mary Patricia Bransfield
RR-1235	Miss Stephanie Alexandrou
RR-1236	Mole Solutions Ltd
RR-1237	Morven Hammond
RR-1238	Moyra Derby
RR-1239	Mr Adrian Pearce
RR-1240	Mr Anthony Whitehorn
RR-1241	Mr B Nicholls
RR-1242	Mr Ben Jones
RR-1243	Mr Brian Crow
RR-1244	Mr Brian Handley
RR-1245	Mr Christopher Milne
RR-1246	Mr D Smart
RR-1247	Mr David Armstead
RR-1248	Mr David Batten
RR-1249	Mr David Mancini
RR-1250	Mr E Broadley
RR-1251	Mr Frank Settle

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RR-1253	Mr Geoff Booth
RR-1254	Mr George Charles Treloar
RR-1255	Mr Graham Thompson
RR-1256	Mr Hugh Robert Hughes
RR-1257	Mr Ian L Connor
RR-1258	Mr Ian Nassif
RR-1259	Mr J Ager
RR-1260	Mr J Graeme Ammundsen
RR-1261	Mr John Marsh
RR-1262	Mr John Wickham
RR-1263	Mr K Borely
RR-1264	Mr K S Raine
RR-1265	Mr Lee Phillips
RR-1266	Mr Lee Taylor
RR-1267	Mr Leo Gair
RR-1268	Mr Leslie McDonald
RR-1269	Mr Lionel Jermy
RR-1270	Mr M Skerratt
RR-1271	Mr Matthew N Cumber
RR-1272	Mr Michael Holton
RR-1273	Mr Michael penfold
RR-1274	Mr Mike Lockwood
RR-1275	Mr Noel Kernan
RR-1276	Mr P.J Lucas
RR-1277	Mr Paul Bugg
RR-1278	Mr Paul Dorsett
RR-1279	Mr Paul Gall-Johnson
RR-1280	Mr Philip James Neale
RR-1281	Mr Phourikwadh Lim
RR-1282	Mr R A Cross
RR-1283	Mr R. King
RR-1284	Mr Richard Brammer
RR-1285	Mr Richard Deane Langworthy
RR-1286	Mr Richard Houghton
RR-1287	Mr Robert Cawte
RR-1288	Mr Robert Crayfound
RR-1289	Mr Rodney Giddins
RR-1290	Mr Roger Pittock
RR-1291	Mr Ronald Shewen
RR-1292	Mr Roy Sands
RR-1293	Mr Shaun Morris
RR-1294	Mr Stephen Finch
RR-1295	Mr Stephen Melton
RR-1296	Mr Stevan Kinghorn
RR-1297	Mr Terence Busby
RR-1298	Mr Tony Atwood

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RR-1300	Mr Webb
RR-1301	Mr West
RR-1302	Mr.C.J.Ryan IENG. ACIBSE
RR-1303	Mrs A Batcheler
RR-1304	Mrs A P Wesbter on behalf of Kenneth Anthony Webster
RR-1305	Mrs Ann Burrows
RR-1306	Mrs Ann Goodban
RR-1307	Mrs Ann Harle
RR-1308	Mrs Ann Straker
RR-1309	Mrs Anne Ammundsen
RR-1310	Mrs Annie Cull
RR-1311	Mrs Annie Webster
RR-1312	Mrs B Farnan
RR-1313	Mrs Barbara Bultitude
RR-1314	Mrs Barbara Frost
RR-1315	Mrs Beryl Walkling-Lester
RR-1316	Mrs Betty Busby
RR-1317	Mrs Brenda Chubb
RR-1318	Mrs Caroline Gillard
RR-1319	Mrs Catherine Hoenes
RR-1320	Mrs Christine prior
RR-1321	Mrs Daphne Bird
RR-1322	Mrs Deborah Longley
RR-1323	Mrs Elizabeth Flood
RR-1324	Mrs Emily Agolini
RR-1325	Mrs Fiona Gall-Johnson
RR-1326	Mrs Freda Parker
RR-1327	Mrs G Hogben
RR-1328	Mrs Helen Smith
RR-1329	Mrs Ingrid Page
RR-1330	Mrs J Collins
RR-1331	Mrs J young
RR-1332	Mrs Jane Wyles
RR-1333	Mrs Janet Hollands
RR-1334	Mrs Janet Tripodi
RR-1335	Mrs Janice Best
RR-1336	Mrs Janina Ashby
RR-1337	Mrs Jeanne Smythe
RR-1338	Mrs Jennie Kellock
RR-1339	Mrs Jennifer Neiles
RR-1340	Mrs Jenny Seatherton MBE
RR-1341	Mrs Jill Bull
RR-1342	Mrs Jill Hallett Blake
RR-1343	Mrs Josephine Lalage Mallett
RR-1344	Mrs Julie Forrest
RR-1345	Mrs K E Shewen

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RR-1347	Mrs Karen C.L Reich
RR-1348	Mrs Karen Payne
RR-1349	Mrs Kathleen Porteous
RR-1350	Mrs Kay Norton
RR-1351	Mrs Lesley Hopkins
RR-1352	Mrs Linda C Proctor
RR-1353	Mrs Linda Samme
RR-1354	Mrs Linda Toohar
RR-1355	Mrs Lorraine Michelle Barker
RR-1356	Mrs Lynne Goff
RR-1357	Mrs Lynne Love
RR-1358	Mrs M.F Lucas
RR-1359	Mrs Margaret Cheek
RR-1360	Mrs Margaret Cook
RR-1361	Mrs Marian Doidge
RR-1362	Mrs Mary Munnich
RR-1363	Mrs Pamela England
RR-1364	Mrs Patricia Worsfold
RR-1365	Mrs Phyliss Brewin
RR-1366	Mrs Polly Coburn
RR-1367	Mrs Rosemarie Treloar
RR-1368	Mrs S Maynard
RR-1369	Mrs Sarah Joy Thomas
RR-1370	Mrs Simmonds
RR-1371	Mrs Susan Ambrose
RR-1372	Mrs Susan Bowley
RR-1373	Mrs Susan Broderick
RR-1374	Mrs Susan Firmin
RR-1375	Mrs Susan Holton
RR-1376	Mrs Susan Jordan
RR-1377	Mrs Tanya Bailey
RR-1378	Mrs Tracey Seal
RR-1379	Mrs Tracy Alexandrou
RR-1380	Mrs V Hovenden
RR-1381	Mrs Valerie Smart
RR-1382	Mrs Wendy Coates
RR-1383	Mrs West
RR-1384	Mrs. J Allen
RR-1385	Mrs. Joanne linney
RR-1386	Mrs. K. Matthews
RR-1387	Mrs.Joan Smith
RR-1388	Ms Marie Fiona OConnor
RR-1389	Ms N Andrrious
RR-1390	Ms Rose Lake
RR-1391	Ms. Carmel Togher
RR-1392	Mums against Manston Airport

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RR-1393	Musa Jarju
RR-1394	Myra White
RR-1395	N Francina Van Twest
RR-1396	N. Mathews
RR-1397	Nadiyah Pasha
RR-1398	Nadine Corner
RR-1399	Nadine Marchetti
RR-1400	Naomi Grady
RR-1401	Natalie Hancock
RR-1402	Natalie Joanna Mortimer
RR-1403	Natalie Sharpe-Defloor
RR-1404	Natasha Girdler
RR-1405	Natasha Hobbins
RR-1406	Nathaniel Richards
RR-1407	NATS
RR-1408	Natural England
RR-1409	Neil cooper
RR-1410	Neil Dalton
RR-1411	Neil Duttson
RR-1412	Neil Hissey
RR-1413	Neil Kefford
RR-1414	Neil Lewis
RR-1415	Neil Ralph
RR-1416	Neill Tickle
RR-1417	Nelson Crescent Residents Association
RR-1418	Nessa Warner
RR-1419	Nethercourt Action Group
RR-1420	Nethercourt Touring Park
RR-1421	Neville Redvers-mutton
RR-1422	Newington Community Association
RR-1423	Nicholas Borda
RR-1424	Nicholas Cole
RR-1425	Nicholas Evans
RR-1426	Nicholas Hillier
RR-1427	Nicholas Howard
RR-1428	Nicholas Iddenden
RR-1429	Nicholas Logan
RR-1430	Nicholas Morgan
RR-1431	Nicholas Selmes
RR-1432	Nick Bennett
RR-1433	Nick Claxton
RR-1434	Nick Curtis
RR-1435	Nick Hales
RR-1436	Nick Harper
RR-1437	Nick Page
RR-1438	Nick Toy
RR-1439	Nicky Galer

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RR-1440	Nicola Loud
RR-1441	Nicola Uluturk
RR-1442	Nicole Booth
RR-1443	Nicolette Mckenzie
RR-1444	Nigel Amos
RR-1445	Nigel Briant
RR-1446	Nigel May
RR-1447	Nigel Morris
RR-1448	Nigel Padgham
RR-1449	Nigel Phethean
RR-1450	Nigel Taylor
RR-1451	Nikki Hildesley
RR-1452	Nina Taylor
RR-1453	No Night Flights
RR-1454	Norma Hoose
RR-1455	Norman Sangster
RR-1456	Norman Seatherton
RR-1457	Norman Terry
RR-1458	OAPs against a24/7 freight Hub
RR-1459	Oliver Ledgerwood
RR-1460	Olivia Rhodes
RR-1461	Olly Hickmott
RR-1462	Opensonics
RR-1463	Owen Minton
RR-1464	Owen Twine
RR-1465	P Colby
RR-1466	P J Barrett
RR-1467	P J Kehoe
RR-1468	P Kerss
RR-1469	P.G Fardon
RR-1470	Page & Sons
RR-1471	Pam Clewley
RR-1472	Pam Wyles
RR-1473	Pamela Bleazard
RR-1474	Pamela Burns Atkins
RR-1475	Pamela Kelly
RR-1476	Pamela Todd
RR-1477	Pat Regan
RR-1478	Pat Scutt
RR-1479	PATCH - Plotolders Against The Cargo Hub
RR-1480	Patricia cunningham
RR-1481	Patricia Dance
RR-1482	Patricia Donovan
RR-1483	Patricia Finch
RR-1484	Patricia Fretton
RR-1485	Patricia Gabriel
RR-1486	Patricia Harris

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RR-1487	Patricia Jupp
RR-1488	Patricia McKeown
RR-1489	Patricia Moore
RR-1490	Patricia Porritt
RR-1491	Patricia Webb
RR-1492	Patrick Diffley
RR-1493	Patrick Golding
RR-1494	Patrick McAree
RR-1495	Patrick Murphy
RR-1496	Patrick Murray
RR-1497	Patrick Stevens
RR-1498	PatrickGeorge Ltd
RR-1499	Paul Anthony Moore
RR-1500	Paul Ashmore
RR-1501	Paul Atkins
RR-1502	Paul Brown
RR-1503	Paul Buckingham
RR-1504	Paul Chater
RR-1505	Paul Cummins
RR-1506	Paul Dawkins
RR-1507	Paul Dean
RR-1508	Paul Devon-Row
RR-1509	Paul Dodd
RR-1510	Paul Dooley
RR-1511	Paul Dunk
RR-1512	Paul Edwards
RR-1513	Paul Fuller
RR-1514	Paul Hirst
RR-1515	Paul Howard
RR-1516	Paul Howlett
RR-1517	Paul Hudson
RR-1518	Paul Kennard
RR-1519	Paul Lees
RR-1520	Paul London
RR-1521	Paul Luxmoore
RR-1522	Paul Milton
RR-1523	Paul Naudin
RR-1524	Paul Rhodes
RR-1525	Paul Ridges
RR-1526	Paul Saffrey
RR-1527	Paul Shea
RR-1528	Paul Spickett
RR-1529	Paul Tobin
RR-1530	Paul Watkins
RR-1531	Paul Young
RR-1532	Paula
RR-1533	Paula Scott

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RR-1534	Pauline Chapples
RR-1535	Pauline Hayfield
RR-1536	Pauline Terry
RR-1537	Pegwell & District Association
RR-1538	Penelope Gimes on behalf of Minster Parish Council
RR-1539	Penelope Mangold
RR-1540	Penelope Warn
RR-1541	Penny Bell
RR-1542	Penny Perrott
RR-1543	Perry Marchant
RR-1544	Peta Margaret Chater
RR-1545	Peter Abel
RR-1546	Peter Bateson
RR-1547	Peter Binding
RR-1548	Peter Boosey
RR-1549	Peter Borrrough
RR-1550	Peter Brazier
RR-1551	Peter Brown
RR-1552	Peter Bull
RR-1553	Peter C. Gilbert
RR-1554	Peter Cackett
RR-1555	Peter Campbell
RR-1556	Peter Clarridge
RR-1557	Peter Cole
RR-1558	Peter Collard
RR-1559	Peter Curtis
RR-1560	Peter Davis
RR-1561	Peter Enefer
RR-1562	Peter Goodman
RR-1563	Peter Hewitt
RR-1564	Peter J Quintmere
RR-1565	Peter James Thomas
RR-1566	Peter Moore
RR-1567	Peter Quinney
RR-1568	Peter Reynolds
RR-1569	Peter Richardson
RR-1570	Peter Ruranski
RR-1571	Peter Scott
RR-1572	Peter Scott
RR-1573	Peter Stanfield
RR-1574	Peter Thomas
RR-1575	Peter Trow
RR-1576	Peter Worrell
RR-1577	Petra Dungate
RR-1578	Pew Property (rental) Ltd
RR-1579	Phil Hunt
RR-1580	Phil Hyland

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RR-1581	Phil Loader
RR-1582	Phil Rose
RR-1583	Philip Banks-Francis
RR-1584	Philip Davies
RR-1585	Philip Griffiths
RR-1586	Philip Hayes
RR-1587	Philip Kelly
RR-1588	Philip Knowles
RR-1589	Philip Lawrence
RR-1590	Philip Laycock
RR-1591	Philip May
RR-1592	Philip Shearsby
RR-1593	Philip Tuohy
RR-1594	Philip Winfield
RR-1595	Philippa Garsed
RR-1596	Philippa Gough
RR-1597	Philippa Toy
RR-1598	Phillip Lee
RR-1599	Phillip Spain
RR-1600	Phillippa Walker
RR-1601	Pinsent Masons LLP on behalf of Stone Hill Park Limited
RR-1602	Plains of Waterloo Community Group
RR-1603	Plan B Services (Consultants) Limited
RR-1604	Polly Dryden
RR-1605	Portia Wilson
RR-1606	Prof David Lane FCILT
RR-1607	Prof Ian Swingland
RR-1608	Public Health England
RR-1609	Quintas Energy UK Limited on behalf of Manston Thorne Limited
RR-1610	R Byles
RR-1611	R Challenor
RR-1612	R McIntyre
RR-1613	R Rolfe
RR-1614	Rachel Furlong
RR-1615	Rachel Miles
RR-1616	Rachel ONeil
RR-1617	RAF Manston History Museum
RR-1618	RAF Manston Spitfire & Hurricane Memorial Museum
RR-1619	Raju Ajiz
RR-1620	Ralph Allison
RR-1621	Ralph Cade
RR-1622	Ralph Headley
RR-1623	Ramsgate
RR-1624	Ramsgate Airport Sceptics
RR-1625	Ramsgate Coastal Community Team
RR-1626	Ramsgate Heritage and Design Forum
RR-1627	Emma Kenyon on behalf of Ramsgate Home Pilates

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RR-1628	Ramsgate Neighbourhood Plan Group
RR-1629	Rani Bain
RR-1630	Raquel A Charsley
RR-1631	Ray Beerling
RR-1632	Ray Owen
RR-1633	Raymond Austin
RR-1634	Raymond Beeching
RR-1635	Raymond Burns
RR-1636	Raymond Douglas
RR-1637	Raymond harris
RR-1638	Raymond Hill
RR-1639	Raymond John May
RR-1640	Raymond Lee
RR-1641	Raymond May
RR-1642	Rebecca Baty
RR-1643	Rebecca Dance
RR-1644	Rebecca Hyman
RR-1645	Rebecca Sales
RR-1646	Rebecca Swansbury
RR-1647	Rebecca Wing
RR-1648	Rebecca Woodland
RR-1649	Rebekah Smith
RR-1650	K M Donnithorne on behalf of Reeds Close Community Group
RR-1651	Reg Wooldridge
RR-1652	Residents Against Night Flights
RR-1653	Pierre Jeanrenaud on behalf of Residents of Ellington Road h
RR-1654	Rev Stanley.m.Evans
RR-1655	Reverent P R Brown
RR-1656	Rex Goodban
RR-1657	Richard A Smith
RR-1658	Richard Adey
RR-1659	Richard Bedingfield
RR-1660	Richard Burke
RR-1661	Richard Card
RR-1662	Richard Charles Davies
RR-1663	Richard Chudleigh
RR-1664	Richard Davies
RR-1665	Richard G Oliver
RR-1666	Richard Kemp
RR-1667	Richard Klein
RR-1668	Richard Oades
RR-1669	Richard Perton
RR-1670	Richard Ryan
RR-1671	Richard Scott
RR-1672	Richard Seaman
RR-1673	Richard Tunnicliff
RR-1674	Rick Everitt

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RR-1675	Rita Burns
RR-1676	Rita Chappell
RR-1677	Rita Pattenden
RR-1678	Rita Scully
RR-1679	Rita Stannard
RR-1680	Rob Harrison
RR-1681	Rob Stringer
RR-1682	Robbie Robson
RR-1683	Robert Beattie
RR-1684	Robert Bristow
RR-1685	Robert Brown
RR-1686	Robert Collyer
RR-1687	Robert Dean
RR-1688	Robert Durrant
RR-1689	Robert Fairbrass
RR-1690	Robert Farrant
RR-1691	Robert Higman
RR-1692	Robert Holden
RR-1693	Robert Hudson
RR-1694	Robert Muir
RR-1695	Robert Neve
RR-1696	Robert Newman
RR-1697	Robert Schweizer
RR-1698	Robert Turner
RR-1699	Robin Cross
RR-1700	Robin Edwards
RR-1701	Robin Kennedy
RR-1702	Robin Laurence
RR-1703	Robin Marks
RR-1704	Robin Marsh
RR-1705	Robin Willi
RR-1706	Robson Keen
RR-1707	Roger Best
RR-1708	Roger Fane
RR-1709	Roger Gale MP
RR-1710	Roger Mason
RR-1711	Roger Mellor
RR-1712	Roger Nicoll
RR-1713	Roland Wells Colyer
RR-1714	Ron Corkhill
RR-1715	Ron Finch
RR-1716	Ron Greenwood
RR-1717	Ronald Barsley
RR-1718	Ronald Blay
RR-1719	Ronald Osborn
RR-1720	Rosalyn Campion
RR-1721	Rosemary Coombs

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RR-1722	Rosemary Green
RR-1723	Rosemary Schweizer
RR-1724	Rosie Eaglen
RR-1725	Ross Stevens
RR-1726	Rowena Weston
RR-1727	Roy Bonner
RR-1728	Roy Davies
RR-1729	Royal Society for the Protection of Birds (RSPB) (Royal Society for the Protection of Birds (RSPB))
RR-1730	Rubina Florini
RR-1731	Rupert Allason
RR-1732	Rupert Berryman
RR-1733	Russ Large
RR-1734	Russell Francis White
RR-1735	Ruth Baird
RR-1736	Ruth Sinclair
RR-1737	S Moss
RR-1738	S Stillman
RR-1739	S. Lengthorn
RR-1740	S.Donnithorne
RR-1741	Sacha Ulldemolins
RR-1742	Sally Smart
RR-1743	Sally Tedder
RR-1744	Sam Bateson
RR-1745	Sam Causer
RR-1746	Sam Kieldsen
RR-1747	Samantha Bambridge
RR-1748	Samantha Holmans Thompson
RR-1749	Samantha Little
RR-1750	Samantha O'Hara
RR-1751	Samantha Secomb
RR-1752	Samantha Smith
RR-1753	Samantha Stevens
RR-1754	Samara Jones-Hall
RR-1755	Samm Scollon
RR-1756	Samuel Johnson
RR-1757	Sandra
RR-1758	Sandra Brightman
RR-1759	Sandra Dunn
RR-1760	Sandra Harris
RR-1761	Sandra Ing
RR-1762	Sandra Milton
RR-1763	Sandra Porter
RR-1764	Sandra Winkworth
RR-1765	Sandra Wood
RR-1766	Sara Mcguigan
RR-1767	Sara Patterson

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RR-1768	Sara Pini
RR-1769	Sara Travers
RR-1770	Sarah Amerena
RR-1771	Sarah Bailey
RR-1772	Sarah Bowman
RR-1773	Sarah Chudleigh
RR-1774	Sarah Craven
RR-1775	Sarah Dumigan
RR-1776	Sarah Lane
RR-1777	Sarah Mcternan Bland
RR-1778	Sarah Quinton
RR-1779	Sarah Rowse
RR-1780	Sarah Skinner
RR-1781	Sarah Wallace
RR-1782	Sarah-Jayne Benfield
RR-1783	Sasha Jenkin
RR-1784	Save Manston Airport association (SMAa) (Save Manston Airport association (SMAa))
RR-1785	Scott Miller
RR-1786	Scott Sanderson
RR-1787	Sean Corrigan
RR-1788	Sean Doherty
RR-1789	Sean Farrell
RR-1790	Sean Farrell on behalf of Jillian Farrell
RR-1791	Sean Goodwin
RR-1792	Sean Howarth
RR-1793	Sean Lehan
RR-1794	Sean Litham
RR-1795	Self-employed Against Manston Cargo Hub
RR-1796	Selwyn Davidson
RR-1797	Seymour Milton
RR-1798	Shahla Rushworth on behalf of Special Educational Needs Parents & Carers Against Manston
RR-1799	Sharne Brown
RR-1800	Sharon Chubb
RR-1801	Sharon Dutton
RR-1802	Sharon Fane
RR-1803	Sharon Yorath
RR-1804	Sheelagh Deller
RR-1805	Sheena Quinton
RR-1806	Shelley Scullion
RR-1807	Shem Booth-Spain
RR-1808	Shem Mackey
RR-1809	Sherlock Aaron Oldale
RR-1810	Shirley A Large
RR-1811	Shirley A Large on behalf of Mr K Williams
RR-1812	Shirley A Large on behalf of Mrs H Williams

TR020002 Manston Airport Relevant Representations Library

RR-1813	Shirley Davis
RR-1814	Shirley Gibbens
RR-1815	Shirley Green
RR-1816	Shirley Weller
RR-1817	Sidney Graham Wyness
RR-1818	Simon Beck
RR-1819	Simon Burbidge
RR-1820	Simon Crow
RR-1821	Simon Fisher
RR-1822	Simon Gasston
RR-1823	Simon Kirby
RR-1824	Simon Macartney
RR-1825	Simon P Rood
RR-1826	Simon Turton
RR-1827	Siobhan Matthews
RR-1828	Sion House Management Company Ltd
RR-1829	Sophie Atherton
RR-1830	Sophie Fowler
RR-1831	Soraya Coxon
RR-1832	South Thanet Constituency Labour Party
RR-1833	Southern Gas Networks PLC
RR-1834	Spencer Mills
RR-1835	Stan Strangwick
RR-1836	Stanley Green
RR-1837	Stanley Green
RR-1838	Stanley Thompson
RR-1839	Stefan Smith
RR-1840	Stella Kirkland
RR-1841	Stephan Coupland
RR-1842	Stephanie Avery-Roberts
RR-1843	Stephanie Flower
RR-1844	Stephanie Jones
RR-1845	Stephanie Lafourcade
RR-1846	Stephen Birt
RR-1847	Stephen Bruce Carey
RR-1848	Stephen Byrne
RR-1849	Stephen Cannon
RR-1850	Stephen Frost
RR-1851	Stephen Gardner
RR-1852	Stephen Hawkins
RR-1853	Stephen Hutson
RR-1854	Stephen John Waller
RR-1855	Stephen Kelly
RR-1856	Stephen Larking
RR-1857	Stephen Lobb
RR-1858	Stephen Matsubara
RR-1859	Stephen R Wicks

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RR-1860	Stephen Roberts
RR-1861	Stephen Smith
RR-1862	Stephen Weale
RR-1863	Steve Agolini
RR-1864	Steve Ansell
RR-1865	Steve Boyle
RR-1866	Steve Frost
RR-1867	Steve Gambrell
RR-1868	Steve Howe
RR-1869	Steve Wheeler
RR-1870	Steven Filtness
RR-1871	Steven Foy
RR-1872	Steven Harding
RR-1873	Steven Holmes
RR-1874	Steven Nixon
RR-1875	Stuart Atchison
RR-1876	Stuart Elliott
RR-1877	Stuart G Smith
RR-1878	Stuart Jordan-Vint
RR-1879	Stuart Smith
RR-1880	Stuart Wiggins
RR-1881	Sue Bailey
RR-1882	Sue Bailey on behalf of Mary Bennell
RR-1883	Sue Bedingfield
RR-1884	Sue Edwards
RR-1885	Sue Forrester
RR-1886	Sue Lumpkin
RR-1887	Sue Martin
RR-1888	Sue Skinner
RR-1889	Sue Timmins
RR-1890	Supporters of Manston Airport
RR-1891	Susan Andrews
RR-1892	Susan Carroll
RR-1893	Susan Coughlin
RR-1894	Susan Edwards
RR-1895	Susan Fitzell
RR-1896	Susan Foskett
RR-1897	Susan Girdler
RR-1898	Susan Hammock
RR-1899	Susan Hopkins
RR-1900	Susan Hunt
RR-1901	Susan Katzban
RR-1902	Susan Kennedy
RR-1903	Susan McCartney
RR-1904	Susan Milton
RR-1905	Susan Murray
RR-1906	Susan Pite

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RR-1907	Susan Shove
RR-1908	Susan Smith
RR-1909	Susan Sullivan
RR-1910	Susan Tym
RR-1911	Susan Wallace
RR-1912	Susannah Pomery
RR-1913	Susanne Ford
RR-1914	Susanne Kidd
RR-1915	Suzanne Horne
RR-1916	Sylvia
RR-1917	Sylvia Ross
RR-1918	Sylvia Sweeting
RR-1919	Sylvia Thompson
RR-1920	Sylvie Bolioli
RR-1921	T Hogben
RR-1922	T N Samme
RR-1923	Tadeusz Norton
RR-1924	Tara Dolton
RR-1925	Tara Moore
RR-1926	Tara Wood
RR-1927	Terence Coleman
RR-1928	Terence Huckstep
RR-1929	Terence Murphy
RR-1930	Terence Murphy on behalf of Pamela Murphy
RR-1931	Teresa Askew
RR-1932	Teresa Sharp
RR-1933	Teri Olins
RR-1934	Terry Barton
RR-1935	Terry Boarder
RR-1936	Terry Dr Vere
RR-1937	Terry Fulton
RR-1938	Terry Smith
RR-1939	TG Aviation Limited
RR-1940	Thanet & East Kent Chamber of Commerce
RR-1941	Thanet District Council
RR-1942	Thanet Green Party
RR-1943	Thanet Motor Company
RR-1944	The Coal Authority
RR-1945	Mr Nigel Durrant on behalf of The Durrant household
RR-1946	The Hall Family
RR-1947	The McNamara Family
RR-1948	The Ramsgate Society
RR-1949	The Residents of the Foster Household
RR-1950	Theresa Dodd
RR-1951	Theresa Hailey
RR-1952	Thomas Dance
RR-1953	Thomas Murphy

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RR-1954	Thomas Norton
RR-1955	Thomas Saunders
RR-1956	Tim Bentley
RR-1957	Tim Connoll
RR-1958	Tim Davies
RR-1959	Tim Fountain
RR-1960	Tim Guest
RR-1961	Tim Offord
RR-1962	Tim Smith
RR-1963	Tim Spencer
RR-1964	Tim Sperryn
RR-1965	Tim Watkins
RR-1966	Tim Williams
RR-1967	Timothy Bentley
RR-1968	Timothy Wooding
RR-1969	Tina Brown
RR-1970	Tina Seaman
RR-1971	Tina Wake
RR-1972	Tom
RR-1973	Tom Maddison
RR-1974	TONIC Consultants Ltd
RR-1975	Tony Dillon
RR-1976	Tony Halls
RR-1977	Tony Martin
RR-1978	Tony Matthews
RR-1979	Tony Uden on behalf of Brockenhurst Road residents
RR-1980	Tony Webb
RR-1981	Tracey Deakin
RR-1982	Tracey McEvoy
RR-1983	Tracey McEvoy on behalf of Michael John McEvoy
RR-1984	Tracey Sharpe
RR-1985	Tracy Laurence
RR-1986	Tracy Macassey
RR-1987	Trevor Brill
RR-1988	Trevor Fermor
RR-1989	Trevor Francis
RR-1990	Trevor Goldsmith
RR-1991	Trevor Harvey
RR-1992	Trevor Martin
RR-1993	Trevor Reynolds
RR-1994	Trevor Roper
RR-1995	Trevor Shilling
RR-1996	Tricia Austin Hartley
RR-1997	Ubalдина Dale
RR-1998	UKIP and Independent Group Thanet District Council
RR-1999	Unrepresented Thanet residents against a cargo-hub
RR-2000	Valerie Chapman

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RR-2001	Valerie Grainger
RR-2002	Vanessa Gray
RR-2003	Vanessa Thompson
RR-2004	Vattenfall Network Solutions Ltd
RR-2005	Vattenfall Wind Power Ltd
RR-2006	Vee Bentley
RR-2007	Vereena Moore
RR-2008	Veronica Pratt
RR-2009	Veronika Misi
RR-2010	Vic Butcher
RR-2011	Vic Cocks
RR-2012	Vicki Hillman
RR-2013	Vicky Alexandrou
RR-2014	Victoria Anne Lloyd
RR-2015	Vince Francis
RR-2016	Virginia Da Costa
RR-2017	Virginie Pernot
RR-2018	Vivien Wetherill
RR-2019	Vivienne Yankah
RR-2020	Walter Hilditch Edwards
RR-2021	Warwick Humble
RR-2022	Trevor Roper on behalf of Way Forward
RR-2023	Wayne Crickmore
RR-2024	Wayne Waterson
RR-2025	Wednesday Lyle
RR-2026	Terry Prue on behalf of Wellington Crescent Association
RR-2027	Wendell Baker
RR-2028	Wendy Binstead
RR-2029	Wendy Chaplin
RR-2030	Wendy Hall
RR-2031	Wendy Morris
RR-2032	Wesley Clark
RR-2033	Why Not manston?
RR-2034	Wieslaw Kapuscinski
RR-2035	Wildman & Associates Limited
RR-2036	Will Calcutt
RR-2037	William Dixon
RR-2038	William E Stannard
RR-2039	William Gary Latham
RR-2040	William John Cummins
RR-2041	William John Ransom
RR-2042	William Law
RR-2043	William T Bee
RR-2044	William Woods
RR-2045	Winbourne Martin French, Chartered Surveyors
RR-2046	Winston David Tidy
RR-2047	Yvonne Scott

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RR-2048	Yvonne Wills
RR-2049	Zara Mckenzie
RR-2050	Zoe Bates
RR-2051	Zoe Tudor
RR-2052	Zuza Atkinson

APPENDIX C: LIST OF ABBREVIATIONS

Abbreviation or usage	Reference
AC	Airports Commission
ACP	Airspace Change Process
ADMS	Atmospheric Dispersion Modelling System
AEDT	Aviation Environmental Design Tool
AGL	Airfield ground lighting
AIR	Aerospace Information Report
ANCON	CAA developed aircraft noise contour model
ANM	Aviation Noise Metric
ANO	Air Navigation Order 2016
ANPS	Airports National Policy Statement
AOD	Above Ordnance Datum
AP	Affected Person
AQD	Air Quality Directive
AQMA	Air Quality Management Area
ARP	Adaptation Reporting Power
ASAS	Airport Surface Access Strategy
ASI	Accompanied Site Inspection
ATC	Air Traffic Control
ATM	Air Traffic Movement
BA	Biodiversity Area
BB93	Building Bulletin 93
BFI	Bulk fuel installations
BGS	British Geological Survey
BOA	Biodiversity Opportunity Area
BoR	Book of Reference

BTO	British Trust for Ornithology
CA	Compulsory Acquisition
CAA	Civil Aviation Authority
CABE	Chartered Association of Building Engineers
CAH	Compulsory Acquisition Hearing
CAP	Civil Aviation Publication (UK CAA)
CBC	Common Breeding Census
CCA2008	The Climate Change Act 2008
CCAS	Climate Change Adaptation Strategy
CCC	Canterbury City Council
CCRA	Climate Change Risk Assessment
CEMP	Construction Environmental Management Plan
CIE	International Commission on Illumination
CIEEM	Chartered Institute for Ecological and Environmental Management
CIL	Community Infrastructure Levy
CMAP	Carbon Minimisation Action Plan
CoCC	Committee on Climate Change
Cogent	Cogent Land LLP
COPA	Control of Pollution Act 1974
CPO	Compulsory Purchase Order
CPRE	Campaign to Protect Rural England
CPZ	Controlled Parking Zones
CRTN	Calculation of Road Traffic Noise
CTMP	Construction Traffic Management Plan
CURED	Calculator Using Realistic Emissions for Diesels
DALY	Disability Adjusted Life Year

dB	Decibel
DCLG	Department for Communities and Local Government
DCO	Development Consent Order
DDC	Dover District Council
dDCO	Draft Development Consent Order
dEM	Draft Explanatory Memorandum
DfT	The Department for Transport
DIO	The Defence Infrastructure Organisation
DMP	Dust Management Plan
DMRB	Design Manual for Roads and Bridges
DrWPAs	Drinking Water Protected Area
EASA	European Aviation Safety Agency
EBITDA	Earnings before interest, taxes, depreciation, and amortization
ECAC	European Civil Aviation Conference
ECHR	European Court of Human Rights
EIA	Environmental Impact Assessment
eLP	Emerging Thanet Local Plan
EMA	East Midlands Airport
END	Environmental Noise Directive
EPR	The Infrastructure Planning (Examination Procedure) Rules 2010
ERCD	Environmental Research Consultancy Department
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1	Examining Authority's First Written Questions

ExQ2	Examining Authority's Second Written Questions
ExQ3	Examining Authority's Third Written Questions
ExQ4	Examining Authority's Fourth Written Questions
ExQ5	Examining Authority's Fifth Written Questions
FAA	Federal Aviation Administration
FAS	Future Airspace Strategy
FASI(S)	UK Future Airspace Strategy Implementation (South)
Five10Twelve	Five10Twelve Ltd
FMS	Freight Management Strategy
FRA	Flood Risk Assessment
ft	Foot
FTA	Freight Transport Association
FTP	Framework Travel Plan
GA	General Aviation
GDP	Gross Domestic Product
GHG	Greenhouse Gases
GLVIA3	Guidelines for Landscape and Visual Impact Assessment Third Edition
GVA	Gross Value Added
ha	hectare
HAZ	Heritage Action Zone
Helix	Helix Fiduciary AG
HGV	Heavy goods vehicle
HIA	Health Impact Assessment
HIF	Housing Infrastructure Fund
HMP	Habitat Management Plan
hr	Hour

HLCA	Historic Landscape Character Area
HRA	Habitats Regulations Assessment
HRA1998	Human Rights Act 1998
HRDF	High Resolution Direction Finder
HSE	Health and Safety Executive
IAPI	Initial Assessment of Principal Issues
ICAO	International Civil Aviation Organisation
ICCAN	Independent Commission on Civil Aircraft Noise
ICRIS	Inner Circuit Route Improvement Strategy
IEMA	Institute of Environmental Management and Assessment
IFP	Instrument Flight Procedure
INM	Integrated Noise Model
IP	Interested Party
ISH	Issue Specific Hearing
KCC	Kent County Council
kHz	Kilohertz
KIA	Kent International Airport
km	Kilometre
KWT	Kent Wildlife Trust
LAeq (16 hour) day time contour	Equivalent continuous sound level of aircraft noise in the 16 hour average summer day
LAeq (8 hour) contour	Equivalent continuous sound level of aircraft noise during the average summer night
LAm _{ax}	Maximum A-weighted sound level
LAF _{max}	Maximum A-weighted fast response sound level
LAS _{max}	Maximum A-weighted slow response sound level
LCA	Landscape Character Area

LCC	Low-Cost Carrier
LDO	Local Development Order
LED	Light-emitting diode
LimA	Proprietary Noise Mapping Software Package
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LTP4	The Local Transport Plan 4
LRN	Local road network
LOAEL	Lowest Observed Adverse Effect Level
LP	Thanet Local Plan (2006)
LPA	Local Planning Authority
LVIA	Landscape and Visual Impact Assessment
m	Metre
MAFNIC	Manston Airport Fair Noise Insulation Compensation
MAG	Manchester Airport Group
MARS	Multiple Access Ramp System
MHCLG	Ministry of Housing, Communities and Local Government
MHCP	Mitigation and Habitat Creation Plan
MIO	M.I.O Investments Limited
MLW	Medium Landing Weight
MoD	Ministry of Defence
mph	Miles per hour
mppa	million passengers per annum
MRO	maintenance, repair and overhaul
NATS	National Air Traffic Services
NCA	National Character Area

NGA	Northern Grass Area
NMP	Noise Mitigation Plan
NNF	No Night Flights
NNR	National Nature Reserve
NO ₂	Nitrogen dioxide
NO _x	Mono-nitrogen oxides NO and NO ₂
NOEL	No observed effect level
NPPF	National Planning Policy Framework
NPSE	Noise Policy Statement for England 2010
NPSNN	National Policy Statement for National Networks
NSIP	Nationally Significant Infrastructure Project
NSR	Noise sensitive receptor
NTS	Non-technical Summary
NTT	Notice to Treat
NVZ	Nitrate Vulnerable Zone
OD	Ordnance Datum
oCEMP	Outline Construction Environmental Management Plan
OEMP	Operational Environmental Management Plan
OFH	Open Floor Hearing
PA2008	Planning Act 2008
PEIR	Preliminary Environmental Information Report
PFMS	Preliminary Freight Management Strategy
PHE	Public Health England
PM	Preliminary Meeting
PPG	Planning Practice Guidance
PPV	Peak Particle Velocity

PRC	Practical Reserve Capacity
ProPG	Professional Practice Guidance on Planning and Noise
PRoW	Public Right of Way
PRoWMS	Public Rights of Way Management Strategy
PSED	Public Sector Equality Duty
PSZ	Public Safety Zone
PwC	PricewaterhouseCoopers AG
PWS	Public Water Supply
QC	Quota count
R	Requirement
RAF	Royal Air Force
RBMP	River Basin Management Plan
rdDCO	recommended draft Development Consent Order
REAC	Register of Environmental Actions and Commitments
RFC	Ratio of flow to capacity
RFFS	Rescue and Firefighting Service
RIAA	Report to Inform Appropriate Assessment
RIBA	Royal Institute of British Engineers
RIES	Report on the Implications for European Sites
RR	Relevant Representation
RSA	Road Safety Audit
RSP	RiverOak Strategic Partners Limited
RSPB	Royal Society for the Protection of Birds
SAC	Special Area of Conservation
SAE	Society of Automotive Engineers
SELEP	South East Local Enterprise Partnership

SES	Single European Sky
SFRA	Strategic Flood Risk Assessment
SHP	Stone Hill Park Ltd
SLM	Sound Level Meter
SM	Scheduled Ancient Monument
SNARL	Suggested No Adverse Response Level
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoNA	Survey of Noise Attitudes
SoS	Secretary of State
SoSMHCLG	Secretary of State for the Ministry of Housing, Communities and Local Government
SPA	Special Protection Area
SPZ	Source Protection Zone
sq m	Square metre
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
STEM	Science, technology, engineering and maths skills
TA	Transport Assessment
TCPA1990	Town and Country Planning Act 1990
TDC	Thanet District Council
TP	Temporary Possession
TSTM	Thanet Strategic Transport Model
TTS	Thanet District Transport Strategy 2015-2031
UAEL	Unacceptable Adverse Effect Level
UKCP	UK Climate Projections
USAF	United States Air Force

USI	Unaccompanied Site Inspection
UU	Unilateral Undertaking
UXO	Unexploded Ordnance
WeBS	Wetland Bird Survey
WebTAG	Web-based Transport Appraisal Guidance
WFD	Water Framework Directive
WHMP	Wildlife Hazard Management Plan
WHO	World Health Organisation
WPZ	Water Protection Zone
WR	Written Representation
WSI	Written Scheme of Investigation
ZTV	Zone of Theoretical Visibility

APPENDIX D: THE RECOMMENDED DRAFT DCO

201[*] No. 0000

INFRASTRUCTURE PLANNING

The Manston Airport Development Consent Order 201[*]

Made - - - - 201[*]

Coming into force - - 201[*]

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An application has been made to the Secretary of State, in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a), for an Order under section 37 of the Planning Act 2008(b) (“the 2008 Act”).

The application was examined by a Panel (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The Panel, having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 74(2)(c) of the 2008 Act, made a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel, has decided to make an Order granting development consent for the development described in the application [with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application].

The Secretary of State is satisfied that the special category land within the Order limits, when burdened with the rights imposed by this Order, will be no less advantageous than it was before to the persons in whom it is vested; other persons, if any, entitled to rights of common or other rights; and the public; and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120 and 122 of, and paragraphs [*], [*], [*] and [*] of Schedule 5 to, the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Manston Airport Development Consent Order 201[*] and comes into force on [*] 201[*].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1965 Act” means the Compulsory Purchase Act 1965(e);

(a) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755.

(b) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c. 33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c. 65). There are other amendments to the 1980 Act which are not relevant to this Order.

(e) 1965 c. 56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c. 34). Section 11(1) and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of,

“the 1972 Act” means the Local Government Act 1972(a)
 “the 1980 Act” means the Highways Act 1980(b);
 “the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(c);
 “the 1982 Act” means the Civil Aviation Act 1982(d);
 “the 1984 Act” means the Road Traffic Regulation Act 1984(e);
 “the 1990 Act” means the Town and Country Planning Act 1990(f);
 “the 1991 Act” means the New Roads and Street Works Act 1991(g);
 “the 2008 Act” means the Planning Act 2008(h);
 “access and rights of way plans” means the plans certified by the Secretary of State under article 41 (certification of documents, etc.) as the access and rights of way plans for the purposes of this Order;
 “address” includes any number or address for the purposes of electronic transmission;
 “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 for airlines;
 “apparatus” has the same meaning as in Part 3 of the 1991 Act;
 “authorised development” means the development and associated development described in Schedule 1 (authorised development) or any part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;
 “book of reference” means the document of that description certified by the Secretary of State under article 41 (certification of documents, etc.) as the book of reference for the purposes of this Order;

and Part 1 to Schedule 9 to, the Courts Act 1971 (c. 23). Section 13 was amended by section 139 to the Tribunals, Courts and Enforcement Act 2007 (c. 15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.

- (a) 1972 c. 70.
- (b) 1980 c. 66. Section 1(1) was amended by section 21(2) to the New Roads and Street Works Act 1991 (c. 22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c. 51); section 1(2A) was inserted by, and section 1(3) was amended by, section 259(1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections J(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), by section 64(1), (2) and (3) of the Transport and Works Act 1992 (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) to the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c. 51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (c) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c. 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 (c. 50) and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are other amendments to the 1981 Act which are not relevant to this Order.
- (d) 1982 c. 16.
- (e) 1984 c. 27.
- (f) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c. 29) (date in force to be appointed see section 241(3), (4)(a) and (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (g) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
- (h) 2008 c. 29.

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act and includes part of a carriageway;

“commence” means the carrying out of any material operation (as defined in section 155 of the 2008 Act), comprised in or carried out for the purposes of the authorised development other than operations consisting of environmental surveys and monitoring, investigations for the purpose of assessing ground conditions, diversion and laying of services, receipt and erection of construction plant and equipment, erection of any temporary means of enclosure, the temporary display of site notices or contractors’ signage and notices or installation of a site compound or any other temporary building or structure to the extent that these do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement and are not likely to harm heritage assets of national importance and their settings as defined in the further assessment of the historic character of the airfield under Requirement 3(3)(a) and “commences”, “commenced” and “commencement” are to be construed accordingly;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“consultative committee guidance” means the Guidelines for Airport Consultative Committees published by the Department for Transport in April 2014;

“crown land plan” means the plan certified by the Secretary of State under article 41 (certification of documents, etc.) as the crown land plan for the purposes of this Order.

“cycle track” has the same meaning as in the 1980 Act(a);

“design and access statement” means the documents of that description certified by the Secretary of State under article 41 (certification of documents, etc.) as the design and access statement for the purposes of this Order;

“design drawings” means the document of that description certified by the Secretary of State under article 41 (certification of documents, etc.) as the design drawings for the purposes of this Order;

“design guide” means the document of that description certified by the Secretary of State under article 41 (certification of documents, etc.) as the design guide for the purposes of this Order;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“engineering drawings and sections” means the documents of that description certified by the Secretary of State under article 41 (certification of documents, etc.) as the engineering drawings and sections for the purposes of this Order;

“environmental statement” means the document of that description certified by the Secretary of State under article 41 (certification of documents, etc.) as the environmental statement for the purposes of this Order;

“footway” and “footpath” have the same meaning as in the 1980 Act and include part of a footway or footpath;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act and “highway” includes part of a highway;

“Kent County Council” means Kent County Council of County Hall, Maidstone, Kent ME14 1XQ;

“land plans” means the plans certified by the Secretary of State under article 41 (certification of documents, etc.) as the land plans for the purposes of this Order;

(a) The definition of “cycle track” (in section 329(1) of the 1980 Act) was amended by section 1 of the Cycle Tracks Act 1984 (c. 39) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“maintain” in relation to the authorised development includes to inspect, repair, adjust, alter, remove, refurbish, replace, improve or reconstruct to the extent that these do not give rise to any materially new or materially worse environmental effects from those identified in the environmental statement and any derivative of “maintain” is to be construed accordingly;

“Manston Airport s.106 agreement” means the agreement dated 26 September 2000 and made pursuant to section 106 of the 1990 Act and the 1972 Act between Thanet District Council and Kent International Airport plc in respect of Manston Airport;

“noise mitigation plan” means the document certified by the Secretary of State under article 41 (certification of documents, etc.) as the noise mitigation plan for the purposes of this Order;

“Operation Stack” means the operations known as Operation Stack and Operation Brock administered by Kent Police and Highways England for the purpose of relieving congestion on the M20 motorway;

“Operation Stack land” means the land comprising Manston Airport, Manston Road, Manston, Kent and defined as ‘the land’ in the Town and Country Planning (Manston Airport) Special Development Order 2019(a);

“Order land” means the land shown on the land plans which is within the Order limits and described in the book of reference;

“the Order limits” means the limits of lands to be acquired or used permanently or temporarily shown on the lands plans and works plans within which the authorised development may be carried out;

“outline construction environmental management plan” means the document of that description certified by the Secretary of State under article 41 (certification of documents, etc.) for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(b);

“register of environmental actions and commitments” means the document of that description certified by the Secretary of State under article 41 (certification of documents, etc.) for the purposes of this Order;

“relevant highway authority” means, in any given provision of this Order, the local highway authority for the area to which the provision relates;

“relevant planning authority” means in any given provision of this Order, the planning authority for the area to which the provision relates;

“special category land plan” means the plan certified by the Secretary of State under article 41 (certification of documents, etc.) as the special category land plan for the purposes of this Order.

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) or section 138(4A) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“traffic authority” has the same meaning as in the 1984 Act;

“traffic regulation order plans” means the plans certified by the Secretary of State under article 41 (certification of documents, etc.) as the traffic regulation order plans for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“trunk road” means a highway which is a trunk road by virtue of—

(a) section 10 or 19(1) of the 1980 Act;

(a) S.I. 2019/86.

(b) 1981 c. 67.

- (b) an order or direction under section 10 of that Act; or
- (c) an order granting development consent; or
- (d) any other enactment;

“undertaker” means RiverOak Strategic Partners Limited (company registration number 10269461) of 50 Broadway, Westminster, London SW1H 0BL or the person who has the benefit of this Order in accordance with articles 7 (benefit of Order) and 8 (consent to transfer benefit of Order);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“works plans” means the plans certified by the Secretary of State under article 41 (certification of documents, etc.) as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the access and rights of way plans or the traffic regulation order plans.

(6) References in this Order to numbered works are references to works as numbered in Schedule 1 (authorised development).

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Any enactment applying to land within, adjoining or sharing a common boundary with the Order limits has effect subject to the provisions of this Order.

Maintenance of authorised development

4. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Maintenance of drainage works

5.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991.

Limits of deviation

- 6.—(1) In carrying out the authorised development the undertaker may—
- (a) construct each work only within its relevant work limits shown on the works plans;
 - (b) deviate vertically downwards from the levels of the authorised development shown on the engineering drawings and sections to any extent except that any deviation to a point below existing ground level must be approved in writing by the Secretary of State in consultation with the Environment Agency and Southern Water; and
 - (c) deviate vertically upwards from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 2 metres except in relation to the parts of the authorised development referred to in column (1) of the table below, where the maximum height for each such part is set out in the corresponding entry in column (2) of that table—

(1) <i>Building or Structure</i>	(2) <i>Maximum Height (above ordnance datum)</i>
Cargo facilities constructed as part of Work No.1	67.3 metres
Business jet hangar constructed as part of Work No.2	66.1 metres
Fixed base operation hangars constructed as part of Work No.2	66.2 metres
Air traffic control tower constructed as part of Work No.3	74.0 metres
Radar tower constructed as part of Work No.4	74.0 metres
Terminal building constructed as part of Work No.12	59.6 metres
Fire station constructed as part of Work No.13	60.1 metres
Gatehouse constructed as part of Work No.14	53.2 metres
Gatehouse gantry constructed as part of Work No.14	57.2 metres
Commercial buildings constructed as part of Work No.15	66.5 metres
Commercial buildings constructed as part of Work No.16	64.2 metres
Commercial buildings constructed as part of Work No.17	64.5 metres
Aircraft recycling hangar constructed as part of Work No.18	72.8 metres
Fuel farm tanks constructed as part of Work No.19	51.0 metres

(2) The maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State’s satisfaction and the Secretary of State, following consultation with the relevant planning authority, Southern Water and the Environment Agency, certifies accordingly that a deviation in excess of these limits do not give rise to any materially new or materially worse adverse environmental effects from those assessed in the environmental statement.

(3) In any discrepancy in any heights cited in this article and heights cited elsewhere in this Order, notably in Schedule 1, then the lower of the two is the maximum height permitted.

(4) Deviations are restricted where they are likely to harm heritage assets of national importance and their settings as defined in the development masterplans that are considered worthy of conservation by the relevant planning authority, Kent County Council and Historic England as defined in the further assessment required in requirement 3(3)(a).

Benefit of Order

7.—(1) Subject to paragraph (2) and article 8 (consent to transfer benefit of Order), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

Consent to transfer benefit of Order

8.—(1) Subject to paragraph (4), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), includes references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to Kent County Council for the purposes of undertaking Works Nos. 25, 26, 27, 28, 29, 30, 31 and 32.

Guarantees in respect of payment of compensation, etc.

9.—(1) The authorised development must not be commenced, and the undertaker must not exercise the powers in articles 19 to 33, until—

- (a) subject to paragraph (3), security of £13.1 million has been provided in respect of the liabilities of the undertaker—
 - (i) to pay compensation to landowners in connection with the acquisition of their land or of rights over their land by the undertaker exercising its powers under Part 5 of this Order; and
 - (ii) to pay noise insulation costs and relocation costs as required by requirement 9 of Schedule 2 to this Order; and
- (b) the Secretary of State has approved the security in writing.

(2) The security referred to in paragraph (1) may include, without limitation, any one or more of the following—

- (a) the deposit of a cash sum;
- (b) a payment into court;
- (c) an escrow account;
- (d) a bond provided by a financial institution;
- (e) an insurance policy;
- (f) a guarantee by a parent company or companies of the undertaker;
- (g) a guarantee by a person of a sufficient financial standing (other than the undertaker).

(3) The Secretary of State is to have no liability to pay compensation in respect of the compulsory acquisition of land or otherwise under this Order.

PART 3

STREETS

Application of the New Roads and Street Works Act 1991

10.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 (dual carriageways and roundabouts)(a) of the 1980 Act or section 184 (vehicle crossings over footways and verges)(b) of that Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of Part 3 the 1991 Act (street works in England and Wales) do not apply in relation to any works executed under the powers of this Order—

- section 56 (directions as to timing)(c);
- section 56A (power to give directions as to placing of apparatus)(d);
- section 58 (restrictions following substantial road works)(e);
- section 58A (restriction on works following substantial street works)(f);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works)(g).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 12 (temporary stopping up and restriction of use of streets), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(h) referred to in paragraph (4) are—

- section 54 (advance notice of certain works)(i), subject to paragraph (6);
- section 55 (notice of starting date of works)(j), subject to paragraph (6);

(a) Section 64 was amended by Schedule 17 to the Local Government Act 1965 (c. 51) and Schedule 9 to the 1991 Act.

(b) Section 184 was amended by section 4 of, and Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and Schedule 8 to the New Roads and Street Works Act 1991 (c. 22) and sections 35 and 46 of the Criminal Justice Act 1982 (c. 48).

(c) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

(d) Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).

(e) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(f) Section 58A was inserted by section 52 of the Traffic Management Act 2004 (c. 18).

(g) Schedule 3A was inserted by Schedule 4 to the Traffic Management Act 2004 (c. 18).

(h) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(i) As also amended by section 49(1) of the Traffic Management Act 2004 (c. 18).

(j) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004 (c. 18).

section 57 (notice of emergency works)(a);
section 59 (general duty of street authority to co-ordinate works)(b);
section 60 (general duty of undertakers to co-operate);
section 68 (facilities to be afforded to street authority);
section 69 (works likely to affect other apparatus in the street);
section 75 (inspection fees);
section 76 (liability for cost of temporary traffic regulation); and
section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 11 (construction and maintenance of new, altered or diverted streets)—

- (a) affects the operation of section 87 of the 1991 Act (prospectively maintainable highways);
- (b) means that the undertaker is by reason of any duty under that article to maintain a street or to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (c) has effect in relation to maintenance works which are street works within the meaning of the 1991 Act, as respects which the provisions of Part 3 of the 1991 Act apply.

Construction and maintenance of new, altered or diverted streets

11.—(1) Any street to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed in writing with the local highway authority, must be maintained by and at the expense of the local highway authority from its completion following a specified maintenance period to be agreed with the local highway authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority in whose area the street lies and, unless otherwise agreed with the local street authority, be maintained by and at the expense of the local street authority from its completion.

(3) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(4) For the purposes of a defence under paragraph (3), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause dangers to users of the street; and

(a) As also amended by section 52(3) of the Traffic Management Act 2004 (c. 18).

(b) As amended by section 42 of the Traffic Management Act 2004 (c. 18).

- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Temporary stopping up and restriction of use of streets

12.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter, divert or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily stopped up or restricted under the powers conferred by this article and which is within the Order limits as a temporary working site subject to the written consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed .

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily stop up, alter or divert any street without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) If a street authority which receives a valid application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

Permanent stopping up of public rights of way

13.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the public rights of way specified in column (1) of Parts 1 and 2 of Schedule 3 (permanent stopping up of public rights of way) to the extent specified and described in column (2) of that Schedule.

(2) No public right of way specified in column (1) of Part 1 of Schedule 3 is to be wholly or partly stopped up under this article unless—

- (a) the new public right of way to be constructed and substituted for it, which is specified in column (3) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the public right of way to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the public right of way until the completion and opening of the new public right of way in accordance with sub-paragraph (a).
- (c) Kent County Council is notified six weeks before any planned diversion or closure of the public right of way.

(3) Where a public right of way has been stopped up under this article—

- (a) all rights of way over or along the public right of way so stopped up are extinguished; and

- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the public right of way as is bounded on both sides by land owned by the undertaker.

(4) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped-up streets).

Access to works

14. The undertaker may, for the purposes of the authorised development, and with the consent of the street authority, form and layout means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development provided that this does not result in any materially new or materially worse environmental effects than those assessed in the environmental statement.

Traffic regulation

15.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may at any time, for the purposes of the construction of the authorised development prohibit vehicular access, prohibit waiting of vehicles and regulate vehicular speed by imposing speed restrictions on vehicles in the manner specified in Schedule 4 (traffic regulation) on those roads specified in column (1) and along the lengths and between the points specified in column (2) in the manner specified in column (3) of the Schedule.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The powers conferred by paragraphs (1) and (2) may be exercised at any time prior to the expiry of 12 months from the part of the authorised development to which it relates being brought into operational use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraphs (1) and (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The undertaker must not exercise the powers conferred by paragraphs (1) and (2) unless it has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-

paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraphs (1) and (2)—

(a) has effect as if duly made by, as the case may be—

(i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or

(ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces)(a) of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(b).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraphs (1) and (2) within a period of 24 months from the part of the authorised development to which it relates being brought into operational use.

(8) Before exercising the powers of paragraphs (1) and (2) the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

(9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraphs (1) and (2) the traffic authority is deemed to have granted consent.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

16.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991 (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(b) 2004 c. 18.

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.
- (5) The undertaker must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.
- (6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is free from gravel, soil or other solid substance, oil or matter in suspension or solution.
- (7) Nothing in this article overrides the requirement for an environmental permit under regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016^(a).
- (8) In this article—
- (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and
 - (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991^(b) have the same meaning as in that Act.
- (9) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person will be deemed to have granted consent or given approval, as the case may be.

Protective work to buildings

- 17.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker considers necessary or expedient.
- (2) Protective works may be carried out—
- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
 - (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.
- (3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.
- (4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—
- (a) enter the building and any land within its curtilage; and
 - (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).
- (5) Before exercising—
- (a) a right under paragraph (1) to carry out protective works to a building;
 - (b) a right under paragraph (3) to enter a building and land within its curtilage;
 - (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
 - (d) a right under paragraph (4)(b) to enter land,

(a) S.I. 2016/1154.

(b) 1991 c. 57.

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 43 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

18.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation to the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation to the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land and on the Secretary of State.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the surveyor investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within a highway boundary without the consent of the highway authority;
or
- (b) in a private street without the consent of the street authority, but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If either a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4)(a) in the case of a highway authority; or
- (b) under paragraph (4)(b) in the case of a street authority,

that authority will be deemed to have granted consent.

(7) The right of access under paragraph (1) will be suspended temporarily and with immediate effect in respect of the Operation Stack land and the undertaker must remove all apparatus and equipment from that land within two hours of the Secretary of State notifying the undertaker in writing that—

- (a) Operation Stack has been declared by Highways England or Kent Police; and
- (b) the imminent use of the Operation Stack land for lorry parking purposes would be incompatible with the exercise of rights notified to the Secretary of State under paragraph (2).

(8) The temporary suspension under paragraph (7) will end as soon as the Secretary of State has notified the undertaker, as soon as is practicable, of the date on which the use of Operation Stack land mentioned in paragraph (7)(b) has ceased.

PART 5

POWERS OF ACQUISITION AND POSSESSION

Compulsory acquisition of land

19.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it.

(2) This article is subject to article 22 (compulsory acquisition of rights and restrictive covenants), article 23 (subsoil or new rights only to be acquired in certain land) and article 29 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the mineral code

20. Part 2 of Schedule 2 to the Acquisition of Land Act 1981(a) (minerals) is incorporated in this Order subject to the modification that for the acquiring authority substitute the undertaker.

Time limit for exercise of authority to acquire land compulsorily

21.—(1) After the start date —

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 of the 1981 Act as applied by article 26 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(a) 1981 c. 67.

(2) The authority conferred by article 29 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

(3) For the purposes of this article “the start date” means the later of:

- (a) the end of the period of one calendar year beginning on the day after the period for legal challenge in s.118 of the 2008 Act expires; or
- (b) the final determination of any legal challenge under s.118 of the 2008 Act.

Compulsory acquisition of rights

22.—(1) Subject to paragraphs (2) to (4), the undertaker may acquire such rights over the Order land as may be required for any purpose for which that land may be acquired under article 19 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the undertaker’s powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements or new rights in the land as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 of the 1965 Act (other provisions as to divided land), as modified by Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires a right over land under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

Subsoil or new rights only to be acquired in certain land

23.—(1) This article applies to the land specified in Schedule 7 (acquisition of subsoil and new rights only).

(2) In the case of the land specified in Part 1 of Schedule 7, the undertaker’s powers of compulsory acquisition under article 19 (compulsory acquisition of land) and article 22 (compulsory acquisition of rights and restrictive covenants) are limited to the acquisition of, or the acquisition of rights over, or the imposition of restrictive covenants on, so much of the subsoil of that land that is required for the authorised development, or to facilitate it, or is incidental to it.

(3) In the case of the land specified in Part 2 of Schedule 7, the undertaker’s powers of compulsory acquisition under article 19 and article 22 are limited at surface level and above to the acquisition of rights over, or the imposition of restrictive covenants on so much of that land that is required for the authorised development, or to facilitate it, or is incidental to it.

Private rights over land

24.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of the rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant—

- (a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker that are within the Order limits are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of the rights over or the imposition of the restrictive covenant affecting the land;
 - (ii) the undertaker’s appropriation of it;
 - (iii) the undertaker’s entry onto it; or
 - (iv) the undertaker’s taking temporary possession of it,
 that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Application of the Compulsory Purchase Act 1965

25.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act is modified as follows.

- (a) in section 4A(1) (extension of time limit during challenge)(a)—
 - (i) for “section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and

(a) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

- (ii) for “the three year period mentioned in section 4” substitute “the one year period mentioned in article 21 (time limit for exercise of authority to acquire land compulsorily) of the Manston Airport Development Consent Order 201[*]”.

(2) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 21 (time limit for exercise of authority to acquire land compulsorily) of the Manston Airport Development Consent Order 201[*]”.

(3) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat) at the end insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 17 (protective work to buildings), 28 (temporary use of land for carrying out the authorised development) or 29 (temporary use of land for maintaining the authorised development) of the Manston Airport Development Consent Order 201[*].”

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

- 26.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as so applied, has effect with the modifications set out in this article.
- (3) In section 1 (application of act) for subsection 2 substitute—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.
- (4) Omit section 5 (earliest date for execution of declaration)(a).
- (5) Omit section 5A (which provides a time limit for the execution of a general vesting declaration)(b).
- (6) In section 5B(1) (extension of time limit during challenge)(c)—
- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and
- (b) for “the three year period mentioned in section 4” substitute “the five year period mentioned in article 21 (time limit for exercise of authority to acquire land compulsorily) of the Manston Airport Development Consent Order 201[*]”.
- (7) In section 6 (notices after execution of declaration) for subsection (1)(b)(d) there is substituted—
- “(b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008,”.
- (8) In section 7 (constructive notice to treat) in subsection (1)(a)(e), omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(f), omit paragraph 1(2).

(a) Section 5 was amended by Schedule 15 to the Housing and Planning Act 2016 (c. 22).

(b) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(c) Section 5B(1) was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(d) Section 6 was amended by paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22) and section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11).

(e) Section 7(1) was substituted by Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(f) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

27.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or of the airspace over the land referred to in paragraph (1) of article 19 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent Schedule 2A to the 1965 Act from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Rights under or over streets

28.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, will be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

29.—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) the land specified in column (1) of Schedule 8 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land;

- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any works on that land as are mentioned in Schedule 1 (authorised development).

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 8, or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section (4) of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development; or
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Any dispute as to the satisfactory removal of temporary works and restoration of land under paragraph (4) does not prevent the undertaker giving up possession of the land.

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—

- (a) acquiring new rights over any part of that land under article 22 (compulsory acquisition of rights and restrictive covenants); or
- (b) acquiring any part of the subsoil (or rights in the subsoil of or airspace over) that land under article 27 (acquisition of subsoil or airspace only).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 (refusal to give possession to acquiring authority)(a) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

Temporary use of land for maintaining the authorised development

30.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article—

“the maintenance period”, in relation to any part of the authorised development means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

(a) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

Statutory undertakers

31.—(1) Subject to the provisions of Schedule 9 (protective provisions), article 22 (compulsory acquisition of rights and restrictive covenants) and paragraph (2), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over any Order land belonging to statutory undertakers;
- (b) extinguish the rights of, and remove or reposition apparatus belonging to, statutory undertakers over the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 of the 1991 Act; and
- (b) article 32 of this Order (apparatus and rights of statutory undertakers in stopped-up streets).

Apparatus and rights of statutory undertakers in stopped-up streets

32.—(1) Where a street is stopped up under article 13 (permanent stopping up and restriction of use of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 13 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003(a).

Recovery of costs of new connections

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 31, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 32 (apparatus and rights of statutory undertakers in stopped-up streets) or Part 3 of the 1991 Act applies.

(4) In this article—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003(b); and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

(a) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

(b) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

PART 6 OPERATIONS

Felling or lopping of trees and removal of hedgerows

34.—(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(5) In this article “hedgerow” has the same meaning as in the Hedgerow Regulations 1997(a) and includes important hedgerows.

PART 7 MISCELLANEOUS AND GENERAL

Abrogation of agreement

35. The Manston Airport s.106 Agreement dated 26 September 2000 is hereby abrogated.

Application of landlord and tenant law

36.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(a) S.I. 1997/1160.

- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Removal of human remains

37.—(1) Before the undertaker carries out any development or works which are to or may disturb any human remains in the specified land it is to remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(2) Archaeological human remains will be identified, investigated and removed in accordance with the Archaeological Written Scheme of Investigation subject to the provisions of an exhumation licence under the Burial Act 1857.

(3) Before human remains that are non-archaeological are removed from the specified land the undertaker is to give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker is to send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person is to, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(8) The undertaker is to pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under powers conferred by this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker is to remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker is to comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under powers conferred by this article—

- (a) a certificate of re-interment or cremation is to be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) is to be sent by the undertaker to the relevant planning authority.

(12) The removal of the remains of any deceased person under powers conferred by this article is to be carried out in accordance with any directions which may be given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1853(a) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) does not apply to a removal carried out in accordance with this article.

(15) Section 3 of the Burial Act 1853 (burial not to take place after Order in Council for discontinuance) does not apply to a removal carried out in accordance with this article.

(16) In this article—

- (a) “the specified land” means any land within the Order limits; and
- (b) “Archaeological human remains” means human remains that are not of recent origin, that is dating before 1900.

Defence to proceedings in respect of statutory nuisance

38.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(b) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(c); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(a) 1853 c. 134.

(b) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(c) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 c. 43. There are other amendments to the 1974 Act which are not relevant to this Order.

- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Protection of interests

39. Schedule 9 (protective provisions) to the Order has effect.

Crown rights

40.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description—

- (a) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown Land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions, and is deemed to have been given in writing where it is sent electronically.

Certification of documents, etc.

41.—(1) As soon as practicable after the making of this Order the undertaker must submit copies of each of the plans and documents set out in Schedule 10 (documents to be certified) to the Secretary of State for certification as true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 10 requires to be amended to reflect the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

42.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement will be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation will be final and will take effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

43. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference

(a) 1978 c. 30.

which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Date

Signed
Title
Department

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

In the administration area of Thanet

A nationally significant infrastructure project as defined in sections 14 and 23 of the 2008 Act comprising:

Work No.1 — The construction of airside cargo facilities and ancillary offices with a maximum building height of 20m and total combined cargo and office footprint of 65,500m².

Work No.2 — The construction of 8 light and business aircraft hangars and associated fixed base operator terminal with a maximum building height of 15m.

Work No.3 — The construction of a new air traffic control centre to include—

- (a) an air traffic control tower with a maximum building height of 27m;
- (b) an airfield operations centre; and
- (c) associated parking.

Work No.4 — The construction of a new modern radar installation to include—

- (a) a radar tower with a maximum building height of 27m;
- (b) an area of safeguarded land of 165m radius surrounded by a security fence to ensure uninterrupted radar operation; and
- (c) single storey ancillary structures to house equipment and provide maintenance access.

Work No.5 — The construction of new or improved approach lights and navigational aids.

Work No.6 — The construction of new or improved approach lights and navigational aids.

Work No.7 — The rehabilitation of the existing 10/28 runway and runway shoulders.

Work No.8 — The construction and rehabilitation of pavements for the safe movement and parking of aircraft and aircraft support vehicles and associated pavement infrastructure.

Work No.9 — The construction and rehabilitation of pavements for the creation of 19 Code E aircraft parking stands and associated pavement infrastructure.

Work No.10 — The construction and rehabilitation of pavements for the creation of 3 Code C aircraft parking stands and associated pavement infrastructure.

Work No.11 — The construction and rehabilitation of pavements for the creation of 4 Code C aircraft parking stands and associated pavement infrastructure.

Work No.13 — The construction of a new airport fire station and associated storage areas to include—

- (a) six full size emergency bay doors allowing front and rear entry;
- (b) a garage area with associated workshop;
- (c) a welfare and management area; and
- (d) a hardstanding area for tank storage of firefighting materials.

Associated development comprising:

Work No.12 — The construction of a new passenger terminal facility with a maximum building height of 15m.

Work No.14 — The construction of a gatehouse with a maximum height of 4m and vehicle control area to including vehicle lanes, a gantry with maximum height of 8m and a welfare facility for gatehouse staff.

Work No.15 — The construction of airport-related commercial facilities (use class B1 and B8) with a maximum building height of 18m and with a total building footprint of up to 60,000m² including associated paved storage areas, parking and internal accessways.

Work No.16 — The construction of airport-related commercial facilities (use class B8) with a maximum building height of 18m and with a total building footprint of up to 26,000m² to include associated paved storage areas, parking and internal accessways.

Work No.17 — The construction of airport-related commercial facilities (use class B1) with a maximum building height of 10m and with a total building footprint of up to 30,000m² to include associated paved storage areas, parking and internal accessways.

Work No.18 — The construction of a new aircraft recycling facility and associated offices with a maximum building height of 23m.

Work No.19 — The construction of new or improved facilities to create an airport fuel farm on the site of an existing fuel storage facility.

Work No.20 — The construction of an airside storage and maintenance area for cargo and stand equipment.

Work No.21 — The construction of internal access roads and parking areas including passenger parking and parking overflow.

Work No.22 — The construction of paved areas and visual screening for the proposed cargo areas to include an emergency assembly area, site access road and paved areas to support cargo facilities and air traffic control.

Work No.23 — The construction of two new attenuation ponds for the purposes of treating, storing and discharging site drainage runoff.

Work No.24 — Works to construct a diversion to an existing public right of way.

Work No.25 — Public highway works to construct a new airport access.

Work No.26 — Public highway works to junction of B2190 and B2050.

Work No.27 — Public highway works to B2050 including new access provision.

Work No.28 — Public highway upgrade to B2190.

Work No.29 — Public highway upgrade to Manston Road.

Work No.30 — Public highway upgrade to B2190.

Work No.31 — Public highway upgrade to Manston Road.

Work No.32 — Public highway works at new airport-related business park entrance on Manston Road.

In connection with the construction of any of those works, further associated development within the Order limits which does not give rise to any materially new or materially worse environmental effects to those assessed in the environmental statement consisting of—

- (a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footpath, footway, cycle track or verge; and reducing the width of the carriageway of the street;
- (b) works required for the strengthening, improvement, maintenance, or reconstruction of any street;
- (c) ramps, means of access, non-motorised links, footpaths, footways, bridleways, cycle tracks and crossing facilities;
- (d) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, outfalls, ditches, pollution control devices, wing walls, highway lighting, fencing and culverts;
- (e) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street;
- (f) works to place, alter, divert, relocate, remove or maintain the position of apparatus, services, plant and other equipment in a street, or in other land, including mains, sewers, drains, pipes, lights and cables;
- (g) landscaping, noise barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (h) works for the benefit or protection of land affected by the authorised development;
- (i) works required for the strengthening, improvement, maintenance, or reconstruction of any streets;
- (j) works to place, alter, remove or maintain road furniture;
- (k) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soils stripping and storage, site levelling);
- (l) the felling of trees and hedgerows;
- (m) establishment of site construction compounds, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction lighting, haulage roads and other machinery, apparatus, works and conveniences;
- (n) the provisions of other works including service roads, internal site roads, pavement works, kerbing and paved areas works, signing, signals, gantries, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction, operation or maintenance of the authorised development; and
- (o) such other works, working sites storage areas, works of demolition or works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development which do not give rise to any materially new or materially worse environmental effects to those assessed in the environmental statement.

SCHEDULE 2 REQUIREMENTS

Article 3

PART 1 REQUIREMENTS

Interpretation

1. In this Schedule—

“bellyhold” means the cargo hold of a passenger aircraft used for freight;

“Biodiversity Unit” means a biodiversity unit as defined in accordance with the methodology outlined in the document entitled ‘Technical Paper: the metric for the biodiversity offsetting pilot in England’ published by the UK Department for Environment, Food and Rural Affairs in March 2012;

“cargo air transport movement” means landings or take-offs of aircraft engaged on the transport of freight or mail on commercial terms. All scheduled movements, including those operated empty and loaded charter movements are included, but passenger flights carrying bellyhold freight are not included;

“European protected species” has the same meaning as in regulation 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(a);

“general aviation movement” means landings or take-offs of all civil aviation operations other than scheduled air services and non-scheduled air transport operations for remuneration or hire. General aviation activities include but are not limited to training, business aviation, recreation, agriculture, transport of dangerously ill people and of urgently needed human organs, medical equipment and medicines, monitoring ground traffic movements from the air, civil search and rescue, law enforcement, aerial survey, pollution control and firefighting, and flying displays.;

“habitable room” means a room used, or intended to be used for dwelling purposes including a kitchen but not a bathroom or utility room;

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981(b);

“operation environmental management plan” means the document of that name to be developed for each part of the authorised development prior to the relevant part being brought into operational use which will contain the environmental information needed for future maintenance and operation of that part of the authorised development;

“passenger air transport movement” means landings or take-offs of aircraft engaged on the transport of passengers on commercial terms. All scheduled movements, including those operated empty, loaded charter and air taxi movements are included; and

“scheduled” means planned according to a schedule and includes both scheduled and chartered flights.

(a) S.I. 2017/1012.

(b) 1981 c. 69.

Time limits

2. The authorised development must commence no later than the expiration of five years beginning with the date that this Order comes into force.

Development masterplans

3.—(1) No part of the authorised development may be commenced until there has been submitted to and approved by the relevant planning authority in consultation with Kent County Council and Historic England—

- (a) where the authorised development is to be constructed in a single part, a masterplan in respect of the entire authorised development; or
- (b) where the authorised development is to be constructed in two or more parts, a masterplan for the relevant part of the authorised development.

(2) The masterplan must—

- (a) in relation to a development to be constructed in a single part, include a masterplan illustrating the entire authorised development; or
- (b) where the authorised development is to be constructed in two or more parts, include—
 - (i) those elements of the authorised development which are to be developed in that part;
 - (ii) where it is the plan for the first part, the identification of the elements or areas of the authorised development which are to be constructed at a later date;
- (c) include an outline programme setting out the anticipated programme for construction of those elements of the authorised development comprised in the relevant masterplan; and
- (d) be substantially in accordance with the certified masterplan referred to in Schedule 10 of this Order.

(3) Before a masterplan is submitted under sub-paragraph (1) the undertaker must—

- (a) commission further assessment of the historic character of the airfield, historic buildings survey, and archaeological investigation, and assess the heritage significance of heritage assets and their settings;
- (b) consider that the conservation of heritage assets of national importance and their settings should be given great weight, and conflict between their conservation and the proposal avoided or minimise and
- (c) consult the relevant planning authority, Kent County Council and Historic England before submitting the masterplan for approval and report on the consultees' recommendations in the submission.

(4) Where a masterplan has been submitted to and approved by the relevant planning authority for a particular part of the authorised development—

- (a) the details to be submitted to the relevant planning authority to discharge any requirement may relate to that part only, in order that the construction and/or operation of that part may commence in accordance with the approved details; and
- (b) construction of that part must not commence until the relevant part of any requirement has been discharged.

(5) The authorised development must be carried out in accordance with the relevant approved masterplan.

Detailed design

4.—(1) No part of the authorised development may commence until details of the siting, design, external appearance, lighting, site access (including emergency access) and dimensions of any element of Works Nos. 1, 2, 3, 4, 12, 13, 14, 15, 16, 17, 18 or 20 contained in that part, which must accord with sub-paragraphs (2) and (3) have been submitted and approved by the relevant planning authority in consultation with Kent County Council where relevant to its functions.

- (2) The authorised development must be carried out in general accordance with—
- (a) the engineering drawings and sections;
 - (b) the design drawings;
 - (c) the design principles contained in the design and access statement;
 - (d) the design guide; and
 - (e) the lighting scheme,

unless otherwise agreed in writing by the relevant planning authority provided that the relevant planning authority is satisfied that any departures from those documents do not give rise to any materially new or materially worse adverse environmental effects in comparison with those assessed in the environmental statement.

(3) Where amended details are approved by the relevant planning authority under sub-paragraph (2), those details are deemed to be substituted for the corresponding details in the engineering drawings and sections, design drawings or design and access statement and the undertaker must make those amended details available in electronic form for inspection by members of the public.

(4) Sub-paragraphs (2) and (3) are subject to the approvals required under sub-paragraph (1).

(5) The construction of the authorised development must be carried out in accordance with details approved under sub-paragraph (1).

Detailed design of fuel farm

5.—(1) No part of Work No.19 is to commence until the detailed design for that Work and details of safety processes associated with operation of that Work have been submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency.

(2) The details approved under sub-paragraph (1) must reflect the relevant actions and commitments set out in the register of environmental actions and commitments.

(3) The construction, maintenance and operation of Work No.19 must be carried out in accordance with the details approved under sub-paragraph (1).

Construction environmental management plan

6.—(1) No part of the authorised development is to commence until a construction environmental management plan for the part, substantially in accordance with the outline construction environmental management plan, has been submitted to, and approved in writing by, the relevant planning authority, following consultation with any of the relevant highway authority, the Environment Agency, Southern Water, Historic England, the Civil Aviation Authority and Natural England to the extent that it relates to matters relevant to their function.

(2) A construction environmental management plan approved under sub-paragraph (1) must contain—

- (a) the following management plans—
 - (i) dust management plan;
 - (ii) mitigation and habitat creation plan;
 - (iii) environmental spillage plan;
 - (iv) unexploded ordnance threat and risk assessment;
 - (v) noise and vibration management plan;
 - (vi) construction traffic management plan;
 - (vii) public rights of way management plan;
 - (viii) construction emergency plan;
 - (ix) site waste management plan;
 - (x) construction risk assessment;

- (xi) carbon minimisation action plan;
 - (xii) construction emergency plan;
 - (xiii) tree survey and protection plan;
 - (xiv) construction safety management plan;
 - (xv) drainage strategy;
 - (xvi) pollution control plan;
 - (b) a record of the consents, commitments and permissions resulting from liaison with statutory bodies; and
 - (c) those mitigation measures set out in the register of environmental actions and commitments which are relevant to the construction of the authorised development.
- (3) Construction of each part of the authorised development must be carried out in accordance with the approved construction environmental management plan for that part.

Operation environmental management plan

7.—(1) No part of the authorised development is to begin operation until an operation environmental management plan for that part has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the relevant highway authority, the Environment Agency, Southern Water, Historic England, the Civil Aviation Authority and Natural England to the extent that it relates to matters relevant to their function.

- (2) The operation environmental management plan must contain—
- (a) chapters addressing:
 - (i) environment and sustainability policies;
 - (ii) legal compliance;
 - (iii) reporting procedures;
 - (iv) obligations to be placed upon third parties including tenants and commercial users of the airport;
 - (v) stakeholder management and complaints procedures;
 - (vi) waste and materials management (including hazardous or abnormal substances);
 - (vii) noise management;
 - (viii) air quality management;
 - (ix) wildlife management;
 - (x) water and drainage;
 - (xi) traffic management and green travel planning;
 - (xii) landscape planting and maintenance;
 - (xiii) fuel storage and transport arrangements; and
 - (xiv) operational use of herbicides to control vegetation;
 - (b) plans and policy documents including:
 - (i) environmental spillage plan;
 - (ii) site waste management plan;
 - (iii) carbon minimisation action plan;
 - (iv) operational emergency plan;
 - (v) wildlife hazard management plan;
 - (vi) habitat management plan;
 - (vii) long grass policy;
 - (viii) emergency response and post-crash management plan;

- (ix) framework travel plan including freight management strategy;
 - (x) public rights of way management strategy;
 - (xi) car park management strategy;
 - (xii) airport management strategy;
 - (xiii) bus service enhancement scheme;
 - (xiv) airport surface access strategy;
 - (xv) HGV signage strategy;
 - (xvi) lighting strategy substantially to meet the requirements set out in the draft lighting strategy;
- (c) the commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of that part of the authorised development;
 - (d) a record of the consents, commitments and permissions resulting from liaison with statutory bodies;
 - (e) those mitigation measures set out in the register of environmental actions and commitments which are relevant to the operation and maintenance of the authorised development; and
 - (f) provision for a process under which the contents of the operational environmental management plan are continually reviewed against relevant best practice and any consequent changes are submitted for approval by the local planning authority.
- (3) Each part of the authorised development must be operated and maintained in accordance with the approved operation environmental management plan for that part.
- (4) No part of the authorised development is to begin operation until a bus service enhancement Scheme, has been submitted to, and approved in writing by, the local highway authority. This must contain measures to enhancement existing bus services and include shuttle bus service provision.

Ecological mitigation

- 8.—**(1) No part of the authorised development may be commenced until written details of the proposed on-site and off-site ecological mitigation, the timetable for its implementation, its monitoring and management have been submitted to and approved by the local planning authority, in consultation with Natural England.
- (2) The details of mitigation approved under sub-paragraph (1) must incorporate a net gain of at least 10 Biodiversity Units across the Order limits and any land used for ecological mitigation purposes compared with the situation that existed prior to the commencement of the authorised development.
- (3) The ecological mitigation must be implemented, monitored and managed by the undertaker in accordance with the written details approved under sub-paragraph (1).

Noise mitigation

- 9.—**(1) The noise mitigation plan must be carried out in full.
- (2) The authorised development must be operated in full accordance with the noise mitigation plan.
- (3) No part of the authorised development must be commenced until measures set out in sections 2, 3, 4, 5 and 9 of the noise mitigation plan have been implemented.
- (4) Residential properties with habitable rooms within the 60dB LAeq (16 hour) day time contour will be eligible for noise insulation and ventilation detailed in the noise mitigation plan.

(5) The airport will be subject to an annual noise quota of 2000 between the hours of 06.00 and 07.00.

(6) Any aircraft which has a quota count of 4 or above cannot be scheduled to take-off or land at the airport between the hours of 06.00 and 07.00.

(7) The area enclosed by the 50dB(A) Leq16hr (07.00 to 23.00) contour must not exceed 35.8 sq km, and the area enclosed by the 40dB(A) Leq8hr (23.00 to 07.00) contour must not exceed 47.4 sq km.

Landscaping

10.—(1) No part of the authorised development may be commenced, nor may powers under article 34 (felling or lopping of trees and removal of hedgerows) be exercised, until a landscaping scheme for that part, which sets out details of all proposed hard and soft landscaping works, has been submitted to and approved in writing by the local planning authority.

(2) A landscaping scheme referred to in sub-paragraph (1) must contain all relevant mitigation measures set out in the register of environmental actions and commitments.

(3) A landscaping scheme referred to in sub-paragraph (1) must be substantially in the form of the draft landscaping plan.

(4) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(5) The landscaping scheme approved under sub-paragraph (1) must be carried out in full.

(6) Any tree or shrub planted as part of the landscaping scheme that, within a period of 25 years after planting, is removed, dies or becomes in the reasonable opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Contaminated land and groundwater

11.—(1) In the event that land affected by contamination, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the undertaker determines that remediation of contamination identified in, on, or under land from detailed site investigations, or as an unexpected discovery, is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency.

(3) Any required and agreed remediation must be carried out in accordance with the scheme approved under sub-paragraph (2).

(4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation scheme in sub-paragraph (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency.

(5) Prior to any part of the authorised development being occupied a verification report demonstrating the completion of works set out in the approved remediation scheme and the effectiveness of the remediation will be submitted to, and approved in writing by, the relevant planning authority. The report will include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Protected species

12.—(1) No part of the authorised development is to commence until for that part final pre-construction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected or likely to be affected by any part of the relevant works, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Following pre-construction survey work or at any time when carrying out the authorised development, where—

- (a) a protected species is shown to be present, or where there is reasonable likelihood of it being present;
- (b) application of the relevant assessment methods used in the environmental statement show that a significant effect is likely to occur which was not previously identified in the environmental statement; and
- (c) that effect is not addressed by any prior approved scheme of protection and mitigation established in accordance with this paragraph,

the relevant parts of the relevant works must cease until a scheme of protection and mitigation measures has been submitted to and approved in writing by the relevant planning authority following consultation with Natural England and Kent Wildlife Trust.

(3) The undertaker must consult with Natural England and Kent Wildlife Trust on the scheme referred to in sub-paragraph (2) prior to submission to the relevant planning authority for approval, except where a suitably qualified and experienced ecologist, holding a licence relating to the species in question, determines that the relevant works do not require a protected species licence.

(4) The relevant works under sub-paragraph (2) must be carried out in accordance with the approved scheme, unless otherwise agreed by the relevant planning authority after consultation with Natural England and Kent Wildlife Trust, and under any necessary licences.

Surface and foul water drainage

13.—(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage plan, containing all relevant mitigation measures set out in the register of environmental actions and commitments including means of pollution control and monitoring and drainage operation, have been submitted and approved in writing by the relevant planning authority following consultation with the Environment Agency, Kent County Council, Natural England and Southern Water on matters related to their functions.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details, unless otherwise agreed in writing by the relevant planning authority following consultation with the Environment Agency, Kent County Council, Natural England and Southern Water on matters relating to their functions, provided that the Secretary of State is satisfied that any amendments to the approved details do not give rise to any materially new or materially worse adverse environmental effects in comparison with those assessed in the environmental statement.

(3) No part of the authorised development is to begin operation until the construction of the entire surface and foul water drainage for that part is completed.

(4) Construction of the attenuation basins must be completed within the first phase of construction if construction is undertaken in phases.

Traffic management

14.—(1) No part of the authorised development is to commence until a construction traffic management plan for that part has been submitted to and approved in writing by the relevant planning authority, following consultation with the Royal Mail.

(2) The authorised development must be constructed in accordance with the construction traffic management plan referred to in sub-paragraph (1).

Piling and other intrusive works

15.—(1) No operations consisting of piling or other intrusive works (including drilling) are to commence until a risk assessment and a method statement have been submitted to and agreed in writing by the relevant planning authority following consultation with the Environment Agency and Southern Water.

(2) Operations subject to sub-paragraph (1) must be carried out in accordance with the method statement referred to in sub-paragraph (1).

Archaeological remains

16.—(1) No part of the authorised development is to commence until for that part a written scheme for the investigation of areas of archaeological interest, containing all relevant mitigation measures set out in the register of environmental actions and commitments, has been submitted to and approved in writing by the relevant planning authority, following consultation with Historic England, Kent County Council and the relevant planning authority on matters related to its function.

(2) The authorised development must be carried out in accordance with the scheme referred to in sub-paragraph (1).

(3) A copy of any analysis, reporting, publication or archiving required as part of the written scheme referred to in sub-paragraph (1) must be deposited with the Historic Environment Record of the relevant planning authority within one year of the date of completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority or specified in the written scheme referred to in sub-paragraph (1).

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in situ and reported to the relevant planning authority, Historic England and Kent County Council as soon as reasonably practicable from the date they are identified.

(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date of any notice served under sub-paragraph (4) unless otherwise agreed in writing by the relevant planning authority in consultation with Historic England and Kent County Council.

(6) If the relevant planning authority determines in writing that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the relevant planning authority in consultation with Historic England and Kent County Council.

Amendments to approved details

17. With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes approved under this Schedule, the approved details or schemes are taken to include any amendments that may subsequently be approved in writing.

Community consultative committee

18.—(1) No part of the authorised development must be commenced until the undertaker has established a community consultative committee pursuant to section 35 of the 1982 Act.

(2) The constitution and proceedings of the community consultative committee established under sub-paragraph (1) must be in accordance with the consultative committee guidance.

Airport-related commercial facilities

19.—(1) Works Nos. 15, 16 and 17 must only be developed and used to have a direct relationship to and support the operation of Works Nos. 1 to 11 and 13.

- (2) Buildings comprised in Works Nos. 15, 16 and 17 must not be occupied before
- (a) the aerodrome is granted European Union Aviation Safety Agency or Civil Aviation Authority certification; and
 - (b) the commencement of operation of Work No.1 (or any part thereof).

Education, employment and skills plan

20.—(1) No part of the authorised development is to commence until an employment and skills plan has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the relevant local education authority to the extent that it relates to matters relevant to their function.

- (2) The employment and skills plan must contain—
- (a) chapters addressing—
 - (i) legal compliance;
 - (ii) reporting procedures; and
 - (iii) obligations to be placed upon third parties including local educational establishments and bodies;
 - (b) plans and policy documents including—
 - (i) a local hiring policy;
 - (ii) an education and skills policy; and
 - (iii) a workplace training policy;
 - (c) provision for the establishment of a local employment partnership board to include the relevant planning authority and the relevant local education authority and other relevant stakeholders as appropriate, to assist in the delivery of the plans and policies listed under paragraph (b);
 - (d) provision for a process under which the contents of the employment and skills plan is continually reviewed against relevant best practice and any consequent changes are submitted for approval by the relevant planning authority; and
 - (e) the employment and skills plan approved under sub-paragraph (1) must be implemented in full.

Airport operation

21.—(1) The operation of the airport is subject to—

- (a) a total annual cargo air transport movement limit of 17,170;
- (b) a total annual passenger air transport movement limit of 9,298; and
- (c) a total annual general aviation movement limit of 38,000.

(2) No aircraft can take-off or be scheduled to land between the hours of 2300 and 0600.

(3) No passenger air transport departures will take place between the hours of 09.00 and 11.30. There must 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 must only be one scheduled passenger air transport arrival between the hours of 07.00 and 08.00.

(4) No passenger air transport departures will take place between the hours of 20.00 and 21.00. There must 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.

Highway improvements

22. Works Nos. 26 to 31 must be completed in accordance with article 11 (construction and maintenance of new, altered or diverted streets) of this Order before any of Works Nos. 1, 2, 7, 12 or 15 to 20 commence operation.

Monitoring

23. No part of the authorised development is to begin operation until a monitoring, auditing and reporting plan for the register of environmental actions and commitments has been submitted to, and approved in writing by, the relevant planning authority, following consultation with the highway authority, the Environment Agency, Historic England, the Civil Aviation Authority and Natural England to the extent that it relates to matters relevant to their function.

High Resolution Direction Finder

24.—(1) No development must commence unless and 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 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, and the technical performance data necessary to establish Safeguarding criteria to protect its subsequent operation.

(2) 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.

(3) No development must 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 the relevant planning authority. The decommissioning and removal of the existing High Resolution Direction Finder equipment must be carried out strictly in accordance with the details approved.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

1. Applications made under requirements

(1) Where an application has been made to a relevant planning authority for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement) included in this Order the relevant planning authority must give notice to the undertaker of its decision on the application within a period of eight weeks beginning with—

- (a) where no further information is requested under paragraph 1(2), the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under paragraph 1(2), the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

(3) Where an application has been made under paragraph 1(1) the relevant planning authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(4) If the relevant planning authority or a requirement consultee considers further information is required, the relevant planning authority must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(5) If the relevant planning authority does not give the notification mentioned in sub-paragraph (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

2. Fees

(1) Where an application is made to a relevant planning authority for any consent, agreement or approval required by a Requirement, the fee for the discharge of conditions attached to a planning permission contained in regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as may be amended or replaced from time to time) is to apply and must be paid to the relevant planning authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—

- (a) the application being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application within 8 weeks from the date on which it is received, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application; or
- (c) a longer period where a longer time for determining the application has been agreed pursuant to paragraph 1(1)(c)

3. Appeals

(1) The undertaker may appeal if—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by—
 - (i) a requirement and any document referred to in any requirement; or
 - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
- (b) the relevant authority does not give notice of its decision to the undertaker within the period specified in paragraph 1(1);
- (c) having received a request for further information under paragraph 1(3) the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or
- (d) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the decision period as determined under paragraph 1;
- (b) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant planning authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (c) the undertaker must on the same day provide copies of the appeal documents to the relevant planning authority and the requirement consultee (if applicable);

- (d) as soon as is practicable after receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
- (e) the relevant authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (f) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to paragraph (d) above; and
- (g) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

4. Outcome of appeals

(1) On an appeal under paragraph 3, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not) and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed or set by the appointed person under this paragraph.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(5) Any consent, agreement or approval given by the appointed person pursuant to this paragraph is deemed to be an approval for the purpose of part one of this Schedule as if it had been given by the relevant planning authority.

(6) The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person’s determination.

(7) Except where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(8) On application by the relevant authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid.

(9) In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance or any guidance which may from time to time replace it.

5. Interpretation of Part 2 of Schedule 2

(1) In Part 2 of Schedule 2—

“the appeal parties” means the relevant planning authority, the requirement consultee and the undertaker;

“business day” means a day other than a Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971; and

“requirement consultee” means any body named in a Requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that Requirement.

SCHEDULE 3

Article 13

PERMANENT STOPPING UP OF PUBLIC RIGHTS OF WAY

PART 1

PUBLIC RIGHTS OF WAY TO BE STOPPED UP AND FOR WHICH A
SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Public right of way to be stopped up</i>	<i>(2)</i> <i>Extent of stopping up</i>	<i>(3)</i> <i>New highway to be substituted</i>
TR8	Between RWST1.1 and RWST1.2 as shown on sheet 4 of the Access and Rights of Way Plans	Between RWDV1.1 and RWDV1.2 as shown on sheet 4 of the Access and Rights of Way Plans

PART 2

PUBLIC RIGHTS OF WAY TO BE STOPPED UP AND FOR WHICH NO
SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Private means of access to be stopped up</i>	<i>(2)</i> <i>Extent of stopping up</i>
TR9	Between RWST2.1 and RWST2.2 as shown on sheet 4 of the Access and Rights of Way Plans

SCHEDULE 4

Article 15

TRAFFIC REGULATION

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Extent as shown on the Traffic Regulation Order Plans</i>	<i>(3)</i> <i>Restrictions</i>
B2050, B2190	Between points TRO1.1, TRO1.2, TRO1.3, TRO1.4 and TRO1.5 as shown on sheet 2.	Prohibition of vehicular access at any time. No waiting restriction between 07.00 to 19.00 Monday to Sunday. Speed limit to be reduced to 30mph for the duration of the construction of the authorised development
B2190	Between points TRO2.1 as shown on sheet 1 and TRO2.2 as shown on sheet 2.	Prohibition of vehicular access at any time. No waiting restriction between 07.00 to 19.00 Monday to Sunday. Speed limit to be reduced to 30mph for the duration of the construction of the authorised development
B2050	Between points TRO3.1 and TRO3.2 as shown on sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07.00 to 19.00 Monday to Sunday. Speed limit to be reduced to 30mph for the duration of the construction of the authorised development
Manston Road	Between points TRO4.1 and TRO4.2 as shown on sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07.00 to 19.00 Monday to Sunday. Speed limit to be reduced to 30mph for the duration of the construction of the authorised development
B2050	Between points TRO5.1 and TRO5.2 as shown on sheet 4.	Prohibition of vehicular access at any time.

<i>(1) Road</i>	<i>(2) Extent as shown on the Traffic Regulation Order Plans</i>	<i>(3) Restrictions</i>
		<p>No waiting restriction between 07.00 to 19.00 Monday to Sunday.</p> <p>Speed limit to be reduced to 30mph for the duration of the construction of the authorised development</p>
B2190	Between points TRO6.1 as shown on sheet 1 and TRO6.2 as shown on sheet 2.	<p>Prohibition of vehicular access at any time.</p> <p>No waiting restriction between 07.00 to 19.00 Monday to Sunday.</p> <p>Speed limit to be reduced to 30mph for the duration of the construction of the authorised development</p>

SCHEDULE 5

Article 22(2)

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

<i>(1)</i> <i>Plot Reference Number shown on Land Plans</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>
001, 002, 003, 004, 005, 006, 007, 008, 0009, 010, 011, 012, 013 and 014	The construction of new or improved approach lights and navigational aids (Work No.5).
019a, 019b, 019c and 020a	Access to airfield.
060, 061, 062, 063, 064, 065, 066 and 067	The construction of new or improved approach lights and navigational aids (Work No.6).
073	Access to Work No.19.
082, 110, 112, 118, 119, 120, 129, 131, 132, 138, 140, 141, 148, 150, 151, 156, 157, 158, 161, 177a, 177b, 185c, 185d, 187, 188 and 188a	Overground access to existing underground pipeline.

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply in respect of compensation on the compulsory purchase of land and interests in land, subject to the modifications set out in this Schedule.

2.—(1) Without limiting paragraph 1, the Land Compensation Act 1973^(a) has effect subject to the modifications set out in sub-paragraphs (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 5—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

3.—(1) Without limiting paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, after “if” substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act;
 - (b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 10 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights) to the Manston Airport Development Consent Order 201[] to acquire an interest in the land; and
 - (c) the acquiring authority enters on and takes possession of that land,
- the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

Application of the 1965 Act

4. The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without limiting sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

5. For section 7 (measure of compensation) of the 1965 Act substitute—

(a) 1973 c. 26.

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(b) (penalty for unauthorised entry) and 13(c) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20(d) (protection for interests of tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

9. Section 22 (interests omitted from purchase) of the 1965 Act is modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

10. For Schedule 2A of the 1965 Act substitute—

SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(e) as

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- (a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.
 - (b) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
 - (c) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
 - (d) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.
 - (e) 1981 c. 66, as amended by Part 7 of the Housing and Planning Act 2016 (c. 22).

applied by article 26 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) in respect of the land to which the notice to treat relates.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right to be acquired, and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.

SCHEDULE 7

Article 23

ACQUISITION OF SUBSOIL AND RIGHTS ONLY

PART 1

LAND IN WHICH ONLY SUBSOIL OR RIGHTS OVER SUBSOIL MAY BE ACQUIRED

<i>Plot reference number shown in land plans</i>
078, 079, 080, 083, 084, 085, 086, 088, 090, 092, 094, 096, 097, 098, 099, 100, 101, 102, 103, 104, 107, 109, 113, 114, 114a, 115, 116, 123, 124, 127, 130, 134, 136, 144, 145, 147, 152, 153, 154, 162, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 185a and 185e

PART 2

LAND IN WHICH ONLY NEW RIGHTS MAY BE ACQUIRED AT SURFACE LEVEL OR ABOVE

<i>Plot reference number shown on land plans</i>
081, 095, 108, 111, 117, 128, 133, 142, 143, 146, 149, 155, 159, 160, 177c, 185b, 185f and 186

SCHEDULE 8

Article 29

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Plot Reference Number shown on Land Plans</i>	<i>(2)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
018	Highway improvements	Works Nos. 25, 26, 28 and 30
018a	Highway improvements	Works Nos. 26 and 30
018b, 040a, 042a, 044 and 045a	Highway improvements	Work No.26
045	Highway improvements	Works Nos. 26, 29, 31 and 32
045b	Highway improvements	Works Nos. 26 and 31

SCHEDULE 9

Articles 31 and 39

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(c); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and

(a) 1989 c. 29.

(b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

(c) 1991 c. 56.

(d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991, for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

4.—(1) Where any street is stopped up under article 13 (permanent stopping up and restriction of use of streets and private means of access), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 12 (temporary stopping up and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 17 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 43, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written

notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 43 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is

any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

12. Where in consequence of the proposed construction of any of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

15. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A)(b) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

(a) 2003 c. 21.

(b) Paragraph 1(3A) was inserted by section 106(2) of, and paragraphs 1 and 4 of Schedule 3 to, the Communications Act 2003 (2003 c. 21).

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act^(a);

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

16. The exercise of the powers conferred by article 31 (statutory undertakers) is subject to paragraph 23 of Schedule 2 (undertaker’s works) to the Telecommunication Act 1984^(b).

17.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 43 (arbitration).

(5) This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

(a) See section 106.

(b) 1984 c. 12.

PART 3

FOR PROTECTION OF NETWORK RAIL

18. The following provisions of this Part of this Schedule shall have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 14, any other person on whom rights or obligations are conferred by that paragraph.

19. In this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of his or her powers under section 8 of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail Infrastructure Limited and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

20.—(1) Where under this Part Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail shall—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

(3) The undertaker shall not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(4) The undertaker shall not under the powers of this Order extinguish or acquire new rights over any railway property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent shall not be unreasonably withheld but may be given subject to reasonable conditions.

21.—(1) The undertaker shall before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work shall not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) shall not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated his or her disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate his or her approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail shall construct it without reasonable delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying his or her approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes shall be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works shall be carried out at the expense of the undertaker in either case without reasonable delay and the undertaker shall not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to his or her reasonable satisfaction.

22.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 4(4) shall, when commenced, be constructed—

- (a) without reasonable delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 4;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker shall, notwithstanding any such approval, make good such damage and shall pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part shall impose any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or

agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

23. The undertaker shall—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as he or she may reasonably require with regard to a specified work or the method of constructing it.

24. Network Rail shall at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part during their construction and shall supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

25.—(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which shall be specified in the notice), the undertaker shall pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail shall assume construction of that part of the specified work and the undertaker shall, notwithstanding any such approval of a specified work under paragraph 4(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer shall, in respect of the capitalised sums referred to in this paragraph and paragraph 9(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving shall be set off against any sum payable by the undertaker to Network Rail under this paragraph.

26. The undertaker shall repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 4(3) or in constructing any protective works under the provisions of paragraph 4(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work and otherwise in connection with the implementation of the provisions of this Part of this Schedule;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-person and other persons whom it shall be reasonably necessary to appoint for inspecting, signaling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the

construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

27.—(1) In this paragraph-

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 4(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)-

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 4(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 4(1) have effect subject to the sub-paragraph.

(6) If at any time prior to the commencement of regular revenue-earning operations comprised in the authorised development and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail’s apparatus.

(7) In the event of EMI having occurred –

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker’s apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail’s apparatus in the investigation of such EMI; and

- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6) –

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 14(1) applies to the costs and expenses reasonably incurred or losses suffered by network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph (a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in 43 (Arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Electrical Engineers.

28. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker shall, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

29. The undertaker shall not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it shall have first consulted Network Rail and it shall comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

30. Any additional expenses which Network Rail may reasonably and properly incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work shall, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

31.—(1) The undertaker shall pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or the failure thereof, or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work,

and the undertaker shall indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail shall give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) shall include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail shall promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

32. Network Rail shall, on receipt of a request from the undertaker, from time to time provide the undertaker with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part (including any claim relating to those relevant costs).

33. In the assessment of any sums payable to Network Rail under this Part there shall not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

34. Nothing in this Order, or in any enactment incorporated with or applied by this Order, shall prejudice or affect the operation of Part I of the Railways Act 1993. 18. The undertaker shall give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent, under article 8 (consent to transfer the benefit of Order) of this Order and any such notice shall be given no later than 28 days before any such application is made and shall describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

35. Any difference or dispute arising between the undertaker and Network Rail under this Part of this Schedule shall be referred to and settled by arbitration under article 43 (arbitration).

SCHEDULE 10

Article 41

DOCUMENTS TO BE CERTIFIED

<i>(1)</i> <i>Document</i>	<i>(2)</i> <i>Document Reference</i>	<i>(3)</i> <i>Version</i>
access and rights of way plans	TR020002/APP/4.6	1
book of reference	TR020002/APP/3.3	2
crown land plan	TR020002/APP/4.3	1
design and access statement	TR020002/APP/7.3	1
design drawings	TR020002/APP/4.14	1
design guide	TR020002/D4/DG	1
engineering drawings and sections	TR020002/APP/4.13	1
environmental statement	TR020002/APP/5.2	1
land plans	TR020002/APP/4.2	1
draft lighting strategy (appendix A)	TR020002/D6/LV.1.36	1
outline masterplan	TR020002/APP/7.1	1
noise mitigation plan	TR020002/APP/2.4	5
outline construction environmental management plan	TR020002/APP/2.6	1
register of environmental actions and commitments	TR020002/APP/2.5	2
special category land plan	TR020002/APP/4.5	1
traffic regulation order plans	TR020002/APP/4.8	1
works plans	TR020002/APP/4.4	2

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises RiverOak Strategic Partners Limited to undertake works to redevelop Manston Airport in Thanet, Kent and carry out all associated works.

The Order permits RiverOak Strategic Partnerships Limited to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also includes provisions in connection with the maintenance and operation of the authorised development.

A copy of the documents referred to in Schedule 10 to this Order and certified in accordance with article 41 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at RiverOak Strategic Partners Limited, 50 Broadway, London SW1H 0BL.

APPENDIX E: RECOMMENDED ACTIONS (SoS)

Para	Chapter / section	Text	Action
1.7.11	C1, Introduction	<i>"The ExA recommends to the SoS that he should seek the views of KCC and TDC and also satisfy himself that it is appropriate for Riveroak Fuels to be the named party in the UUs."</i>	Action
3.4.2	C3, Legal and policy Context	<i>"Until the arrangements for the UK's exit from the EU are finalised, the requirements of the EASA will continue to apply to airports and aviation within the UK. It will be a matter for the SoS to satisfy himself as to the position on retained law at the point of his decision."</i>	Note
6.2.160	C6, Air quality	<i>"The financial sums attributed to each of the tranches are set out in the first Schedule of [REP11-010]. The wording of the draft s106 Agreement was replicated in the UU in favour of TDC. TDC did not however comment on or sign either document. As such, the SoS should seek the views of TDC on the sums proposed."</i>	Action
6.4.148	C6, Biodiversity	<i>"The ExA concludes in concurrence with Natural England that the baseline surveys and habitat creation proposals are dealt with adequately in EIA terms. The ExA notes Natural England's contentment with the assessment despite incomplete surveys. However, the ExA would advise the SoS to note that incomplete site surveys and their implications have occupied a large amount of examination time and that it is only due to the particular circumstances regarding access that such an approach has been deemed acceptable in this instance."</i>	Note
6.8.397	C6, Noise (schools)	<i>"The ExA would advise the SoS to confirm with KCC whether they find the UU acceptable."</i>	Action
6.8.491	C6, Noise	<i>"The ExA concludes and recommends that it has only been able to reach this overall conclusion following the proposed introduction by the ExA of</i>	Note

		<i>the restrictions and other mitigation measures described above and stresses that should the SoS make the DCO but not include the new Requirements set out in this section, then the ExA's conclusion and recommendation would not stand."</i>	
6.10.152	C6, Socio-economics (UU, TDC)	<i>"Further, the ExA concludes and recommends that the SoS should consult the Applicant on the UU submitted in favour of TDC [AS-584] with a view to obtaining a new UU correctly identifying TDC in Schedule 3."</i>	Action
6.11.228	C6, Transport	<i>"The original TA at Tables 7.69, 7.72, 7.77 and to a lesser extent 7.81 show that as a result of the Proposed Development there would be significant increases in queues at these junctions. The original TA proposes a mitigation scheme for Junctions 20 (a and b) at Figure 7.12 [APP-061, pages 143 and 144]. The SoS should note that the figure is incorrectly labelled as Figure 7.11 - Junction 17. This involved signalling the junctions."</i>	Note
6.11.289	C6 Transport (UU, KCC)	<i>"Whilst the UU does in the large reflect the wording of the latest draft s106 agreement [REP11-010] provided by the Applicant, and which KCC saw subsequently to its submission, the ExA considers that it would be prudent for the SoS to seek the views of KCC on the UU [AS-583]."</i>	Action
6.11.435	C6, Transport (engagement with public transport operators)	<i>"Given all of the above, there is no reason for the ExA to believe that the Applicant would resist such a Requirement. However, the ExA would note that the Applicant has not considered the ExA suggested wording and the SoS may wish to seek the views of the Applicant on this matter before reaching his decision. The ExA is content that based on the inclusion of this Requirement, suitable provision will be secured to meet the mode</i>	Action

		<i>share targets for buses, which are considered to be reasonable given the nature of the surrounding area."</i>	
6.11.453	C6, Transport (CPZ)	<i>"Given this, the ExA therefore recommends to the SoS that the views of TDC are sought before reaching a conclusion on this matter. However, as the ExA is unable to conclude that the proposed CPZ and the associated financial contribution is appropriate this must weigh against the Proposed Development."</i>	Action
6.11.472	C6, Transport (PRoW)	<i>"Given the stage of the Examination that this occurred, the ExA was not able to examine the matter any further and cannot come to any firm conclusions, as the Applicant's position is unclear and it must therefore weigh against the Proposed Development. The ExA recommends that the SoS seeks clarification from the Applicant and KCC if necessary, on these matters."</i>	Action
9.16.15	C9, CA	<i>"The SoS may wish to liaise with Secretary of State for Defence to seek to secure such a statement."</i>	Action
9.16.28	C9, CA	<i>"The SoS may wish to liaise with SoS for Defence to seek to secure such a statement."</i>	Action
9.16.34	C9, CA	<i>"The SoS may wish to liaise with this authority to seek to secure such a statement."</i>	Action
9.16.43	C9, CA	<i>"The SoS may wish to liaise with each of these authorities to seek to secure such a statement."</i>	Action
9.18.9	C9, CA	<i>"The SoS may wish to liaise with BT Group plc to seek to obtain such a statement."</i>	Action
9.18.32	C9, CA	<i>"The SoS may wish to liaise with South Eastern Power Networks plc to seek to obtain such a statement."</i>	Action

9.18.38	C9, CA	<i>"The SoS may wish to liaise with Southern Gas Networks plc to seek to obtain such a statement."</i>	Action
10.4.67	C10, DCO (R19)	<i>"However, as this amended wording was not discussed during the Examination, the ExA concludes and recommends that the SoS should consult IPs on this wording and, in particular, seek the views of the Applicant."</i>	Action
10.4.81	C10, DCO (Article 2)	<i>"However, as this amended wording was not discussed during the Examination, the ExA concludes and recommends that the SoS should consult IPs on this wording and, in particular, seek the views of the Applicant and of TDC which has the responsibility under any made DCO of discharging such a Requirement."</i>	Action
10.5.76	C10, DCO (R3)	<i>"Given that the wording above is construed by the ExA from Historic England's final submission [REP11-016], the SoS may be minded to assure itself that this is the wording as agreed by consulting Historic England and the Applicant."</i>	Action
10.7.139	C10, DCO (Schedule 10)	<i>"However, in the absence of any final statement by the Applicant as to what it now considers to constitute the ES, the ExA recommends that the SoS consult with the Applicant on the ExA's understanding in this respect before additional documents are added to Schedule 10."</i>	Action
10.8.107	C10, DCO (new R21 (4))	<i>"However, as this final wording was not agreed during the Examination, the ExA concludes and recommends that the SoS should consult IPs on this wording and, in particular, seek the views of the Applicant."</i>	Action
10.8.141	C10, DCO (new HRDF Requirement)	<i>"However, in addition, for the reasons given above and recognising the importance of this equipment, the ExA concludes and recommends that the SoS consult on the inclusion of this proposed Requirement with the</i>	Action

		<i>Applicant and IPs seeking, in particular, the views of the MoD (DIO)."</i>	
10.9.6	C10, DCO (Schedule 9 Protective Provisions)	<i>"However, in addition, for the reasons given above the ExA conclude and recommend that the SoS consult on the inclusion of this proposed Protective Provision with IPs seeking, in particular, the views of Network Rail."</i>	Action