



3/D Eagle Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000
e-mail: nienquiries@pins.qsi.gov.uk

RiverOak Investment Corporation LLC
By email

Your Ref:

Our Ref: TR020002

Date: 12 August 2016

Dear Sir/Madam

Planning Act 2008 (as amended) – Section 51

Proposed application by RiverOak Investment Corporation LLC for an Order granting development consent for Manston Airport

Pre-application advice in respect of statutory consultation duties (community consultation)

The Planning Inspectorate is aware that a series of non-statutory consultation events have been held by RiverOak Investment Corporation LLC (RiverOak) in the vicinity of the proposed scheme.

Experience to date has shown that developers and others welcome detailed advice on a number of aspects of the Planning Act 2008 (PA2008) process, in particular on their pre-application consultation duties. In anticipation therefore of the commencement of RiverOak's statutory consultation, the Planning Inspectorate considers this to be a useful time at which to offer you the following advice.

The pre-application duties placed on developers under the PA2008 are unique and represent a departure from the superseded consenting regimes for major infrastructure projects. This advice is issued by the Planning Inspectorate proactively, with the intention of assisting RiverOak to prepare for, carry out, and report upon its statutory community consultation duties in a collaborative and successful manner, and to a standard that the Secretary of State will find satisfactory for the purposes of the acceptance of any application for examination.

Legislative requirements – community consultation

It is against the provisions set out in sections 47, 48, 49 and 50 of the PA2008 that the Planning Inspectorate will apply strict tests at the acceptance stage in respect of RiverOak's duty to consult the local community. Where the Inspectorate is not satisfied that community consultation has been undertaken to a satisfactory standard by a developer, the application will not be accepted for examination when it is

submitted.

The following advice, which draws upon statutory guidance and the Planning Inspectorate's suite of non-statutory advice notes, is intended to assist RiverOak in ensuring that the relevant legislative provisions are satisfied.

Statutory guidance

Statutory guidance about the pre-application process is set out in the DCLG document [Planning Act 2008: guidance on the pre-application process](#) (the Guidance) and sits alongside the provisions of the PA2008 in dealing with pre-application consultation. Developers must have regard to this Guidance, and the Secretary of State must have regard to the extent to which this Guidance has been considered and followed by developers in deciding whether to accept an application for examination.

In consulting on proposals, an inclusive approach is needed to ensure that different groups have the opportunity to participate and are not disadvantaged in the process. Early consideration by RiverOak about how it might seek to ensure that these elements of the Guidance are satisfied in respect of community consultation will likely:

- help to refine an inclusive and responsive approach to community consultation;
- help to build positive relationships which have a beneficial effect on shaping the application;
- help to encourage members of the local community to engage in pre-application consultation in a timely and constructive manner;
- help to inform a well-constructed and well-received Statement of Community Consultation (SOCC); and
- help to avoid unnecessary delays and costs associated with having to make changes to the application at later stages of the process.

In this regard, the Guidance also advises developers to consider the appropriateness of consultation techniques. These considerations might include decisions about the suitability of the consultation media chosen by the developer, for example:

- decisions about the use of electronic or paper correspondence;
- decisions about the location and staffing of consultation events or exhibitions;
- clarity about the handling of personal information shared by the local community; and/or
- the appropriate transposition of that information into the consultation report.

It is the role of local authorities to ensure that the people affected by a development can take part in a thorough, accessible and effective consultation exercise. To that end, where any member of the local community feels that consultation has been inadequately carried out, the Guidance sets out that in the first instance people should make the developer aware of any concerns. But if people remain unsatisfied, they can raise concerns with the relevant local authority who can consider such comments as part of their representation to the Secretary of State on the adequacy of consultation.

Developers should be able to demonstrate that they have acted reasonably in fulfilling the requirements of the PA2008, including taking account of responses to consultation and publicity. Provided that applicants can satisfy themselves and provide clear justification in a consultation report to the effect that they have made reasonable endeavours to consult with all those who might have a legitimate interest or might be

affected by a proposed development, and that account has been taken of any responses, it would be unlikely that an application would be rejected on grounds of inadequate community consultation.

Advice notes

In addition to DCLG's statutory guidance, the Planning Inspectorate's suite of advice notes includes a breadth of helpful non-statutory advice in respect of the pre-application consultation duties placed on developers. The content of the following advice notes might be of particular interest to RiverOak in preparing for, carrying out, and reporting upon its statutory pre-application community consultation:

- [Advice note two: The role of local authorities in the development consent process](#) – in respect of the role of local authorities in the preparation of the Statement of Community Consultation.
- [Advice note 8.2: Responding to the developer's pre-application consultation](#) – in respect of the mechanism for members of the community to make comments about the scheme at the pre-application stage of the process.
- [Advice note fourteen: Compiling the consultation report](#) – in respect of what the consultation report should draw together (statutory and non-statutory consultation if relevant) and how that information will most appropriately be presented.

I trust that RiverOak will find the advice contained within this letter helpful as it prepares to commence statutory consultation with the local community. If you have any queries about the content of this letter, or about any other aspect of the PA2008 process, please do not hesitate to contact me using the details provided.

Yours faithfully

Susannah Guest

Susannah Guest
Infrastructure Planning Lead

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.