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Your Ref:

Our Ref: TR020002

Date: 27 March 2017

BY EMAIL

Dear Ms Howard

Planning Act 2008 (as amended) – Section 53

Re: Former Manston Airport: queries in relation to access under s53 authorisation

Thank you for your letter dated 22 March 2017, which sets out a number of concerns and points of clarification regarding the s53 authorisation dated 16 the December 2016 granted to RiverOak Investment Corporation LLC under the Planning Act 2008 ("PA2008").

On 14 March 2017, BDB on behalf of RiverOak Investment Corporation LLC wrote to the Planning Inspectorate ("the Inspectorate") to confirm that there had been a formal change of identity of the promoter for the Manston Airport Development Consent Order (DCO) to RiverOak Strategic Partners Ltd (RSP). This is now reflected in the details provided on the Inspectorate's internet project page for Manston Airport.

Under your heading "Access to the Site under s53 authorisation" you raise the issue of whether the persons now requesting access to the site in fact "Authorised persons" as defined in the s53 authorisation.

The s.53 authorisation authorises the Applicant and any Authorised Persons to enter onto the land defined in Annex 1 of the authorisation for the purpose of surveying and taking levels and to facilitate compliance with the provisions in section 53 (1A) of the Planning Act 2008.

The Applicant, for the purpose of the s.53 authorisation, is RiverOak Investment Corporation (Delaware Company No. 3028870) whose registered office is at 1209 Orange Street Wilmington, Delaware DE 19802 USA.

Authorised Persons are the Applicant and any persons authorised by the Applicant to carry out the Survey(s) as notified to the Landowner in accordance with the conditions in Annex 3 of the authorisation. Annex 3 confirms that entry onto the land is only authorised for the Authorised Surveys (the non-intrusive surveys described in Annex 4

of the authorisation) for the purpose of surveying and taking levels of to facilitate compliance with the EIA / HRA Directives and that notice must be given to the landowner prior to entry detailing, among other things, the surveys which will be undertaken.

In your letter of 22 March 2017 you raised two specific questions:

- 1) *Would the Planning Inspectorate have recommended to the Secretary of State that S.53 Authorisation be granted to ROIC, if it had been aware that ROIC had no continuing interest in the DCO process?*
- 2) *Would it have been ultra vires for the Secretary of State to have granted the S.53 Authorisation if aware that the Applicant had no continuing interest in the scheme?*

The Inspectorate is unable to comment on these questions. Section 53 of the Planning Act 2008 enables the Secretary of State to authorise any person to enter land for the purpose of surveying and taking levels, or to facilitate compliance with the provisions in section 53(1A), in connection with a proposed application for an order granting development consent. The authorisation that was granted in December 2016 was made on the basis of the available information supplied to the Inspectorate in support of the application for authorisation under s.53 and representations from Stone Hill Park Ltd.

If you have any further queries, please do not hesitate to contact us.

Yours sincerely

Richard Hunt

**Senior EIA and Land Rights Advisor
Major Applications and Plans**