

23 July 2017

PO Box 3297
Bristol
BS1 9LL

Dear Sir/Madam

Consultation on RiverOak Strategic Partners' Proposals for the Former Manston Airport Site, Kent

We write on behalf of Stone Hill Park Ltd (SHP), the owners of the former Manston Airport site. This letter sets out comments on the June 2017 Statutory Consultation documents produced by RiverOak Strategic Partners (RSP) regarding their intention to seek a Development Consent Order to acquire and develop the site as a cargo airport.

Our principal comment is that in our opinion the consultation material fails to demonstrate that the proposed development is deliverable, on the following principal grounds:

1. There is no evidence of RSP's ability to fund the proposed development;
2. The Outline Business Case and suggested 'market opportunity' is fundamentally flawed and not credible;
3. RSP does not own the land that it proposes to develop, and does not present a credible means of acquiring it;
4. The level of detail provided in the Preliminary Environmental Report (PEIR) is inadequate to reach even a preliminary view on the likely environmental effects of the proposed development, or the scope of mitigation necessary to make it acceptable; and
5. There is no evidence to demonstrate a genuine ability/intention to deliver the proposed development.

We further note that the level of consultation with the landowner and other statutory consultees in the formulation of these proposals has been lacking, particularly bearing in mind that compulsory purchase powers are likely to be sought.

We expand on each of these points in further detail below:

1. No Evidence of RSP's Ability to Fund the Proposed Development

The Outline Business Case confirms that the delivery of the proposed development will require investment of at least £300 million on essential capital works, plus site acquisition costs (para 25-28). The consultation documents confirm that securing the funds for this investment is a necessary precursor, without which the proposed development cannot be delivered:

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"...Manston Airport, with the high level of investment proposed by RiverOak, its geographic location and airspace position, is capable of handling air freight at least to the volumes required by the DCO process" ("Manston Airport – a Regional and National Asset, Volumes I-IV" Executive Summary pg. 11, emphasis added)....."This requires an operator and investor with the resources to take a long-term view of the airport as an investment and not expect an instant return" (Overview Report, pg. 13, emphasis added).

Despite acknowledging the necessity of significant, committed investment over the lifetime of the project and the certainty of operating losses which will be incurred over the short-long term, no credible information is provided in the consultation material in respect to the source, commitment, or capability to fund the works set out in Part A-M (para 6) and A-D (para 9) of the OBC or the costs to acquire the land, all of which RSP confirm are fundamentally required in order to deliver the scheme. Nor is there any evidence that the project will be viable and self-sustaining over the long-term, an assurance the Secretary of State and any investment partner will surely require bearing in mind the airport has never made a profit over the course of all of its years of private ownership.

The description of how the project will be funded consists of four paragraphs (the shortest section of any document submitted for consultation) and asserts meekly that *"RiverOak's consortium of investors has a history of investment in and development of major capital projects and they have combined assets in excess of £1 billion"*. This sentence is the extent of RSP's evidence of financial resource and funding structure to date, which we consider to be fundamentally inadequate.

RSP themselves have no track record in the development of major capital projects and have no known investors capable of providing or willing to provide over £300m towards this project. Nor is any information provided on the composition of the alleged "consortium" of investors.

This glaring gap in the consultation material supports our continued opinion that RSP's putative proposals to reopen the airport are entirely speculative. History has shown that despite considerable investment and concerted efforts from numerous capable owners throughout the duration of Manston's 15 years under private ownership, the airport consistently underperformed, never made a profit, and cost investors a total of over £100m (see Enclosures 1 & 2). No evidence has been presented in the consultation material to suggest that RiverOak's proposals will be any different.

In light of the above, we must conclude that on the basis of the consultation material RSP's proposals are not financially viable or deliverable.

2. The Outline Business Case and Suggested 'Market Opportunity' is Fundamentally Flawed and Not Credible

As per (1), this point is explored in detail in the paper at Enclosure 3, with the key points considered below:

The Outline Business Case is academic and provides no evidence of the commercial deliverability of the proposal. The assumptions contained therein are flawed and the conclusions are not credible. The absence of a comprehensive business plan incorporating a detailed financial/investment appraisal supported by recognised institutionally acceptable investment advisors, as would be normally be expected for a project of the scale, is missing in RSP's consultation material.

The business case relies entirely on the purported existence of 'insufficient capacity' in cargo capacity within the South East, and their assertion that their proposals will be a commercial success simply by virtue of this capacity shortfall. This alone is clearly not a credible business case.

Furthermore, RSP's 'vision' for Manston as a cargo hub to serve the South East of England is not unique. Freight formed a core component of the airport's strategy for growth from 1989 until its closure in 2014. Over this period, three private owners of the airport (all of whom had experience in operating airports) made consistent, sustained and significant efforts to promote the airport as an

alternative to London and increase freight and passengers services to an extent that would make the airport's operation viable (see Enclosures 1 & 2).

In 2001, Wiggins Group projected that the airport would process 100,000 tonnes of freight by 2004, doubling to 200,000 by 2005. Annual CAA statistics show that actual freight levels during this period peaked at 43,026 tonnes in 2003, less than half levels projected. Following the significant financial losses incurred during ownership, the owner went into administration in 2005 and the site was sold by administrators to Infratil, an infrastructure investment company with previous experience of owning airports.

In 2009, Infratil published a masterplan for the airport, which included strategies to help it realise growth potential in both passenger and freight services. Again, congestion in London airports and the perceived deficiencies/shortfall in capacity in the South East was considered one of the key drivers for growth and success. It envisioned gradual increases in freight tonnage per annum, combined with step changes in provision as existing operators at other airports in the South East relocated to Manston to access available capacity. The masterplan included plans for additional infrastructure to achieve receive freight dislocated from congested London airports and achieve this growth. The anticipated growth in freight was initially projected to grow starting from 31,600 tonnes in 2010, to 107,000 by 2014, 167,500 tonnes by 2018 and eventually reaching 401,000 tonnes by 2033. Again, the airport only ever achieved a fraction of projected growth, with freighter traffic peaking at 31,078 tonnes in 2012.

SHP's in-house experts have reviewed the aviation evidence supplied by RSP and have found fundamental flaws in RSP's assessment of the existing and projected demand and supply for freight capacity which they use to underpin their proposals (see Enclosure 3). Total air volume of freight in the UK has been broadly flat since the year 2000 and freighter flights, outside Heathrow, Stansted and East Midlands have fallen by almost 75% between 2000 and 2016. Forecast expansion capacity at Heathrow, East Midlands and Stansted is already more than sufficient to meet expected operational needs and there appears to be more than enough capacity within the system to meet all expected demand.

Even if there was existing or projected demand for additional airport freight capacity in the South East (which we do not accept), the mere existence of demand is not a sufficient reason to conclude that it could be fulfilled by Manston. The key characteristics of Manston would remain unchanged irrespective of any significant investment RSP promise (albeit without a demonstrable funding source): Its peripheral location and the lack of strategic infrastructure connecting it to the wider UK supply network means that other airports will continue to be preferable for existing operators. Investment cannot change this.

3. RSP Does Not Own the Land That it Proposes to Develop, and Does Not Present a Credible Means of Acquisition

RSP does not own the land that it proposes to develop.

The development proposals being consulted on are not capable of being implemented unless it acquires the land.

The current landowner does not intend to sell the land, as it has its own development plans that are supported by the emerging development plan for the area and bring with them very considerable public benefits with the certainty of an ability to deliver.

The consultation materials suggest that in order to overcome this, RSP intends to seek powers as part of a DCO application (under the 2008 Planning Act) for the compulsory acquisition of the land. No detail is provided in terms of which specific CPO powers are to be used and no detail is provided on RSP's proposed grounds to justify a CPO. It is our view that there is no case to justify the granting of compulsory purchase powers. We explain this position below:

General principles underpinning compulsory purchase legislation confirm that powers should only be used as a last resort and that the 'bar' to satisfy the relevant tests is set very high. As per s.122 of the Planning Act (2008), a DCO may only authorise compulsory acquisition if the Secretary of State is satisfied that:

- The land is required for the development to which the consent relates, or is required to facilitate, or is incidental to, the development, or is replacement land given in exchange under s.131 or 132; and
- There is a compelling case in the public interest for compulsory acquisition.

The 2013 Communities and Local Government Guidance (the '2013 Guidance') relating to the compulsory acquisition of land (under the 2008 Act) makes it clear that applicants must be prepared to justify their proposals for CPO powers. It is our view that the consultation material provides no such justification, which we explore further below:

Extent of Land Required

The consultation material does not consider reasonable alternatives nor provide a robust explanation to justify why the acquisition of the whole site is necessary to fulfil the purposes of the CPO that is to be sought.

Ability to Deliver

The 2013 guidance is clear that for s.122 to be satisfied, the applicant should be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available (para. 9). It goes on to state that any application must include an explanation of how it will be funded, which should provide as much information as possible about the resource implications of both acquiring the land and implementing the project (para. 17). This Funding Statement must contain sufficient information to enable the Secretary of State to be satisfied that, if it were to grant the compulsory acquisition request, the proposed development is likely to be undertaken and not be prevented due to difficulties in sourcing and securing the necessary funding. This must include details of the full funding structure to secure the full scope of the project, and the cost of acquiring the site must reflect its capitalised value as a residential development site, consistent with the alternative scheme promoted by SHP and supported by the site's proposed allocation within the emerging Thanet Local Plan.

As discussed in (1) above, the consultation material provides no evidence of RSPs ability to fund the proposed development nor the acquisition of the site.

Furthermore, achieving the purposes of a CPO would be dependant on the proposed development being implemented. As discussed later in this letter, there is insufficient evidence provided in the consultation material to offer any confidence that RSP has the capability or intention to deliver their development proposal within a reasonable timescale (and therefore we question whether it would be capable of achieving the purposes of any CPO granted).

Compelling Public Interest Case

The 2013 Guidance explains that for the compelling public interest 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. This position is backed-up by parliamentary decisions.

The consultation material provides what can be reasonably described as initial indications of the likely social, economic, and environmental benefits of the proposed development. However, it fails to consider the public dis-benefits that would occur if SHP's plans were prevented from being implemented, which would be the consequence if the land was compulsorily acquired and is a key consideration in reaching a balanced judgement on both the planning and compulsory purchase case for RSP's proposals.

The public benefits associated with SHP's proposals for the site are set out in detail in their planning application (ref. 16/05550), however we set out headlines below.

- It will deliver up to 2,500 new homes, including a range of types, sizes, and tenures (including affordable homes). This will help satisfy a chronic shortage of housing in the district and wider housing market area, fuelled by significant under-delivery of new housing over recent years and a shortage of alternative suitable deliverable housing land in the district;
- It will also deliver community facilities (including two new primary schools, health centre, and community hall), sports facilities, education, and retail spaces;
- It will support an estimates 2,075 full time equivalent (FTE) direct jobs, and additional indirect jobs through construction, alongside opportunities for education/training;
- It will open up a site which has been closed to public access for many years, providing new pedestrian and vehicular connections (including strategic links necessary to support wider growth in the district), and substantial areas of managed high quality open space and green infrastructure, including significant contributions to biodiversity habitat;
- It will deliver new regionally significant leisure facilities (including a wave garden and swimming pool) which are currently not provided in the region, and therefore help increase tourist attraction in the local area; and
- It will result in direct financial benefits to Council in form of New Homes Bonus (£28.3m) and annual tax receipts (£4.7m) (estimates).

The above comprise significant public benefits. These potential benefits will be lost if the site is compulsorily acquired by RSP, as proposed by this consultation.

On the basis of the above, and having regard to the essentially speculative nature of RSP's proposals, it is our view that there is no compelling public interest case

Conclusion

It is clear to us that there is no case to underpin the granting of compulsory purchase powers.

Without such powers RSP will not be able to acquire the land.

This is a significant in-principle flaw in the proposition being consulted on – it is fundamentally not deliverable without land ownership rights.

4. The Level of Detail Provided in the PEIR is Inadequate to Reach Even a Preliminary View on the Likely Environmental Effects of the Proposed Development, or the Scope of Mitigation Necessary to Make it Acceptable

In our opinion, the level of detail provided in the PEIR is insufficient to reach an informed view on the likely potential environmental effects of the development. Either it is incomplete, or is lacking in scope/depth.

While we recognise that it is only necessary to provide preliminary details at this stage, in the absence of more substantive information the consultation materials fail to demonstrate that the proposed development is deliverable in environmental policy terms.

We enclose a detailed review of the PEIR at Enclosures 4-6 which has been undertaken by SHP's consultants (WSP, Aecom, and Planit), however our headline comments are as follows:

- It is silent on trans-boundary effects (despite this being a requirement of the Secretary of State's Scoping Opinion);
- Insufficient regard is had to the need for approvals under other consenting regimes including how these will be dealt with in the EIA;
- No detail is provided on operational traffic generation nor flight paths, therefore the PEIR is not capable of providing any meaningful consideration of human health, noise, air quality, climate change, or transport impact issues;
- It has not been informed by any baseline on-site species specific ecological surveys (other than a Phase1 Habitat Survey), accordingly is not able to offer any meaningful consideration of ecological matters;

- It has not been informed by any baseline on-site intrusive archaeological surveys, accordingly is not able to provide any meaningful consideration of archaeological matters;
- Details regarding transport matters are very limited. No consideration is given to impacts on junction capacity – it is therefore impossible to form an opinion as to whether the proposal could be accommodated on the highway network even if highway improvements are brought forward; and
- The landscape and visual impact assessment is at preliminary stage only.

5. There is No Evidence to Demonstrate a Genuine Ability/Intention to Deliver the Proposed Development

At the date of writing RSP have an unknown and unproven financial capacity and is 90% owned by anonymous shareholders who are registered via a Belize holding company. There is no transparency whatsoever with respect to the identities of all parties involved, and the sources and commitment of any funding available. This brings into question the Bona Fides of the intended DCO applicant in our opinion (which is particularly important due to the compulsory purchase powers are being sought).

Our research into RSP indicates that it has no experience of owning, developing or operating an airport anywhere in the world. Accordingly, we have doubts over RSP's genuine intentions for the site.

We note that the known individuals affiliated with RSP were also involved with Riveroak Investment Corporation's (ROIC) multiple attempts to demonstrate to Thanet District Council that they had sufficient financial strength and transparency to act as an indemnity partner in support of a proposed CPO process in relation to the airport. In these efforts they failed repeatedly. We consider that the continued and consistent lack of clarity on the sources and availability of the necessary funding to deliver what is proposed to be a £300m investment in the project remains as fundamental an issue now as it was for TDC in their consideration of the suitability of ROIC as an indemnity partner.

Without evidenced availability of the necessary £300m investment proposed and expressed investor appetite from identified funders who have the capacity to meet long term operational losses there can be no credibility given to RSP's proposals. The consultation docs now issued by RSP, while very carefully worded, fall a long way short of providing this evidence or any certainty of funding.

Bearing this in mind, and notwithstanding our strong view, as expressed throughout this document, that there is no case to support a successful DCO application nor the proposed compulsory acquisition of the site, should RSP continue to progress a DCO application (including CPO powers) we will push for a Crichel-Down type requirement to be inserted into any Order granted. In principle, this would require RSP to offer back the site to the current landowners if it is not developed for the use proposed within a period of 3 years and/or if a planning application is submitted for any part of the site for non-aviation development.

Consultation

The level of consultation with the landowner and other statutory consultees in the formulation of these proposals has been inadequate. There has been no formal engagement between RiverOak Strategic Partners Limited and Stone Hill Park Limited with regard to site acquisition since RSP's formation in July 2016. Indeed, it only became apparent to stakeholders during direct questioning by SHP's QC at the change of use inquiry in March 2017 that the entity now pursuing a DCO application is an entirely different and unconnected entity to ROIC, the US company who had initiated discussions regarding the DCO. It has since emerged that ROIC actually withdrew from the DCO process on 15th December 2016 for reasons that remain unknown. While there is some commonality of individuals in the historic ROIC and current RSP teams there is no linkage, contractual, commercial or otherwise, between the two entities. It is now evident that RSP was

initially set up as a stand-alone Special Purpose Vehicle (SPV) solely to step into ROIC's DCO interests.

With respect to consultation more generally, we note that Section 42(1) of the Act requires an applicant for a DCO to consult various statutory bodies in the preparation of its application. Section 4 of the Interim Consultation Report prepared by RSP summarises the consultation which has taken to date, which since April 2016 comprises:

- Four meetings with the EA;
- Two meetings with Southern Water;
- Two meetings with Natural England (the most recent of which was in November 2016);
- One joint meeting with Historic England and the Kent County Council Heritage Conservation Group; and
- One introductory meeting with Kent Council which took place in April 2016.

We are surprised that this is the extent of consultation with statutory bodies which has taken place over the course of the previous 15 months by RSP in the formulation of their proposals. We also question the deliverability or feasibility of a scheme which has not had input from any of the following bodies (all of which are absent from RSP's Statement of Community Involvement):

- Thanet District Council (the Local Authority);
- Any of the multiple Parish Councils;
- Civil Aviation Authority;
- Gas/electricity providers; and
- Police Authority.

We also question what steps RSP have taken (if any) to inform local stakeholders of the change of the DCO sponsor, as any consultation undertaken in 2016 would have been undertaken by ROIC, who are no longer involved in the project.

Summary and Conclusions

We have reviewed the material that forms part of RSP's July 2017 consultation. Our principal comment is that in our opinion the consultation material fails to demonstrate that the proposed development is deliverable and does nothing to allay concerns about the bona fides of RSP.

SHP firmly objects to the development proposals that RSP is consulting on. This includes objection to the compulsory acquisition of the site.

Yours faithfully



GVA
For and on behalf of GVA Grimley Limited

Enclosures:

1. History of Efforts to Keep Manston Airport Open
2. History of Manston's Commercial Performance
3. Critique of Outline Business Case and Aviation Evidence
4. Critique of PEIR (Transport)
5. Critique of PEIR (Environmental/Technical)
6. Critique of PEIR (Landscape and Visual Impact)

Enclosure 1
History of Efforts to Keep Manston Airport Open

Enclosure 2
History of Manston's Commercial Performance

Enclosure 3
Critique of Outline Business Case and Aviation Evidence

Enclosure 4
Critique of PEIR (Transport)

Enclosure 5
Critique of PEIR (Environmental/Technical)

Enclosure 6
Critique of PEIR (Landscape and Visual Impact)