



RiverOak Strategic Partners

Updated 2.3 NSIP Justification (Explanation and Tracked)

TR020002/D1/2.3T

Examination Document

Project Name: Manston Airport Development Consent Order
Application Ref: TR020002
Submission Deadline: 1
Date: 18 January 2019

MANSTON AIRPORT DEVELOPMENT CONSENT ORDER

APPLICATION REF TR020002

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECT AND ASSOCIATED DEVELOPMENT JUSTIFICATION

EXPLANATION AND TRACKED CHANGE VERSION FOR DEADLINE 1

Explanation of changes

1. This document sets out the changes that have been made to the NSIP Justification Document (Examination Library reference [APP-008](#)) in response to the Examining Authority's comments in the Rule 6 letter (ref [PD-005](#)) and in response to comments made at the Preliminary Meeting on 9 January 2019 and Issue Specific Hearing on 10 January 2019.

Alignment of works listed in this document to dDCO

2. The Works listed at paragraph 44 of the NSIP justification did not accord precisely with the Works set out in Schedule 1 to the draft DCO (dDCO) in that work No. 20 in the original NSIP Justification Document (relocation of the museums) is not in fact part of the project and is not listed in the dDCO (ref [APP-006](#)). Work No.20 has now been removed from the NSIP justification document and subsequent works have been renumbered accordingly. The Works identified in the revised NSIP justification now accord with the dDCO and works plans (ref [APP-018](#)).

Reclassification of work as NSIP rather than associated development

3. The applicant considers that airside buildings constitute 'airport-related development' falling within sections 14(1)(i) and 23 of the Planning Act 2008 and are therefore part of the principal development. The landside buildings for which consent is sought are associated with the principal development and should be considered to be associated development. In the original NSIP justification document, Work No.13 (fire station) was incorrectly identified as associated development. It has now been identified as part of the principal development by moving it from paragraph 44 to 43.

Reclassification of reason works are associated development

4. Paragraph 5 of the Guidance on Associated Development Applications for Major Infrastructure Projects (April 2013) explains that associated development should either support the construction or operation of the principal development or help address its impacts. The original NSIP Justification document suggested that the new accesses to the Order Land helped to address its impacts. It is considered that the new accesses are more properly to support the operation of the principal development and paragraphs 44 and 49 have been amended to reflect this.

Associated Development – The Northern Grass

5. Work Nos. 15 to 17 relate to development on the 'Northern Grass' site. Further explanation has been provided to explain why this constitutes associated development within the meaning of section 115 of the Planning Act 2008 after paragraph 45, together with a new Annex 4.

Changes not being made

6. Work Nos. 15 to 17 are described in the NSIP Justification document as being 'airport-related' which does not coincide with the description in the dDCO. Following the ISH on the DCO, amendments

will be made in the revised version of the dDCO to be issued at Deadline 3, and so this element of the NSIP Justification document does not need to be amended.

MANSTON AIRPORT DEVELOPMENT CONSENT ORDER

APPLICATION REF TR020002

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECT AND ASSOCIATED DEVELOPMENT JUSTIFICATION

DEADLINE 1 VERSION OF APPLICATION DOCUMENT REFERENCE TR020002/APP/2.3

Introduction

1. This statement sets out why the Manston Airport project is a nationally significant infrastructure project (NSIP) that requires consent under the Planning Act 2008, and why the development not forming the NSIP can be included in the application as 'associated development'. Annex 1 also contains a rebuttal of points made by Stone Hill Park Ltd in a letter to the Planning Inspectorate dated 29 March 2018.
2. It is not a required application document, and falls into the category of 'any other documents considered necessary to support the application' (Regulation 5(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, as amended).

Type of NSIP

3. The project falls under section 14(1)(i) of the Planning Act 2008 as 'airport-related development'. Section 23 sets out what that means, and there are two relevant possibilities:
 - a. the construction of an airport capable of providing air cargo transport services for at least 10,000 air transport movements of cargo aircraft per year (s23(1)(a) and s23(3)(b)); or
 - b. the alteration of an airport expected 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 (s23(1)(b) and 23(5)(b)).
4. Our case is that the Proposed Development is the alteration of an existing airport rather than the construction of a new one. The airport closed in May 2014, its aerodrome certificate was revoked and many of the support facilities and infrastructure that are essential to allow it to operate were removed or became dilapidated. However, the runway, although unmaintained, is still in existence and will be re-used, and the airport did operate from 1916 until 2014, and has extant planning permission for use as an airport. It would be difficult to justify the premise that Manston was not already 'an airport'.
5. Considering the Proposed Development to be the alteration of an airport leads to two further alternatives in terms of measuring the airport's current capability:
 - a. the airport is currently capable of providing zero air transport movements of cargo aircraft, or

- b. the airport is currently capable of providing the number of air transport movements of cargo aircraft that it was capable of providing when it was last operational (or somewhere in between).
6. Our case is that the project is currently incapable of providing air cargo transport services for air transport movements of cargo aircraft, i.e. its current capability is zero. The construction of a new airport would also have a current capability of zero.
7. In the next three sections we demonstrate:
 - a. why the current capability of the airport is zero;
 - b. why the proposed capability of providing air cargo transport services is many times higher than the required threshold of 10,000 air transport movements of cargo aircraft; and
 - c. why physical capability is the correct measure of whether the project is an NSIP rather than the assessed number of air transport movements in the Environmental Statement.

Current capability

8. Our case is that the current capability of the airport to support air transport movements is zero. That is because, due to the current state of the airport, planning permission would be required for development (as defined by s.55 of the Town and Planning Act 1990 and s.32 of the Planning Act 2008) either to replace, re-establish or introduce infrastructure for the first time.
9. Further, even if such infrastructure was provided, the airport would still not be capable of providing 'air cargo transport services' for cargo aircraft, which by virtue of s23(9) of the Planning Act 2008 are aircraft 'engaged in the transport of cargo on commercial terms', without instrument approach or departure procedures. If these were provided then a European Aviation Safety Agency Aerodrome (EASA) Certificate would be mandatory, since the airport has a paved runway of over 800m¹. This brings in various other requirements as to minimal infrastructure provision that would also require planning permission.
10. It would be meaningless to include capability that required planning permission in any measure of existing capability, because the same argument could be applied to the capability of the Proposed Development (i.e. both the current capability and applied-for capability could be increased via additional planning permissions and consequently the increased in capability would be the same whether capability provided by additional planning permissions is included or not).
11. Permitted development rights cannot be relied upon either because they are only available to the holder of an aerodrome certificate for at least two years. Part 8, Class F of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015 grants permitted development rights to a 'relevant airport operator' or its 'agent of development' on operational land. The term 'relevant airport operator' is defined in Part 8,

¹ See: <https://www.caa.co.uk/Commercial-industry/Airports/Aerodrome-licences/Certificates/EASA-regulations-relating-to-aerodromes/>

Class O as meaning a relevant airport operator within the meaning of s57A of the Airports Act 1986. That section makes it clear that an airport and a relevant airport operator has to have the benefit of a 'certificate' granted by the CAA on behalf of EASA (s57A(2)) and that the CAA may only grant a certificate to an 'eligible airport' (s57A(3)(c)). An 'eligible airport' must have an annual turnover of business carried out at the airport by the airport operator exceeding £1 million in a least two of the last three financial years ending before the application for the certificate is made (s57A(4)(a)) and that the airport is not excluded by s.57A(5) (which Manston Airport is not). As the previous aerodrome licence was revoked more than four years ago on 15 May 2014² and no licence has been granted since then, Manston does not satisfy this criterion and, indeed, could not satisfy this criterion until at least two years after re-opening.

12. The measure of cargo capability of a facility is therefore the number of air transport movements of cargo aircraft for which the airport, together with any improvements that did not need planning permission, was capable of providing air cargo transport services (PA08 s23(8)(b)). Cargo aircraft are those designed to transport cargo but not passengers and that are engaged in the transport of cargo on commercial terms (s23(9)).
13. In particular, the following infrastructure items are currently missing or unusable at the airport and would require planning permission to be built to a standard to allow air cargo transport services to be provided:
 - a. A fuel farm: although other airports may be able to provide air cargo transport services without a fuel farm, because the Manston Airport runway is above an aquifer, the Environment Agency has ruled out direct fuelling of aircraft from tankers as this would increase the risk of contamination of the aquifer to an unacceptable level and thus a fuel farm is a necessary element of air cargo transport services. The EA has ruled out the fuel farm being constructed underground for the same reason. A fuel farm would require planning permission and there would be no ability to provide air cargo transport services without it.
 - b. Air Traffic Control: this is an essential element of air cargo transport services. The current ATC tower is dilapidated and unusable and would need to be demolished and rebuilt, requiring planning permission for both of these activities.
 - c. A Fire Station: the previously used fire station has been stripped of its equipment and has no roof or fire-bay doors. Such a facility is an essential requirement to meet EASA and CAA standards. The airport would not be capable of providing air cargo transport services without a fire station, which would need planning permission to be demolished, rebuilt and brought back into use.
 - d. Radar: the previous radar system was dismantled and sold in 2014. Commercial air transport would not operate at an airport without provision of an appropriate radar service to ensure their safety. Planning permission would be required to construct a new radar mast and antenna. Again, without the ability to provide a radar service, the capability for air cargo transport services is zero;

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See: <https://www.whatdotheyknow.com/request/219349/response/538268/attach/3/20140711ReplyLetter.pdf>

14. The table below summarises each of the elements described in paragraph 13. Needless to say, the Proposed Development includes all these features. The table at Annex 2 explains what physical works are comprised in these elements and why each element consists of development as defined by s.55 of the Town and Country Planning Act 1990 and s.32 of the Planning Act 2008.

Item	Current state	Required state	Needs planning permission to get to the required state?	Capability of airport without it ³
Fuel farm	Decommissioned and unable to be used	Above ground rather than below ground	Yes	Zero flights
Air Traffic Control Tower/Development for Remote Technologies	Dilapidated – would not meet EASA requirements	Replaced to EASA standard	Yes	Zero flights
Fire station	Dilapidated, without a roof	Upgraded to operational state	Yes	Zero air cargo services
Radar	Removed	Reinstated	Yes	Zero air cargo services

15. Reinstating something that has been removed requires planning permission: according to section 55(1A)(b) of the Town and Country Planning Act 1990, building and engineering operations, including ‘demolition of buildings, rebuilding and structural alterations of or additions to buildings’, involve development, which in turn requires planning permission.
16. In a letter dated 11 October 2017 from Pinsent Masons, acting for Stone Hill Park Ltd, to the Planning Inspectorate it is conceded that some form of planning permission would be needed to bring the airport back into use. The letter says at paragraph 3.21 that RiverOak could ‘rely on permitted development rights conferred on airport operators to make any alterations required to the cargo aprons and to reinstate approach lighting and other airport equipment’ and ‘apply for planning permission under the Town and Country Planning Act for any required replacement cargo sheds (if any such sheds were needed)’. As demonstrated above permitted development rights are not in fact available and so planning permission would be needed, not necessarily for cargo sheds as Pinsent Masons suggest in paragraph 3.21.4, but for the development set out above.
17. Therefore without the replacement, reinstatement or introduction of the essential airport facilities and infrastructure set out above, which requires planning permission (see Annex 2), and in the absence of an airport operator who has an EASA certificate, the capability of the airport to provide any air cargo transport services is currently zero.

Applied-for capability

³ Where ‘capability’ means, in full, the number of air transport movements of aircraft designed to transport cargo and not passengers and engaged in the transport of cargo on commercial terms, for which the airport is capable of providing air cargo transport services

18. No limit on daytime flights is being applied for, and therefore the applied-for capability is the physical capability of the Proposed Development to handle flights during the day (for the avoidance of doubt, night-time restrictions are being proposed). The Proposed Development includes all the items in the table at paragraph 14, and so cargo services will be able to be provided. Applied-for capability is a measure of the number of aircraft movements requiring such services that can be facilitated by the Proposed Development.
19. The factors that could potentially constrain the capability of a cargo airport are the throughput of the runway, the number of aircraft that can simultaneously be handled, and the ability to handle cargo at the airport safely and to transport it over the surface transport network.
20. The runway at Manston is of sufficient length to handle all the cargo aircraft that are proposed. Using Gatwick as an example, a runway of this length (2,748 metres) could handle at least 30 flights an hour. Gatwick handled 282,000 aircraft movements in 2017, and even at half that rate (as would be the case if the existing taxiway remained), the runway is not a constraining factor. Our proposals include the provision of a new parallel taxiway which is further from the runway than the current one. The reason for this is that the current taxiway is so close to the runway that aircraft, of the size used by the cargo industry, could not use the current runway and the current taxiway simultaneously. This would mean that aircraft both landing and taking off would have to be sequenced with aircraft both taxiing in and taxiing out. Not only would this significantly impact on airport capability but it could introduce safety risks as the potential for error in sequencing of aircraft is increased.
21. As the threshold in the Planning Act 2008 is for air cargo movements rather than tonnage of cargo, the ability to handle substantial quantities of cargo is not relevant to capability, as it is only the ability to handle the safe throughput of cargo aircraft that affects the threshold, although air cargo transport services must be provided. Thus the size of handling facilities, as long as they will exist, and the capacity of the surrounding road network do not constrain the number of flights.
22. This leaves the critical factor as the ability to handle aircraft safely and simultaneously. Our aviation expert advice is that on a conservative basis a single cargo stand can turn around an aircraft every 2.5 hours, i.e. six aircraft or 12 movements between 0700 and 2300 per day.
23. Our plans for Manston are to reconstruct it with 19 cargo stands (and some passenger stands, which we assume will not handle cargo aircraft). Using the figure of six arriving and departing aircraft per stand per day (i.e. between 0700 and 2300 – only limited night flights are contemplated), one arrives at a theoretical maximum capability figure of $(19 \times 12 \times 365 =)$ 83,220 movements per year, and therefore the capability of the airport will be at that level, noting that this is theoretical capability rather than predicted operation.
24. The increase in capability is therefore 83,220 movements per year of cargo aircraft, more than eight times the required threshold, assuming the existing capability is zero, as demonstrated above.
25. Annex 3 sets out the physical elements that comprise a cargo stand of the type proposed and explains why construction of such a stand is development requiring planning

permission or development consent as defined by s.55 of the Town and Country Planning Act 1990 and s.32 of the Planning Act 2008.

Capability and environmental assessment

26. Capability and what level the airport is expected to operate and therefore what has been environmentally assessed are two fundamentally different things. Without a limit on aircraft numbers, capability refers to the physical maximum throughput of an infrastructure project, whereas environmental assessment is of likely significant environmental effects rather than the maximum possible effect.
27. The assessment of 17,170 air transport movements per annum at Year 20 of operation in the Environmental Statement is based on realistic and robust forecasts of usage of the Proposed Development based on demand. The noise assessment is based on a mix of aircraft of that total number derived from those forecasts.
28. It is no more than a very remote possibility that the airport will operate at its theoretical maximum capability and so this has not been assessed as a likely significant effect. The total number of air transport movements of non-passenger aircraft in the UK in 2017 (which includes types other than cargo) was 56,814 and of that total the three airports with the most such movements were East Midlands with 21,583, Stansted with 10,595 and Edinburgh with 5,013⁴.
29. The reason that the physical capability of the Proposed Development is much higher than the expected operational level is twofold. First, significant 'headroom' is required to be able to withstand operational issues that regularly arise and so is for reasons of resilience. Secondly, our business model is to provide sufficient capacity to be able to accommodate aircraft when the airline wants to operate rather than to suit the airport through slot management, which requires a much greater availability of stands.
30. The application does not contain a cap on the number of aircraft movements because we do not believe that one is needed based on the demand we have calculated, the forecasts we have produced and the remoteness of the possibility of exceeding that figure. A highway project, for example, assesses noise based on a certain level of use of the highway and a certain mix of vehicles; no cap on the numbers of vehicles is proposed in an application or imposed in a decision, even though once the highway is operational, the noise emitted could be greater than the assessment. Additional mitigation may be proposed and/or imposed, but the number of vehicles remains uncapped.
31. That is the same situation as in this case. Mitigation could be imposed to ensure environmental impacts (principally aircraft and airport noise) remained within the level assessed in the Environmental Statement despite our case that this would not be necessary given that it is no more than a bare possibility. If mitigation were imposed, it is not likely that this would be in the form of a cap on flight numbers in any case, since such a cap would not limit aircraft noise as it could be taken up by aircraft that were noisier than those that have been assessed.

⁴ Source: Civil Aviation Authority <https://www.caa.co.uk/Data-and-analysis/UK-aviation-market/Airports/Datasets/UK-Airport-data/Airport-data-2017/>

32. More likely are measures such as the following, which have been or are employed at other airports:
- a. just as with the night noise 'quota count' that is proposed, a noise limit could be imposed on daytime flights, i.e. so that the main assessed environmental effect of aircraft and airport noise is not exceeded;
 - b. a restriction on the area of the noise contour at one or more decibel levels could be introduced;
 - c. the policies for insulation and relocation that are set out in the Noise Mitigation Plan could be extended to more properties, higher levels, further similar measures or a combination of these, tied to observed noise levels or aircraft numbers.
33. None of these measures would limit the number of flights, which could increase provided the overall noise emissions remained within the assessment, i.e. there could be many more than 17,170 flights provided that they were as quiet or quieter, and could reach the physical capability of the proposed airport development set out above. The assessed number of 17,170 flights is therefore not, and is not likely to become, a cap on the capability of the Proposed Development.

NSIP Conclusion

34. Our case is that we are applying for the alteration of an existing airport whose current capability is zero air transport movements of cargo per year. By our experts' calculations the introduction of 19 new cargo stands as proposed will be capable of handling 83,220 air cargo movements per year, more than eight times the threshold in the Planning Act 2008.
35. The Proposed Development is unequivocally an NSIP.

Associated development

36. The other area covered by this document is 'associated development'. Development consent can be granted not just for an NSIP, but also for 'associated development'. This is because one of the purposes of the Planning Act 2008 regime is to achieve as far as possible a 'one stop shop' where all consents relating to a single project can be combined into one, although they do not have to be.
37. 'Associated development' is defined in the Planning Act 2008 as development that is associated with development for which development consent is required, with a couple of exceptions that are not relevant (section 115).
38. This definition is supplemented by guidance issued by the Department for Communities and Local Government, the most recent iteration of which is dated April 2013. The guidance sets out four 'associated development principles', which can be summarised as follows:
- a. there should be a direct relationship between the NSIP and the associated development, so it should support either the construction or operation of the NSIP or help address its impacts;

- b. associated development should not be an aim in itself;
 - c. associated development should not be permitted that is only included as a source of additional revenue (although associated development that is included for other reasons can be a source of additional revenue); and
 - d. associated development should be proportionate in nature and scale to the NSIP (although can be of greater scale if it is to accommodate other future NSIPs).
39. Adopting the wording of the guidance, the required connection with the main project is thus merely that it should support its construction or operation or address its impacts, rather than being a necessary or essential element of it.
40. Examples are given in the guidance of general associated development for all types of project and specific associated development for particular types of project. The general examples include:
- a. highway and rail route/junction improvements (which may provide some benefit to third-party network users as well as users of the principal development);
 - b. parking spaces for workers and users of the principal development;
 - c. hard and soft landscaping; and
 - d. flood defences and flood mitigation measures.
41. The only example for an airport is:
- a. freight distribution centre, including freight forwarding and temporary storage facilities.
42. The definition of NSIP for the alteration of an airport includes the construction, extension or alteration of (s23(6)):
- a. a runway at the airport;
 - b. a building at the airport; or
 - c. a radar or radio mast, antenna or other apparatus at the airport
- expected to have the effect of increasing the capability of the aircraft by at least 10,000 air cargo movements per year.
43. The following of the list of 'works' set out in Schedule 1 to the Development Consent Order are those that are considered as part of the NSIP:
- a. Work No.1 — the construction of airside cargo facilities and ancillary offices
 - b. Work No.2 — the construction of eight light and business aircraft hangars and associated fixed base operator terminal
 - c. Work No.3 — the construction of a new air traffic control centre
 - d. Work No.4 — the construction of a new radar installation
 - e. Works No.5 and 6 — the construction of new or improved approach lights and navigational aids

- f. Work No.7 — the rehabilitation of the existing 10/28 runway and runway shoulders
- g. Work No.8 – the construction of taxiways and aprons
- h. Work No.9 — the construction of 19 Code E aircraft stands
- i. Works No.10 and 11 – the construction of seven Code C aircraft stands
- j. Work No.13 — the construction of a new airport fire station and associated storage areas

44. Those 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. The following support the operation of the airport:

- a. Work No.12 — the construction of a new passenger terminal facility
- ~~b.a. Work No.13 — the construction of a new airport fire station and associated storage areas~~
- ~~e.b.~~ 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
- ~~d.c.~~ Works No.15 to 17 — the construction of airport-related commercial facilities to include associated paved storage areas, parking and internal access ways
- ~~e.d.~~ Work No.18 — the construction of a new aircraft recycling facility and associated offices
- ~~f.e.~~ Work No.19 — the construction of new or improved facilities to create an airport fuel farm
- ~~g. Work No.20 — the construction of new or improved facilities for the RAF Manston History Museum and the Spitfire and Hurricane Memorial Museums~~
- ~~h.f.~~ Work No.20~~1~~ – the construction of an airside storage area
- ~~i.g.~~ Work No.21~~2~~ – the construction of internal roads and parking areas
- ~~j.h.~~ Work No.22~~3~~ – the construction of landside access, parking and storage for the airport and cargo facilities
- ~~k.i.~~ Work No.23~~4~~ – the construction of two attenuation ponds
- ~~j.~~ Work No.24~~5~~ — the laying out of a diverted public right of way
- k. Work No. 25 – a new access to the airport
- l. Work No. 32 – a new entrance to the airport-related business park.

45. Note 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.

46. The Department for Communities and Local Government issued guidance in 2013 on associated development applications for major infrastructure projects. That guidance sets out a number of principles to which the Secretary of State will have regard in determining whether development should be treated as associated development within the meaning of s.115 PA 2008. The principles and their application to the Northern Grass development is set out below:

- a. “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”. It should be noted that neither the guidance

nor the statutory provision in s.115 PA 2008 state that the associated development must be 'required' or necessary to support the operation of the principal development, rather that it should support its operation. The development proposed on the Northern Grass will undoubtedly support the operation of the airport. They will comprise airport-related development in use classes B1 (offices, research and development, light industry) and B8 (storage and distribution). A paper setting out the history and proposed use of the Northern Grass is attached at Annex 4.

b. "Associated development should not be an aim in itself but should be subordinate to the principal development." 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. As an example, Work No. 3(e) in the Hinkley Point C (Nuclear Generating Station) Order 2013 (SI 2013/648) is for sports pitches, something that will only exist because of the existence of the nuclear power station construction.

c. "Development should not be treated as associated development if it is only necessary as a source of additional revenue for the applicant, in order to cross-subsidise the costs of the principal development. This does not mean that the applicant cannot cross-subsidise, but if part of a proposal is only necessary as a means of cross-subsidising the principal development that that part should not be treated as associated development." The Northern Grass is not simply a source of additional revenue to cross-subsidise the principal development. It would provide office and storage space for operators and users of the airport and thereby support its operation.

d. "Associated development should be proportionate to the nature and scale of the principal development". The site area of the Northern Grass and proposed footprint of development is less than that of the principal development and the proposed development is entirely proportionate to the nature and scale of the principal development.

47. The guidance explains that in most cases associated development will be typical of the development brought forward alongside the principal development. Satellite airport-related development supports the operation of every commercial airport around the country and this is no different. Annex B to the guidance gives examples of associated development specific to individual types of major infrastructure projects. For airports, the only example given of associated development is "Freight distribution centre, including freight forwarding and temporary storage facilities". Offices and storage facilities for freight distribution, forwarding and storage is the very type of development proposed on the Northern Grass.

45-48. The Applicant has included the Northern Grass associated development in the DCO application to ensure that it can be considered and controlled together with the principal development. The Applicant is of the view that it will be necessary to support the operation of the airport and in the circumstances that it is beneficial for it to be considered together with the application for the principal development.

46-49. The following are highway improvements to address the impacts of the project:

- ~~a. Work No.26 — public highway works to construct new airport access on B2190~~
- ~~b.a. Work No.267 — public highway works to junction of B2190 and B2050~~
- ~~e.b. Work No.278 — highway upgrade to B2050 Manston Road including new access~~
- ~~d.c. Works No.289 to 312 — highway upgrades to B2190 Manston Road~~
 - ~~Work No.33 — construction of a new junction into airport-related commercial facilities from Manston Road~~

47.50. All of the elements of the Proposed Development that are not part of the NSIP itself therefore fulfil the first principle set out in paragraph 38 above, as their purpose is either to support the operation of the airport or for mitigation to address its impacts. They are therefore able to be included as associated development.

48.51. They also fulfil the other principles in that paragraph:

- a. there is a direct relationship between the associated development and the NSIP;
- b. they are not aims in themselves, they are all airport related and would not exist independently of the airport being developed;
- c. they are not only a source of additional revenue (although some will generate revenue). In particular the 'northern grass' development is to cater for airport-related business that naturally arises in the vicinity of airport development, ensuring that it is as close to the airport as possible, is restricted in both use classes and building massing and heights, and has been environmentally assessed at the same time as the main airport development so that the mitigation that is proposed accommodates it; and
- d. none of the associated development is greater in nature or scale than the NSIP.

ANNEX 1 – REBUTTAL OF STONE HILL PARK LTD SUBMISSION TO PINS

1. Stone Hill Park Ltd sent a letter dated 29 March 2018 to the Planning Inspectorate containing arguments as to why RiverOak's project was not an NSIP in advice from Pinsent Masons and Martin Kingston QC. The following points are made in rebuttal of that submission.
2. The letter alleges that RiverOak is not clear as to which part of s23 of the Planning Act 2008, which defines airport NSIPs, the project belongs to. That is not the case: this note states clearly that RiverOak's case is that it is applying to alter an airport whose current capability is zero, but demonstrates that it is also an NSIP according to the other definitions.
3. Pinsent Masons and Martin Kingston QC both claim that the lawful use of the site is as an airport. That is agreed and RiverOak has never argued otherwise. Indeed, it supports RiverOak's argument that this would be the alteration of an airport rather than the construction of a new one even if its capability was zero.
4. Pinsent Masons and Martin Kingston QC both claim that s23(6) of the Planning Act 2008, which gives three examples of what 'alteration' of an airport includes, is an exhaustive list, and that furthermore, the capability-increasing part of the project must be one of the three items in the list.
5. This is incorrect. The ordinary meaning of 'includes' is not exhaustive and so does not mean 'must consist of' - indeed s23(9) of the Act says "'cargo" includes mail', which clearly does not mean that cargo must consist only of mail. As well as going against the ordinary meaning of 'includes', it cannot be the case that 'alteration' must include the construction of one of the three items in s23(6). Increasing the permitted use of an airport by more than the passenger or cargo threshold without building anything at all would still count as the alteration of an airport, by virtue of s32(2)(c). For Pinsent Masons' and Martin Kingston QC's arguments to succeed, then, 'includes' must be interpreted against its ordinary meaning, in a different way to its meaning elsewhere in the same section and contrary to the meaning of 'development' in s32 of the Act.
6. Furthermore, although RiverOak's argument is that it is the number of stands that is critical to capability, its project nevertheless does include the construction of buildings (works nos. 1 to 3) and a radio mast (work no. 4), two of the items in s23(6).
7. Pinsent Masons then argue that having an aerodrome certificate is irrelevant to capability and that planning permission in the form of permitted development can count towards the calculation of existing capability.
8. That is incorrect on the second count, and on Pinsent Masons' flawed logic, the first count as well. If an applicant is applying to alter an airport so as to increase its capability by at least the threshold in the Planning Act 2008, it is irrelevant whether its capability could be increased by a smaller amount by another form of permission. The Proposed Development increases the capability of Manston Airport by more than 10,000 cargo movements per annum, and to do so requires development consent or else a criminal offence is committed.
9. Furthermore, even if permitted development could count towards existing capacity, it is not available to RiverOak (or Stone Hill Park Ltd or anyone else for that matter) unless they are a 'relevant airport operator', i.e. one in possession of an aerodrome certificate - see Class F of Part 8 of the General Permitted Development Order 2015.

10. Finally, the Pinsent Masons paper alleges that the environmental assessment of a project should be of its maximum theoretical capability, and is therefore invalid in this case. Once again that is incorrect. Environmental impact assessment is of likely significant environmental effects, and is therefore of the Proposed Development's projected use (up to that which is more than a bare possibility) rather than its theoretical capability. Furthermore, the airport could operate at a greater number of flights while remaining within the impacts that have been environmentally assessed.
11. In conclusion, then, the arguments employed by Stone Hill Park's lawyers are all invalid and the project remains clearly above the threshold for an NSIP.

ANNEX 2 – Development required to enable airport operations at Manston

Item	Current state	Required state	Needs planning permission to get to the required state?	Capability of airport without it ⁵	Description of development ⁶	Reason why this is 'development' ^{7,8}
Fuel farm	Decommissioned and unable to be used	Above ground rather than below ground	Yes	Zero flights	To be capable of providing air cargo transport services, and due to the presence of an aquifer under the runway that would prevent direct fuelling from tankers, a fuel farm is required to allow Manston Airport to operate. The existing below-ground fuel farm has been decommissioned and the Environment Agency has advised that they will not permit this or any other below ground storage to be brought into service, so the required fuel farm will have to be built above ground. The minimum number of fuel farm tanks is three, one for receiving fuel, one for settling and one for delivering it.	Carrying out of substantial building on land Demolition of buildings and structures

⁵ Where 'capability' means, in full, the number of air transport movements of aircraft designed to transport cargo and not passengers and engaged in the transport of cargo on commercial terms, for which the airport is capable of providing air cargo transport services

⁶ All development is permanent unless stated otherwise

⁷ Where development is defined under Section 55 of the Town and Country Planning Act 1990 or Section 32 of the Planning Act 2008 as being the carrying out of building, engineering, mining; or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land; or demolition of buildings; or rebuilding; or structural alterations of or additions to buildings; or other operations normally undertaken by a person carrying on business as a builder.

⁸ RiverOak do not benefit from Permitted Development Rights under the Town and Country Planning (General Permitted Development)(England) Order 2015

					<p>Although they could be somewhat smaller, a typical tank is of 700,000 litre capacity (about 20 fuel tanker loads), which is indeed what is proposed as part of this application. 700,000 litres corresponds to a sphere of 11m diameter, and although the tanks could be of varying shapes they would have to be of that scale. The tanks would be contained within a concrete bund and serviced by a network of above ground conveyancing pipes.</p> <p>The existing buildings could be retained and refurbished as part of the development, which may not therefore involve development.</p> <p>The site for the Fuel Farm will also need to include new operational hardstanding for the purpose of manoeuvring around the site.</p>	
Air Traffic Control Tower / Development for Remote Technologies	Dilapidated – would not meet EASA requirements	Replaced to EASA standard	Yes	Zero flights	The existing Air Traffic Control (ATC) building is dilapidated and would have to be demolished and rebuilt. An ATC building would be at least 6m high with a viewing tower 9m above the ground (the ATC building in the application will be 27m high), and it would typically have a diameter of 6m.	<p>Carrying out of building on land</p> <p>Demolition of buildings or structures</p>
Fire station	Dilapidated, without a roof	Reinstated	Yes	Zero air cargo services	The existing fire station is unusable and would need to be demolished and rebuilt. An aerodrome licence would not be issued unless a fire station was provided. To house fire engines the building would need to be around 10m high, and to contain with an area for welfare and offices for staff, it would have a	<p>Carrying out of building on land</p> <p>Demolition of buildings</p>

					substantial footprint. The fire station contained in the application has a footprint of 1,550sqm.	
Radar	Removed	Reinstated	Yes	Zero air cargo services	<p>A new radar will be required to replace the previous radar which was sold when the airport closed. The new radar could be installed using the existing radar tower located in the Northern Grass area (or a new tower and radar installed at the same location). An area around the radar must be safeguarded to allow safe operation.</p> <p>Even if the existing tower can be used, a new radar system would need to be installed comprising a radar antenna head and a permanent building (approximately 5m x 3m) alongside the mast, to house signal processing equipment, power supplies and data networks</p> <p>The radar system would comprise a tower approximately 25m high with an antenna.</p>	Carrying out building on land

ANNEX 3 – CARGO STANDS

The Proposed Development includes the construction of 19 cargo stands. Work to construct the stands would require the following:

- Earthworks – remove topsoil and unsuitable material (either contaminated or unsuitable for engineering purposes). Place and compact material to create a platform for constructing stand pavement structure. On the cargo apron stands at Manston this will be a large scale earthworks activity with up to 1.5m of fill, thus involving engineering operations.
- Pavement – construct concrete apron to EASA compliant gradients. The apron will be over 0.5m thick, also comprising engineering operations.
- Drainage – incorporate surface water drainage within the pavement structure. Connect into the global drainage network incorporating pollution control facilities and attenuation. These would be further engineering operations.
- Services – the aprons will include sub-surface services including electrical and communication ducting and chambers eg. ducting for the electrical ground power units required to service aircraft while on the stand.
- Pavement markings – compliant stand markings for aircraft parking.
- Apron facilities – incorporate high mast lighting, stand indicator signs, barriers, road signs and docking guidance. Docking guidance is a system that allows the pilot to bring the aircraft onto the stand centreline and stops the nose wheel at the correct place. It generally comprises a small box with electrical equipment (say 400mmx 300mm) that is located on the terminal building or stand indicator sign in line with the stand centreline. Fixed equipment above ground would comprise building on land and would include high mast lights, fixed ground power and a stand indicator sign.

There would also be a need to provide gradient-compliant taxiways to allow aircraft to access the stands which would involve all of the above works, apron facilities and installation of airfield ground lighting (AGL) – access to the stands would be integral to their provision and should therefore be considered as part of their construction.

The cost of constructing the stands has been estimated at £2.84m each and evidence of this can be provided.

In summary, then, the cargo stands comprise development because their construction would include carrying out of building on land and substantial engineering operations.

ANNEX 4 - Northern Grass Development – Explanatory Note

Introduction

1. The DCO application includes an application for consent to construct associated development on the Northern Grass area. The proposed development comprises five principal zones:

- Zone 1: Up to 30,000m² GFA of B1
- Zone 2: Up to 60,000m² GFA of B1/B8
- Zone 3: Up to 26,000m² GFA of B8

The footprint of buildings in the Northern Grass will be subject to a total cap of 105,100m² GFA of B1/B8 uses. That total cap on the building footprint will be explicitly set out in the next version of the draft DCO at Deadline 3.⁹

2. The fourth zone in the South West corner of the Northern Grass site is reserved for use by two museums and two balancing ponds. Neither the dDCO nor the Works Plans authorise any development in the safeguarded museum area.

3. The fifth zone will remain clear of buildings and other structures as it is reserved as a clearance area for the airport for radar. Neither the dDCO nor the Works Plans authorise the construction of buildings in the radar zone.

4. The remainder of the site comprises eastern and western landscaping buffer zones and access points to the surrounding road networks.

5. This note responds to a request by the Examining Authority for more detail about RSP's proposals for the Northern Grass site, such as:

- the land uses envisaged in the airport masterplan (see Drawing No NK018417-RPS-MSE-XX-DR-C-2089-A1);
- the kind of activities and occupiers the proposed buildings can be expected to accommodate;
and
- the extent to which land outside the main airside operating area will support the airport's operations.

6. This note first sets out the history of the Northern Grass site. This is relevant as it sets a clear functional precedent demonstrating its use in conjunction with the airport and the need for the office and storage facilities it will provide to the airport development subject to this application. It then sets out the type of activities and companies that are expected to use the proposed development, with a particular reference to those that do not need or wish to be located airside (i.e. inside the security fence). The note finally sets out the benchmarking evidence that the Applicant intends to submit Deadline 3, that will demonstrate that similar office and storage provision is common in supporting the operation of other airports - both smaller commercial airports in the UK and cargo-led airports in Europe and North America.

The History of the contribution of the Northern Grass to the airport

7. The Northern Grass fronts the B2050 Manston Road which provides direct access onto the operational airfield and associated cargo sheds. To the west, across another section of Manston Road lies the MoD Fire Training and Development Centre comprising a complex of buildings (including accommodation for staff, offices, storage for equipment and specialist fire training facilities), that

⁹ That the total is less than the sum of the three maximum zone sizes is deliberate. No zone can exceed its maximum size and the overall site cannot exceed the overall maximum (so effectively not all the zones will be able to reach their individual maxima).

formerly lay outside the operational boundary fence of the airfield, but played an important role in supporting Manston's role as a frontline military base.

8. The core part of the Northern Grass site was previously occupied by a control tower, navigational aids and remote dispersal stands. Like the fire training centre, it was historically an integral part of the old RAF airfield that became physically separated from it when the operational boundary fence was constructed in its current position in 2000. The A2050 linked Spitfire Way and the villages to the east; when the airfield was in military use a long detour around the northern grass area had been required. Most importantly, these activities and functions, and therefore that the Northern Grass area, formed an integral part of what had by then become a joint-use airfield, were recognised in three Certificates of Lawful Use approved by Thanet DC in May 1998 before the MoD sold the airfield to Wiggins Plc.

9. Post privatisation the control tower and associated buildings and car parking on the Northern Grass site continued to be used as management offices (and for associated equipment storage) by Wiggins and subsequently both Plane Station and then Infratil, during their ownership of the airfield. The navigational aids located there also remained in use and aircraft were parked and dismantled on the site even though it was by then outside the airport's operational boundary fence. It thus remained geographically, functionally and legally part of what was RAF Manston and then Kent International Airport throughout its operational history.

10. The Proposals Map which forms part of Thanet District Council's current Local Plan (2006) identifies the Northern Grass area as being within the airport boundary where Kent International Airport Policy EC2 applies and Airside Development Policy EC4 applies. Policy EC4 specifically states that land at the airport, as identified on the Proposals Map (which includes the Northern Grass area) is reserved for airside development and that development proposals will require specific justification to demonstrate that the airside location is essential to the development proposed. The policy further requires that development at the airport – and which includes the Northern Grass area will be required to retain sufficient land to permit access by aircraft of up to 65m (217ft) wingspan to all parts of the site. In local planning policy terms therefore, the Northern Grass continues to form part of Manston Airport where airside development, is prioritised and where aircraft with of up to 65m wingspan can be handled.

11. RSP's proposals, which include the Northern Grass area within the DCO boundary, seek to restore Manston airfield to an operational civilian aerodrome licensed by the CAA, are consistent with these historic precedents and current spatial planning policy objectives which clearly demonstrate a continuing role for the land in supporting the airport operation.

Functional Integration

12. Looking forward, RSPs masterplan for the airport is designed to facilitate a more intensive use of the core infrastructure than hitherto, principally for air freight (at enhanced throughputs commensurate with a nationally significant infrastructure asset), but also for passengers, business aviation and aircraft servicing and recycling. This increased level of activity brings with it a need for more airside infrastructure in the form of taxiways, apron and cargo handling facilities alongside a new and enlarged passenger terminal, business aviation facilities and aircraft hangarage. The result is a greater density of airside development and therefore an increased need to displace uses that do not require an airside location, to the primary landside enclave within the airport's land boundaries – namely the Northern Grass.

13. This airside/landside distinction is very important in terms of airport licensing and zoning, as security clearance and training is needed for buildings within or offering direct access to the airside area. This is costly and inflexible to operate within and therefore only those activities and personnel who need to be airside tend to be located there; all other activities that support the operational and

commercial functioning of the airports tend to gravitate to landside locations as close as reasonably practicable to the airport and its operational area. The Northern Grass is ideal for this purpose.

14. The following types of operations and facilities are examples of the type of activity that is anticipated in the B1/B8 development on the Northern Grass:

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.

15. These are not activities that could sensibly be located at a substantial distance from the airport as this would undermine their ability to serve the operational and commercial support functions that the airport needs.

16. Essentially, the proposed Northern Grass development will offer airport-related third parties and tenants with a direct role in supporting the commercial and operational functioning of the airports with a proximity and accessible enclave of airport-related businesses abutting the main operating area of the airport. The site could be served by shuttle buses starting at the cargo facilities, running through the main gate stopping at the Northern Grass before travelling on to the terminal area.

Further Evidence

17. RSP have not sought to identify specific tenants for individual buildings on the Northern Grass at this early stage in the delivery of the project. Rather the focus to date has been on engagement with airlines and cargo handlers who will create the core demand for the airport's facilities. This means it is not yet possible to be certain about the exact specification of buildings on the Northern Grass that would meet the requirements of particular tenants. Accordingly, the masterplan provides an illustrative layout plan which has been designed within the fixed parameters that have been subject to environmental and economic assessment in the ES, notably maximum footprints and building heights; specified land uses (within classes B1 and B8), safeguarded areas, drainage and locations for airport equipment.

18. Having indicated the kind of occupiers that are likely to be attracted to the Northern Grass and their role in supporting the airport's operation, the Applicant will seek to provide to the Examining Authority further examples of this type of airport-related development from other UK airports and

important cargo led airports in Europe and North America. This additional evidence will be submitted by Deadline 3.

Conclusions

4.19. This note provides further explanation about the historic and proposed use of the Northern Grass area. It shows that the Northern Grass development will support the operation of the principal development, namely the airport, and constitutes associated development as defined in section 115 PA 2008 and in accordance with the DCLG guidance on associated development. ;