



RiverOak Strategic Partners

Summary of Applicant's Oral Submissions at January 2019 Hearings

TR02002/D1/Sub

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

FOR DEADLINE 1

WRITTEN SUMMARY OF ORAL SUBMISSIONS PUT AT HEARINGS HELD ON 10 AND 11 JANUARY 2019

FROM THE APPLICANT, RIVEROAK STRATEGIC PARTNERS LTD

Issue specific hearing 1: development consent order; Margate Winter Gardens, 10am, 10 January 2019

This is a summary of the case put by RiverOak Strategic Partners Limited (**the Applicant**), at Issue Specific Hearing 1 (ISH1) which took place at Margate Winter Gardens, Margate on 10 January 2019.

1 Agenda Item 1 – Introductions

- 1.1 Isabella Tafur (**IT**), Counsel for the Applicant, introduced herself and advised that she would be representing the Applicant at ISH1. She went on to introduce others representing the Applicant at the hearing including Alex Hallatt, Angus Walker (both of BDB Pitmans), Nick Hilton (**NH**) (of Wood), Richie Hinchcliffe (**RH**) (of Osprey) and Tony Freudmann (**TF**) (of the Applicant).

2 Agenda Item 2 – Applicant’s outline of the key elements of the Proposed Development and how these are secured through Schedule 1 and other elements of the draft development consent order (dDCO)

- 2.1 IT explained that article 3 of the dDCO provided for the Applicant to be granted consent to construct the “authorised development”. The authorised development was defined in article 2 of the dDCO as “the development and associated development described in Schedule 1 (authorised development) or any part of it, which was development within the meaning of section 32 (meaning of development) of the 2008 Act”. Schedule 1 described the various elements of the authorised development which included both the Nationally Significant Infrastructure Project and Associated Development. The authorised development was broken down in to 32 separately defined works. Each of those 32 works were also shown on the Works Plans.

- 2.2 IT summarised the key elements of the Proposed Development as follows:

2.2.1 The refurbishment of the existing runway (**Work No.7**);

2.2.2 The refurbishment of existing hardstanding and construction of additional hardstanding to accommodate the movement of aircraft and airport support vehicles around the site and to create a total of 26 aircraft parking stands and associated infrastructure (**Works Nos. 8 – 11**)

- 2.2.3 New equipment and facilities required to secure a licence from the Civil Aviation Authority to allow the airport to become operational. These include a new air traffic control building (**Work No.3**); a radar tower and associated infrastructure (**Work No.4**) and new or improved lights and navigational aids (**Works Nos. 5 and 6**)
- 2.2.4 Cargo and office facilities to accommodate the freight and administrative functions (**Work No.1**). These will be a maximum of 20m in height and have a maximum footprint of 65,000m²
- 2.2.5 The construction of 8 light and business aircraft hangers and associated infrastructure (**Work No. 2**)
- 2.2.6 The construction of a new passenger terminal (**Work No. 12**) with 3 aircraft stands (**Work No. 11** – already mentioned above)
- 2.2.7 A new fuel facility at the Jentex fuel site (**Work No. 19**)
- 2.2.8 Airport related businesses on the Northern Grass area (**Works Nos. 15, 16 and 17**)
- 2.2.9 A new fire station (**Work No. 13**)
- 2.2.10 Certain highway and junction improvements (**Works Nos. 25 – 32**)

The ExA considered that it was appropriate to address item 7av) at this stage in the hearing.

High mast lighting

- 2.3 IT explained that the installation of new high mast lighting for aprons and stands was included under the “infrastructure” element of Works Nos. 9-11 and that the Applicant proposed an amendment to Work No.8 to make it consistent with Works Nos. 9-11 by including a reference to infrastructure (to cover high mast lighting). NH explained that the impacts of the high mast lighting had been assessed but that the lighting itself was subject to detailed design. In response to the ExA’s suggestions the Applicant agreed to consider whether high mast lighting should be included as a separate work and, if so, whether that work should include height as part of its description.

Safeguarding of museums

- 2.4 IT explained that the “authorised development” was shown on the Works Plans and described in Schedule 1 to the dDCO and that safeguarding of the museums was achieved as there are no works proposed in the area of the museums or the memorial gardens or authorised by the dDCO. IT confirmed that the Applicant would consider whether this arrangement provided sufficient safeguarding but that it was considered currently that it did.

The extent of demolition referred to in paragraphs (l) to (p) of Schedule 1

- 2.5 IT explained that proposed demolition works were set out in the Masterplan and that those demolitions were additionally referred to in the ES. IT confirmed that the Applicant would consider including the demolition of the old ATC tower as a specific work to be included in Schedule 1 and whether to provide a list of those demolitions which were shown on the Masterplan.

- 2.6 IT explained that the dates for phasing of development which were referred to in the Masterplan could be found in Table 3.1 of Environmental Statement (ES) Chapter 3. TF explained that the future of the Old ATC tower was related to the future of the two museums at the site. The land occupied by the tower was potentially a site which could accommodate the museums. TF explained that the Applicant had avoided imposing any relocation on the museums and had signed statements of common ground with both. Any relocation of the museums would likely be achieved through application(s) to Thanet District Council under the Town and Country Planning Act 1990.

Relocation of the Ministry of Defence's High Resolution Direction Finder (HRDF) Apparatus

- 2.7 In response to the ExA's query on why relocation of the HRDF was not mentioned in the dDCO or the ES IT confirmed that this was to be achieved by a separate procedure after the DCO was granted. RH explained that the Applicant had been in discussions with the Ministry of Defence for several months and was currently awaiting confirmation from the Defence Infrastructure Organisation as to whether a proposed relocation site that had been discussed with them was suitable. The relocation would be achieved under the Town and Country Planning Act 1990. The major consideration was to ensure that the relocated facility was in at least as good a position as the existing one. All options being considered for relocation were outside the Order limits of the dDCO.
- 2.8 TF explained that all sites for relocation of the HRDF were beyond the eastern boundary of the Order limits on land near to where the existing landing lights are located. The landowner of the sites in question had already consented to the HRDF being located on that land.

The ExA considered it to be appropriate to consider item 7aw) at this point in the hearing.

Construction of gatehouse

- 2.9 IT confirmed that the Applicant had noted the request in the Rule 6 letter for dimensions of Work No.14 to be provided to the Examination and that the ExA would receive the information at Deadline 1. In response to questioning from the ExA IT confirmed that the building's dimensions would be subject to deviation under the general provisions of article 6 (i.e. it was not caught by the maximum heights specified in the table in article 6(1)(c).

3 Agenda Item 3 – Update on progress with drafting and agreeing Protective Provisions

- 3.1 In response to questioning from the ExA concerning those parties that were considered to be statutory undertakers for the purposes of the application IT confirmed that the Applicant had carried out a land referencing exercise to identify statutory undertakers. The Applicant's understanding was that there were six undertakers (BT, Network Rail, Sota Solutions, Southern Gas Networks, Southern Water and UK Power Networks/SE Power Networks). IT confirmed that the Applicant would consider whether any of the parties listed at paragraph 6 of Annex F should be added to this list. The ExA queried British Gas, Vattenfall and Nemo Link as potential additional undertakers.
- 3.2 IT confirmed that all parties at paragraph 6 of Annex F had been contacted by the Applicant regardless of whether they were considered to be statutory undertakers. Statements of common ground were being sought with each party as requested in the Rule 6 letter and were at varying stages of completion.

4 Agenda Item 4 – Overall issues on drafting

a) Justifying inclusion of any article or Requirement in terms of this application

- 4.1 IT stated that the Applicant had sought to justify the substance of the provisions through the Explanatory Memorandum. IT confirmed that the Applicant had reviewed the paragraphs noted and could provide justification either orally or in writing for the paragraphs listed on the agenda. The ExA confirmed that a written submission on the subject would be useful. This is included at Appendix 1 to this summary.

b) The use of Secretary of State as a certifying or approving body

- 4.2 The ExA made reference to the Planning Inspectorate's guidance on discharge of consents and in particular to the expectation that, if consent/approval is required from a party other than the local planning authority, an Applicant should seek to satisfy itself prior to the application that the party has the appropriate expertise and resources to carry out that duty. IT confirmed that the Applicant had sought such confirmation from the Secretary of State for Transport but that this was after the application was made. A response was awaited from the Department for Transport.
- 4.3 IT noted that the Secretary of State could be identified as a certifying or approving body under legislation and confirmed that the Applicant felt that the Secretary of State had the expertise within his department to discharge this duty which Thanet District Council might not have. IT noted that the allocation of such responsibility to the Secretary of State had not arisen in connection with an airport development consent order as the dDCO is the first airport DCO to be examined. However, the Secretary of State had assumed the role for a discharging requirements on a number of highways DCOs and had a department to deal with the discharge of such a duty.
- 4.4 In response to the ExA's query about whether Secretary of State approval should be required in the case of certain requirements (in particular requirement 10(4)) IT stated that the Applicant would reconsider each example of Secretary of State involvement on a case by case basis and submit a review alongside the next draft of the dDCO to be provided at Deadline 3. In response to representations from Thanet District Council IT confirmed that the Applicant would discuss the revised allocation with Thanet District Council ahead of Deadline 3.

c) The use of the phrase "to the extent that [it] is unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement"

- 4.5 IT stated that the phrase "materially new or materially worse" was intended to allow a proportionate and acceptable level of flexibility in the final design of the authorised development, which was considered necessary in major infrastructure projects. This wording linked any such changes to the impacts assessed in the ES and ensured that the flexibility did not result in the impacts exceeding those assessed.
- 4.6 IT confirmed that the words could be removed from the definition of commence in article 2 as they were not necessary in this definition. The definition of "maintain" in article 2 would be amended by adding "provided that they do not give rise to materially new or materially worse effects than those identified in the ES".

- 4.7 IT advised that any examples of the wording “materially new or materially different” that remained would be replaced with “materially new or materially worse” as this would remove the unintended effect of the Applicant having to build the authorised development in a more environmentally damaging way than was necessary because a less environmentally damaging way was considered to be “materially different”.
- 4.8 In response to a query from the ExA about how “materially” was defined and who defined it and whether the word “materially” could be omitted IT confirmed that the Applicant believed the wording struck the right balance in terms of flexibility and ensuring that the project cannot differ in its implementation. The burden would be on the Applicant to ensure that the works were not materially different as the works would not be authorised under the order otherwise (resulting in potential criminal liability). It would then be up to the courts to decide if any dispute arose as to whether works carried out by the undertaker differed ‘materially’ from those that had been authorised.
- 4.9 In response to the ExA’s question about whether there should be an arbitrator of the assessment of whether there had been a material change IT noted that some requirements did require such approval (with consultation in some places). However, the Applicant was happy to reconsider whether approval was required in each instance.
- d) The applicant should explain the drafting changes necessary as a result of the Housing and Planning Act 2016*
- 4.10 IT stated that this was a technical matter mainly related to compulsory acquisition but one that had been addressed in a table which could be submitted now or discussed at ISH1 or in the compulsory acquisition ISH. IT confirmed that the table could be submitted at Deadline 1 (this is attached at Appendix 2 to this summary). IT confirmed that the Applicant would consider the amendments made in the dDCO with those in the Silvertown Tunnel Order 2018 before the next draft dDCO was submitted at Deadline 3.
- e) The Applicant should ensure that the dDCO follows guidance and practice for Statutory Instrument (SI) drafting (including for example avoiding the use of the words “may”, “shall”, “should”; and “will”) and is in the SI template when submitted.*
- 4.11 IT confirmed that the next revision of the dDCO would be amended to ensure compliance with the appropriate guidance.

5 Agenda Item 5 – Associated Development

- 5.1 IT noted that there was an inconsistency between the NSIP Justification document, which specified which elements of the authorised development would be part of the NSIP and which would be associated development, and Schedule 1 of the dDCO, which did not differentiate. IT confirmed that the Applicant would make changes to the next draft of the dDCO which drew a distinction between the NSIP and associated development to match the NSIP Justification document and provided a definition of “associated development”.
- 5.2 IT noted the inconsistency between the numbering and wording of works in Schedule 1 to the dDCO and the list provided at paragraph 44 of the NSIP Justification document. These inconsistencies would be removed by updating the NSIP Justification document and submitting this amended document at Deadline 1.

- 5.3 In response to questions about the removal of “airport-related” from the descriptions of the Works Nos. 15, 16 and 17 (commercial development on the “Northern Grass”) IT confirmed that the wording was removed in favour of use classes. The Applicant was content to reintroduce that wording in the next draft of the dDCO as it remained the intention that the Northern Grass would accommodate airport related facilities.
- 5.4 When prompted by the ExA on the relationship between the principal airport development and the Northern Grass (NG) development IT stated that the development such as that proposed for the NG supported operations at the airport and was a feature of all airports. The facilities would support the operation of the airport, and would maximise the attraction and efficiency of the airport to those that might use it.

6 Item 6 – Limits of Deviation

- 6.1 In response to a request for clarity on the need for the figures contained in the table in article 6(1)(c) of the dDCO NH confirmed that, to assess the maximum heights for the buildings listed (and therefore to allow assessment of the worst case scenario) it was necessary to assume a worst case height and, given uncertainty over the exact ground levels at the site, the best way to do this was to measure those heights in AOD. IT noted that it was the lack of access to the airport site which had meant that there was some uncertainty over the ground level (i.e. not that the maps submitted with the application were unclear). NH added that there was an understanding that building platforms could be built for these buildings and so, given that this would alter the baseline from which a building was measured it was important to specify a maximum AOD height. In response to questioning from the ExA NH confirmed that the uncertainty did not affect the assessment of visual impact as the maximum heights provided were used to assess visual impact.
- 6.2 The ExA referred to the general permission for the Applicant to deviate upwards by 2m (for those works not subject to a maximum height parameter) and asked whether the Applicant could not just add 2m to the descriptions of the buildings. IT noted that these were two ways of reaching the same result. IT confirmed that the Applicant would look at the buildings in Schedule 1 and see if buildings other than those listed in the table in article 6(1)(c) might benefit from additional details or amendments that would allow the Applicant to set the 2m deviation as a maximum height parameter.
- 6.3 In response to a query about downward deviation IT explained that the Applicant would amend article 6(1)(b) to simplify it while retaining the restriction that any deviation below ground level would require the approval of the Secretary of State in consultation with the Environment Agency. This amendment would be made to the next revision of the dDCO at Deadline 3.
- 6.4 The ExA suggested that article 6(2) might allow unlimited deviation. IT noted that any vertical deviation would not be permitted if it exceeded the worst case scenario assessed in the ES and that any such deviation would have to be certified by the Secretary of State. The Secretary of State (in consultation with the Local Planning Authority) would be the arbiter of whether a deviation was material. IT noted further that a degree of flexibility was required in large infrastructure and that for a small deviation in part of the development to prevent the development going ahead would be disproportionate. The role of the DCO was to ensure that there was no potential for a change that gave rise to a materially new or materially worse environmental impact and this was achieved by the wording in the dDCO.

The ExA considered it to be appropriate to consider item 7(g) at this point in the hearing.

- 6.5 In response to a request from the ExA to explain how approximate the measurements caught by articles 2(2) and 2(3) should be considered to be IT said that the Explanatory Memorandum provided an explanation for the use of the word which is intended to address the situation that might be encountered when construction began if distances are found to be marginally different from those stated. IT noted that the wording was commonplace in DCOs and that the Applicant felt it was justified in the circumstances.

7 Item 7 – discussion on specific parts of the dDCO

- 7.1 The Applicant's submissions on the individual items from ISH1 agenda item 7 are addressed in the table below.

Item	Issue raised	Applicant's submissions
a)	<p>Article 2 - Interpretation, definition of “commence”</p> <p>The ExA will examine the activities included in, and excluded from, the definition of “commence”.</p>	<p>IT explained that the definition was designed to clarify that a number of works that would constitute a “material operation” under the Town and Country Planning Act 1990 would not mean that the authorised development has been “commenced”. This enables the Applicant to undertake certain preparatory works prior to the submission of relevant details for approval under the requirements. The items that are excluded are either de minimis or have minimal potential for adverse effects. In some cases they may need to be carried out in order to comply with pre-commencement requirements (for approval). It will also ensure that the construction timetable was minimised.</p> <p>IT stated that the definition of commence used was appropriate for the requirements of this authorised development and also has precedent in recent schemes such as the M20 Junction 10a Development Consent Order 2017 and the Silvertown Tunnel Order 2018.</p> <p>NH confirmed that any investigations considered to be intrusive would need to be agreed with the Environment Agency prior to them being carried out. A programme of works had been prepared. All works listed after “other than operations consisting of” would be subject to obligations described in the CEMP which were considered in the ES. The ES chapters relied upon and prescribed the provisions of the CEMP. The Applicant would provide a note showing where the works listed in the definition of commence have been assessed and set out the relationship between the ES and the references in the CEMP.</p>

b)	<p>Article 2 - Interpretation, definition of “limits of deviation”</p> <p>The ExA will recommend adding the words “and shown on the works plans” to the end of this definition.</p>	This item was not considered further as limits of deviation were addressed under item 6.
c)	<p>Article 2 - Interpretation, definition of “maintain”</p> <p>The ExA will examine at item 4(c), above, in particular the breadth of the phrase “to the extent that [it] is unlikely to give rise to any materially new or materially different environmental effects from those identified in the ES, and any derivative of “maintain” must be construed accordingly”.</p>	This item was not considered further as the phrase concerned was addressed at item 4(c)
d)	<p>Article 2 - Interpretation, definition of “statutory undertaker”</p> <p>The ExA will recommend adding a reference to s138 (4A) and (4B) of the Planning Act 2008 (PA2008).</p>	IT noted the recommendation of the ExA to make the change suggested and also that, if the Applicant chose not to make the amendment then the ExA would expect justification for its omission.

e)	<p>Article 2 - Interpretation, definition of “access and rights of way plans”</p> <p>The ExA will recommend putting this definition in alphabetic order.</p>	IT noted the recommendation of the ExA and confirmed that the Applicant would make the amendment.
f)	<p>Article 2 - Interpretation, definition of “traffic regulation plans”</p> <p>Article 2 states that “traffic regulation plans” means the plans certified by the Secretary of State under article 41”.</p> <p>The ExA will recommend adding Traffic Regulation Plans to Schedule 10.</p>	IT noted the recommendation and confirmed that the Applicant would consider making the suggested amendment.

g)	<p>Articles 2(2) and 2(3) – Interpretation</p> <p>Articles 2(2) and 2(3) refer to measurements being approximate.</p> <p>The ExA may consider these Articles under agenda item 6.</p>	<p>This item was not considered further as it was considered during item 6 (see paragraph 6.5)</p>
h)	<p>Article 2 – Interpretation</p> <p>The ExA will examine whether the Crown Land Plans [APP-017] and Special Category Land Plan [APP-019] should be defined in Article 2 and listed in Schedule 10.</p>	<p>IT noted the recommendation made by the ExA and confirmed that the Applicant would consider the amendment.</p>

i)	<p>Article 2 – Interpretation</p> <p>The ExA will examine whether documents referenced in the Register of Environmental Actions and Commitments [APP- 010], such as the Mitigation and Habitat Creation Plan and the Spillage Environmental Response Plan, should be defined in Article 2 and listed in Schedule 10.</p>	<p>IT explained that a number of the documents were intended to be “living documents” that were worked up during the examination to reflect matters raised by the ExA and then further developed following the examination once contractors had been appointed and the airport became operational.</p> <p>To illustrate the point IT confirmed that the Mitigation and Habitat Creation Plan was subject to some change. The ES assessed the worst case scenario but it was hoped and expected that, once on site, it would become clear that the mitigation required was much less. Consultation with Natural England would be included as part of the approval process for the finalised Mitigation and Habitat Creation Plan.</p> <p>IT confirmed that the Applicant had looked at a number of precedents to try to identify an accepted way of addressing these plans. There was no “standard” approach. IT agreed that the Applicant would consider options to include consultation on final versions with appropriate bodies.</p>
----	---	---

j)	<p>Article 3 – Development consent etc. granted by the Order</p> <p>The ExA will examine whether the following phrase can be made more definable:</p> <p>“Any enactment applying to land within, adjoining or sharing a common boundary with the Order limits has effect subject to the provisions of this Order.”</p>	<p>In response to the ExA’s concern over how “adjacent” might be considered in article 3 IT stated the view of the Applicant was that s.120(5) of the Planning Act 2008 allows for the modification of statutory provisions that affect the development and that may include land adjacent to the Order limits. The ExA suggested that the punctuation of the clause could give rise to some uncertainty. At the ExA’s suggestion IT confirmed that the Applicant would reconsider the wording of the article (in conjunction with a review of wording contained in other DCOs).</p>
----	---	--

k)	<p>Article 5(1) – Maintenance of drainage works</p> <p>The ExA will examine the breadth and possible implications of this Article.</p> <p>The ExA will seek comments from, in particular, the Environment Agency.</p>	<p>IT explained that justification for this article was given at paragraph 3.13 of the EM which read as follows:</p> <p><i>3.13 – The purpose of this article is to make it clear that any realignment of award drains or other works to them that are carried out as a part of the scheme do not affect the existing allocation of responsibility for maintenance of those drains, unless this is agreed between RiverOak and the responsible party. The provision is well precedented (see for example article 4 of the A14 Cambridge to Huntingdon Improvement Order 2016).</i></p> <p>IT stated that the Applicant sought to avoid any additional liabilities that might result from the removal or amendment of this article. For instance, there would be highways works associated with the authorised development which would improve certain aspects of the local road network for the local population as well as making it more suitable to serve the authorised development. The Applicant sought to avoid assumption of additional drainage maintenance liabilities (which currently lay with others) as well as providing highway improvements.</p>
l)	<p>Article 6(1)(b)(c) and 6(2) – Limits of deviation</p> <p>These Articles are examined at item 6 on this agenda.</p>	<p>This item was not considered further as it was considered in item 6.</p>

m)	<p>Article 7(2) – Benefit of Order</p> <p>The ExA will examine the application of Article 7(2) in the context of the Proposed Development.</p>	<p>IT confirmed that while it was possible to identify certain persons who might benefit from works (e.g. the local highway authority in respect of highways works at Works Nos. 24-32) it was not possible to specify all of those persons and / or organisations who may need to benefit e.g. beneficiaries of as yet unanticipated accommodation works.</p> <p>IT confirmed that the Applicant would consider the wording of the article in order to ensure clarity.</p>
----	---	---

n)	<p>Article 8(1) – Consent to transfer benefit of Order</p> <p>The ExA will recommend adding the words “written” to the phrase “with the consent of the Secretary of State”.</p>	<p>IT confirmed that the Applicant will consider the proposed amendment for the next draft of the dDCO.</p> <p>In response to the request for further clarification from the ExA on arrangements for operation of the airport (in connection with article 8) TF confirmed that the Applicant will operate the airport and manage and develop it. However, the Applicant also intended to contract with suitably qualified major construction companies (with whom there was already a dialogue) when it came to major construction works, which the Applicant would supervise. When it came to operating the airport, the Applicant would do so but may subcontract certain aspects of the airport operation, as is usual. TF confirmed that the Applicant had no track record in operating airports without subcontracting but that this is why the operation on the ground level would be contracted out (under the standard supervision of the CAA). RH confirmed that the beginning of the CAA aerodrome licence process would run alongside the construction phase (commencing in calendar year 2020) and that the facilities would be continually assessed as construction was taking place.</p>
o)	<p>Article 9 – Guarantees in respect of payment of compensation, etc.</p> <p>NOTE: This Article will be examined through Written Questions and through a Compulsory Acquisition Hearing.</p>	<p>This was noted by the Applicant.</p>

p)	<p>Article 11 – Construction of new, altered or diverted streets</p> <p>The ExA will examine whether streets referred to should be listed in a Schedule.</p>	<p>IT explained that, in relation to Works. Nos. 15 to 17 in particular there would be roads that would be constructed to serve the authorised development but which could not be identified or named at this stage. The location would be dependent on detailed design so it would not be possible to include a list of those streets prior to the DCO being made. The Applicant would consider what, if any, changes could be made.</p>
----	---	---

q)	<p>Article 11(1) – Construction and maintenance of new, altered or diverted streets</p> <p>Article 11(1) states that:</p> <p>“Any street to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies”</p> <p>The ExA will:</p> <ul style="list-style-type: none"> a) seek the comments of the highway authority on the acceptability of the Article; and b) recommend that the words “in writing” be inserted after “agreed” in Article 11(1). 	IT confirmed that the Applicant would make the proposed amendment to article 11(1).
----	--	---

u)	<p>Article 12(2) – Temporary stopping up and restriction of use of streets.</p> <p>The ExA will examine whether the streets referred to be listed in a Schedule.</p>	<p>IT explained that the inclusion of a list of streets in a Schedule would introduce a specificity which might lead to streets that are to be constructed as part of the authorised development (for example those constructed within Works Nos. 15, 16 and 17) falling outside Article 12.</p> <p>If those streets had to be stopped up or restricted for the carrying out of later stages of the authorised development then that could not happen under the Order, causing a delay to the construction of the authorised development while other permissions were sought.</p>
----	---	---

v)	<p>Article 12(2) – Temporary stopping up and restriction of use of streets</p> <p>Article 12 states:</p> <p><i>“the undertaker may use any street temporarily stopped up or restricted under the powers conferred by this articles and which is within the Order limits as a temporary working site”</i></p> <p>The ExA will examine:</p> <ul style="list-style-type: none"> a) whether the highway authority is content with this Article; b) whether any additional permission beyond that referenced in Article 12(4) should be required for use as a temporary working site; and c) whether the use of streets as temporary working sites has been assessed in the Environmental Statement. 	<p>In response to queries about whether stopping up of streets had been assessed IT confirmed that the construction impact of every stage of development had been assessed. NH added that while this was the case, the ES did not assess each closure but rather contained general provisions covering the construction impact. Each chapter of the ES considered construction impact but the chapters did not explicitly consider the effect of construction related to an individual area of stopped up road.</p>
----	---	---

w)	<p>Article 13 – Permanent stopping up of public rights of way</p> <p>The ExA will examine whether a date by which any substitute public right of way has to be completed be inserted.</p>	IT confirmed that the Applicant would consider the introduction and wording of a time limit.
x)	<p>Article 13 – Permanent stopping up of public rights of way</p> <p>The ExA will recommend that reference to the Access and Rights of Way Plans [APP-020] be made in this Article.</p>	IT stated the Applicant's position that article 13 referred to Schedule 3 and that the Access and Rights of Way Plans were incorporated through the descriptions in that Schedule. The Applicant would consider an amendment to the article.

y)	<p>Article 14 – Access to works</p> <p>The ExA will examine the necessity of this Article in the circumstances of this particular project.</p>	<p>IT confirmed that the general power to form accesses to public highways was appropriate for the project. This applied in relation to the Northern Grass area where access requirements might change dependent on the layout of the commercial premises which were constructed (within the parameters of the authorised development). It also applied to the airside development where the Applicant should retain the ability to relocate/establish access points where it was required to do so for regulatory or operational reasons</p> <p>IT stated that the Applicant was content to add the wording “provided it does not result in any materially new or materially worse environmental effects” to the end of the article and noted the ExA’s comments on the requirement for certainty.</p>
z)	<p>Article 15 – Traffic regulation</p> <p>The ExA will seek the views of the highway authority</p>	<p>This item was not addressed and would instead be examined through written questions.</p>

aa)	<p>Article 16(8)(a) – Discharge of water</p> <p>At item 4(d) on this agenda, the ExA will recommend that the Applicant should consider any drafting changes required as a consequence of the Homes and Communities Agency being replaced by Homes England.</p>	IT confirmed that the Applicant would replace the reference to the Homes and Communities Agency with reference to Homes England as appropriate.
*	<p>Article 18 – Authority to survey and investigate land</p>	IT noted Stone Hill Park Limited's concerns about the impact of this article on Operation Stack/Brock and committed to considering revised drafting to address the situation to include one or more of a) a requirement to notify the DfT b) a counter notice by the DfT or c) a measure limiting access to the land in a similar way to the provision contained within the extant authorisation under s.53 of the Planning Act 2008.
ab)	<p>NOTE: In addition to those detailed below, all Articles in Part 5: Powers of Acquisition and Possession will be examined through Written Questions and through a Compulsory Acquisition Hearing (including matters in respect of funding).</p>	This was noted by the Applicant.

ac)	<p>Article 19(1) – Compulsory acquisition of land</p> <p>The ExA will recommend that the words “as described in the Book of Reference should be added” to the end of the sentence.</p>	<p>IT advised that the definition of Order land given in article 2 was as follows:</p> <p><i>“Order land” means the land shown on the land plans which is within Order limits and described in the book of reference.”</i></p> <p>The reference to the book of reference was therefore already incorporated into article 19(1) through that reference and the Applicant considered amending the article was unnecessary.</p>
ad)	<p>Article 22 – Compulsory acquisition of rights and restrictive covenants</p> <p>The ExA will examine the nature of, and justification for, the proposed right to impose restrictive covenants.</p> <p>The ExA notes also the references to restrictive covenants in Articles 23, 24, 29, 31 and Schedule 6</p>	<p>IT stated that it was anticipated that restrictive covenants might be required in relation to the drainage pipeline. Acquisition of this pipeline would relate to subsoil only and access rights and so the Applicant anticipated needing to impose restrictive covenants to ensure that the pipeline was protected and access was retained.</p> <p>In response to the ExA's suggestion IT confirmed that the Applicant would consider providing draft wording for a generic restrictive covenant at Deadline 3.</p>

ae)	<p>Articles 25 and 26 – Application of the Compulsory Purchase Act 1965 and Application of the Compulsory Purchase Act 1981</p> <p>At item 4(d) on this agenda, the ExA will recommend that the drafting of these Articles must reflect changes to statutory provisions made by or related to the Housing and Planning Act 2016.</p>	<p>This item was not considered further as it was addressed during consideration of item 4(d) on the agenda.</p>
af)	<p>Article 31 – Statutory undertakers</p> <p>The Applicant and Affected Persons should note that, where a representation is made under section 127 of the PA2008 and has not been withdrawn, the Secretary of State will be unable to authorise Article 31 unless satisfied of specified matters in Section 127</p> <p>The ExA will seek an update on progress in respect of negotiations with Statutory Undertakers to the extent that it has not already been dealt with under item 3 of this agenda.</p>	<p>This item was not considered further as it was addressed at item 3 on the agenda.</p>

ag)	<p>Article 34 – Felling or lopping of trees and removal of hedgerows</p> <p>The ExA will examine whether, where any trees covered by this article are protected by virtue of Tree Preservation Orders (TPO) or being situated in a conservation area, they should be identified in a Schedule.</p>	<p>NH confirmed that there were no plans to remove any trees or hedgerows on the site. IT stated that the Applicant would consider the continued inclusion of the article in the dDCO and what was said in the ES about hedgerows and trees.</p>
ah)	<p>Article 34 – Felling or lopping of trees and removal of hedgerows</p> <p>The ExA will examine whether, where it is known that specific hedgerows need to be removed, they should be listed in a Schedule and this Article amended to refer to the Schedule</p>	<p>See item ag)</p>

ai)	<p>Article 34 – Felling or lopping of trees and removal of hedgerows</p> <p>The ExA will examine whether an additional paragraph should be added to this Article to the effect that any other hedgerows should only be removed once the prior consent of the local planning authority has been obtained.</p>	See item ag)
aj)	<p>Article 34 – Felling or lopping of trees and removal of hedgerows</p> <p>The ExA will examine whether there is the need for a Tree and Hedges Management Plan and whether this should be defined in Article 2 and listed in Schedule 10</p>	See item ag)

ak)	<p>Article 35 – Abrogation of agreement</p> <p>The ExA will examine the necessity for this Article.</p> <p>The ExA notes that paragraph 3.88 of the dEM [APP-007] states that:</p> <p><i>“The obligations under the agreement which is abrogated by this article will be replaced by modernised obligations which will be secured by requirement in Schedule 2”</i></p> <p>NOTE: The ExA has requested in the Rule 6 letter dated 11 December 2018 that a copy of the s.106 Agreement referred to in this Article be entered into the Examination.</p> <p>The ExA will seek, in particular, the views of Thanet District Council on this Article.</p>	<p>IT confirmed that the agreement concerned was a Section 106 agreement dated 26 September 2000 which detailed obligations of the owner of the airport (Kent International Airport plc) and Thanet District Council. The obligations on the owner related to limitation of noise and pollution impact. The Applicant wished to abrogate this agreement (to the extent that it still had effect) and replace it with a modern Noise Mitigation Plan, the draft of which was provided as [APP-009]. Compliance with the Noise Mitigation Plan was secured through requirement 9 at Schedule 2 of the dDCO.</p> <p>IT noted that Thanet District Council was asked to provide details of any reviews/revised copies of this document and would consider revisions to the wording of this article accordingly. The Applicant would provide an explanation of what provisions the Noise Mitigation Plan would be replacing.</p> <p>IT confirmed that the Applicant intended to enter into a further s.106 with Thanet District Council (although it was likely to be unilateral). The s.106 would contain provisions on education and training in addition to other matters.</p>
-----	---	--

a)	<p>Article 36 – Application of landlord and tenant law</p> <p>The ExA will examine the necessity of this Article in the circumstances of this particular project.</p>	<p>IT reported that the Applicant envisaged a potential situation where an airport operator was granted the right to operate the airport/part of the airport along with a lease over the operational land of the airport. If that agreement to operate was terminated the Applicant did not want to be subject to any delay or complication in the operation of the airport which might be brought about by commercial security of tenure.</p> <p>TF confirmed that there was a standard management model for airports and gave an example of an agreement that the Applicant had entered into with Securitas, a fire safety organisation. It was yet to be decided which core operations the Applicant would retain at this stage.</p>
----	--	---

am)	<p>Article 37 – Operational land for purposes of the Town and Country Planning Act 1990</p> <p>The ExA will examine:</p> <ul style="list-style-type: none"> a) the necessity of this Article in the circumstance of this particular project; and b) with reference to paragraph 3.91 of the dEM [APP-007], whether the Applicant can identify the permitted development rights that may be available as a result of this Article. 	<p>IT confirmed that the Applicant would reconsider the necessity for this article given that the provisions in the Town and Country Planning (General Permitted Development)(England) Order 2015 were likely to operate in any event.</p>
an)	<p>Article 40 – Crown rights</p> <p>NOTE: This article will be examined through Written Questions and through a Compulsory Acquisition Hearing.</p>	<p>This was noted by the Applicant.</p>

ao)	<p>Article 43 – Arbitration</p> <p>The ExA will examine whether the following wording “to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State” be substituted at the end of this Article.</p>	<p>IT confirmed that the Applicant would consider the amendment proposed.</p>
ap)	<p>Local Employment</p> <p>The ExA notes that the Register of Environmental Actions and Commitments [APP-010] references:</p> <p>“Measures to optimise local recruitment during construction and operation, including possible measures to ensure linkages to local training initiatives and/or voluntary agreements relating to local recruitment.”</p> <p>NOTE: The ExA will examine the possible need for a Requirement designed to promote and secure local employment through Written Questions and, if required, an Issue Specific Hearing.</p>	<p>This was noted by the Applicant.</p> <p>IT reported that on 9 Jan 2019 the Applicant’s team met with Canterbury Christ Church University; East Kent College; KCC Careers; Kent and Medway Skills Commission, Dover DC and Thanet DC to discuss education and training. The discussion focused on how those bodies would like the Applicant to best assist them in local education and training and the sense was that this would be best secured through a s.106 agreement. IT reported that the Applicant was happy to proceed with a s.106 agreement as at London City Airport.</p>

aq)	<p>Human Remains</p> <p>The ExA notes that a Relevant Representation [RR-0839] states that:</p> <p><i>“Located at Manston are twentieth century war graves.”</i></p> <p>The ExA will examine whether or not there is the need for an additional Article in the dDCO to deal with human remains.</p>	<p>IT stated the Applicant’s belief that the remains that are located at Manston were limited to urns containing cremated remains that were located in the safeguarded area which housed the two museums and the memorial garden. This area was not subject to development.</p> <p>IT noted that it was not possible to guarantee the absence of remains elsewhere and so the Applicant would be content to include a provision in the dDCO to deal with that eventuality.</p>
au)	<p>Airport Consultative Committee</p> <p>The ExA notes that the Register of Environmental Actions and Commitments [APP-010] contains a commitment to establish an Airport Consultative Committee and will examine whether this commitment should be secured through the DCO.</p>	<p>IT stated that Requirement 9 in Schedule 2 to the dDCO stated that the authorised development must be operated in accordance with the Noise Mitigation Plan [APP-009]. Paragraph 13 of the Noise Mitigation Plan provided that the airport operator would establish a Community Consultative Committee. However IT noted the ExA’s comments that a Community Consultative Committee would consider a range of matters wider than noise and confirmed that the Applicant would consider a provision in the dDCO in light of those comments.</p>

av)	<p>Authorised Development</p> <p>The ExA will examine how all the elements of the Proposed Development as set out in, for example paragraph 1.14 of the Planning Statement [APP-080] and paragraph 2.2 of the dEM [APP-007] are secured through works detailed in Schedule 1.</p> <p>The Examination will include:</p> <ul style="list-style-type: none"> • the installation of new high mast lighting for aprons and stands; • safeguarding of existing facilities for museums on the site; and • the extent of the demolition referenced in the description of further development (l) and (p) 	This item was not considered further as it was addressed in agenda item 2.
aw)	<p>Work No.14 – the construction of a gatehouse</p> <p>The ExA has requested through the Rule 6 letter, for details of the dimensions of this work to be provided.</p>	This item was not considered further as it was addressed at agenda item 2.

ax)	<p>Requirement 1 – Interpretation, definition of “operation environmental management plan” and Requirement 7</p> <p>The ExA will examine:</p> <ul style="list-style-type: none"> a) The status of the “operation environmental management plan” given that this document, or documents, is not listed in Schedule 10 of the dDCO; and b) whether the “operation environmental management plan” should be approved by the local planning authority and/or another body. 	<p>IT explained that the operational environmental management plan was not a draft application document and that, due to the nature of the document it could not be produced at the examination or certification stage as information from detailed design would be necessary to complete the document. IT confirmed that the Applicant would add provision for approval of the document and would consider who should be the approving body.</p>
-----	--	---

ay)	<p>Requirement 3(1) – Development masterplans</p> <p>The ExA will examine:</p> <ul style="list-style-type: none"> a) whether this Requirement provides unnecessary flexibility; and b) which body should be the approving body (see agenda item4(b)). 	<p>IT confirmed that the Applicant considers this approach appropriate given the size of the authorised development. Any development of this type is likely to be completed in phases and the complexities of the masterplanning phase for a new airport means that the number and size of those phases has not yet been established. The drafting of Requirement 3 is therefore appropriate for an airport NSIP while also ensuring that the SoS has the appropriate powers of approval over the masterplanning of the authorised development.</p> <p>See item 4(b) for justification of the SoS as the approving body for the development masterplans.</p> <p>In response to suggestions from the ExA that the detail of what would be contained in a masterplan was lacking IT confirmed that the Applicant would reconsider the wording and provide more certainty on the parameters of a masterplan under this requirement. The Applicant would also consider the inclusion of further bodies in the approval process and that consideration would include Thanet District Council, RIBA and CABE.</p>
-----	--	---

az)	<p>Requirement 4 – Detailed design</p> <p>The ExA will examine:</p> <ul style="list-style-type: none"> a) whether this Requirement provides unnecessary flexibility; b) whilst noting Requirement 5, why Work No.19 – The construction of new or improved facilities to create an airport fuel farm – is excluded from elements of this Requirement; and c) which body should be the approving body (see agenda item 4(b)). 	<p>In response to questioning over the tailpiece to requirement 4(2) IT stated that it was the Applicant's view that it would only be excused from the requirements of the first part of requirement 4(2) if the Secretary of State considered that its application was unnecessary in the circumstances (as the authorising body). The Applicant would consider the application of the tailpiece to be an exception rather than the rule. However, such exceptions did arise in large infrastructure projects and some change may be needed for the authorised development.</p> <p>IT confirmed that Work No.19 would be added to the list of authorised development that was subject to requirement 4.</p>
-----	---	--

aaa)	<p>Requirement 5 – Detailed design of fuel depot</p> <p>The ExA will examine whether the proposed specifications for Work No.19 contained in the Register of Environmental Actions and Commitments [APP-010] are adequately secured through Requirement 5.</p> <p>The ExA notes that, in its Relevant Representation [RR-0538], the Environmental Agency indicates that it agrees with this Requirement as outlined</p>	<p>IT confirmed that the Applicant would review requirement 5 to ensure that it complied with all relevant commitments in the Register of Environmental Actions and Commitments. The Applicant would also consider the possible input of HSE in the approval process.</p>
------	--	---

<p>aab)</p>	<p>Requirement 6 – Construction environmental management plan</p> <p>The ExA notes that a draft Construction Environmental Management Plan (CEMP) has been provided as part of the application documentation. However, unlike Requirement 7, Requirement 6 does not specify the contents of the CEMP.</p> <p>The ExA notes, for example, that the Register of Environmental Actions and Commitments [APP- 010] specifies that the CEMP will contain a Dust Management Plan; measures to reduce or limit air quality effects during the construction phase; a water quality method statement; an Unexploded Ordnance (UXO) threat and risk assessment; inter alia.</p> <p>The ExA will examine whether the contents of the CEMP should be specified in the dDCO.</p> <p>The ExA notes that, in its Relevant Representation [RR- 0538], the Environment Agency indicates that it agrees with this Requirement as outlined.</p>	<p>NH acknowledged that the CEMP was a fairly advanced document but that it was a “living document” the revisions of which would need to take into account information on detailed design and so would continue to evolve once detailed design was completed and contractors were appointed.</p> <p>IT confirmed that the Applicant would consider a list of elements that should be addressed in the CEMP and a procedure for approval of the document and its revisions.</p>
-------------	---	--

aac)	<p>Requirement 7 – Operation environmental management plan</p> <p>The ExA will examine whether, with particular reference to Requirement 7(b), whether this Requirement should contain a commitment to review and update the “operation environmental management plan”</p>	<p>IT confirmed that the Applicant would consider an amendment which provided a commitment to review and update the OEMP and that this would be addressed at Deadline 3.</p>
------	---	--

<p>aad)</p>	<p>Requirement 7 – Operation environmental management plan</p> <p>See also item 7 ax) above.</p> <p>The ExA notes that, in its Relevant Representation [RR-0538], the Environment Agency requests that the following additional items are included regarding the management of fuel storage and transport in relation to vegetation management using herbicides:</p> <p>(xii) Fuel storage and transport arrangements</p> <p>(xiii) Operational use of herbicides to control vegetation</p> <p>The ExA will examine the need for these additional items. The ExA notes that, in its Relevant Representation [RR-0538], the Environment Agency welcomes the overarching outlining of mitigation measures in the Register of Environmental Actions and Commitments [APP-010] and as required by Requirement 7(2)(d) of the dDCO</p>	<p>IT confirmed that the Applicant had been in talks with the Environment Agency with a view to agreeing a statement of common ground. The Applicant had agreed to make these amendments and that agreement was reflected in the draft statement of common ground. The amendments proposed would be reflected in the next draft of the dDCO.</p>
-------------	--	--

aae)	<p>Requirement 8 – The ExA will examine whether written details of the proposed on-site and off-site ecological mitigation, including its monitoring and management, should be embodied within a named document defined in the dDCO and listed in Schedule 10.</p>	<p>IT stated the Applicant's position that it would be inappropriate to include ecological mitigation within the DCO and Schedule 10.</p> <p>NH provided that the ecological impacts of the authorised development had been assessed on an extremely conservative worst case scenario basis. Once further surveys of the site (for which there is a programme) had been carried out it was expected that the likely impacts can be refined and the mitigation necessary reconsidered. There was a need for flexibility in the ecological mitigation plan to allow for this. NH agreed that the Applicant could provide the programme of ecological surveys at Deadline 1.</p> <p>In response to criticism from Stone Hill Park Limited on the adequacy of the EIA associated with the project NH confirmed that the work was backed up by Stone Hill Park Limited's own environmental surveys (which were less conservative).</p>
------	---	---

aaf)	<p>Requirement 9 – Noise mitigation</p> <p>The ExA will examine:</p> <ul style="list-style-type: none"> a) whether the wording of this Requirement is sufficiently robust; and b) whether the implementation of elements of the noise mitigation plan should be a Requirement to allow the start of operation of the Proposed Development 	<p>IT confirmed that it was the Applicant's position that the wording of the requirement was sufficiently robust. The noise mitigation plan was to be a certified document referred to directly from the requirement.</p> <p>In response to suggestions from the ExA IT confirmed that the Applicant would consider what, if any, aspects of the noise mitigation plan should be implemented prior to commencement of construction and/or operation (including insulation and relocation schemes). The Applicant would also provide an example of a similar noise mitigation plan from another airport.</p>
aag)	<p>Requirement 10 – Landscaping</p> <p>The ExA will examine whether the landscaping scheme should be embodied within a named document defined in the dDCO and listed in Schedule 10.</p>	<p>IT confirmed that there was, as yet, no landscaping scheme and it was unlikely that there would be one prior to the making of the Order. The requirement involved submission of the plan for the approval of the SoS after consultation with the local planning authority. IT confirmed that the Applicant would give consideration to the time period of 5 years given and whether this should be extended (perhaps to 25 years).</p>

aah)	<p>Requirement 10(1) and (4) – Landscaping</p> <p>The ExA will examine which body should be the approving body (see agenda item 4(b)).</p>	<p>The Applicant noted the stated position of Thanet District Council that it should be the approving body.</p>
aai)	<p>Requirement 11 – Contaminated land and groundwater</p> <p>[Reference to extensive amendments suggested in the Relevant Representation [RR-0538] of the Environment Agency.</p>	<p>IT confirmed that the Applicant has been in talks with the Environment Agency with a view to agreeing a statement of common ground. The Applicant had agreed to make the amendments and that agreement was reflected in the draft statement of common ground. The amendments proposed would be reflected in the next draft of the dDCO.</p>
aaj)	<p>Requirement 12(3) – Protected species</p> <p>The ExA will examine the appropriateness of this Requirement.</p>	<p>IT confirmed that, given the lack of access to the airport site to carry out surveys, this form of Requirement was considered appropriate and provided necessary protection to any unidentified protected species. The Applicant would consider the addition of Kent Wildlife Trust as one of the consulted organisations. The Applicant would consider the removal of reference to “trees to be lopped or felled” in sub-paragraph (1) and the words “where relevant and appropriate” from sub-paragraph (4).</p>

aak)	<p>Requirement 13 – Surface and foul water drainage</p> <p>The ExA will examine whether this Requirement should contain phasing for the completion of the elements of the relevant Work in relation to the start of operation of the Proposed Development.</p> <p>The ExA note that, in its Relevant Representation [RR-0538], the Environment Agency indicates that it agrees with the Requirement as outlined.</p>	<p>IT confirmed that the Applicant would consider the point raised by the ExA in relation to phasing.</p>
aal)	<p>Requirement 13(2) – The ExA will examine the depth and phraseology of this Requirement (see agenda 4(c))</p>	<p>This item was not considered further as discussion of similar “tailpieces” to articles had already occurred in relation to other items.</p>

aam)	<p>Requirement 14(1) – Traffic management</p> <p>The ExA notes the reference to a “construction traffic management plan” in this Requirement and will examine whether this document should be defined in Article 2 and listed in Schedule 10.</p> <p>The ExA will also examine the reference to those to be consulted.</p>	<p>IT confirmed that the Applicant did not propose to include the plan as a certified document as it would only be produced once a contractor had been appointed. It might be possible to produce a skeletal plan of what might be included in the plan. IT confirmed that Royal Mail was included as a consultee in response to their request to be included.</p> <p>On a more general point IT reported that there did not appear to be a settled DCO approach as to what was certified in connection with a DCO but confirmed that the Applicant would provide a list of what documents it believed should be certified and explain its approach.</p>
aan)	<p>Requirement 15 – Piling and other intrusive works</p> <p>The ExA notes that, in its Relevant Representation [RR-0538], the Environment Agency indicates that it agrees with this Requirement as outlined.</p>	<p>The intention to deal with this item through written questions was noted by the Applicant.</p>
aao)	<p>Requirement 16 – Archaeological remains</p> <p>The ExA will examine the adequacy of this Requirement in the event of discovering archaeological remains of national significance.</p>	<p>The ExA stated its intention to address this item through written questions.</p>

aap)	<p>Requirement 17 – Archaeological remains</p> <p>The ExA notes that the Relevant Representation from Kent County Council [RR-0975] states that:</p> <p>“a DCO requirement should cover the need to preserve the archaeology including through adjustment of development parameters as well as covering the necessary stages of evaluation and investigation. The requirements should also cover extensive investigation of those areas of the airport where archaeology will be affected by development but is not to be preserved in situ. The County Council welcomes the intention to agree a Written Scheme of Investigation for future archaeological investigations.”</p>	The ExA stated its intention to address this item through written questions.
aaq)	<p>Requirement 16 – Archaeological remains</p> <p>The ExA will examine whether the words “unless otherwise agreed in writing” should be removed”</p>	IT confirmed that the Applicant would respond to a written question on this item.

<p>aau)</p>	<p>Requirements 18 to 21:</p> <p>The ExA draws the Applicant's attention to paragraph 19 of the Planning Inspectorate's Advice Note Fifteen: Drafting Development Consent Orders v2, July 2018) (AN15) – Good practice point 3 and Appendix 1.</p> <p>The ExA will examine any justification for the departure from the wording suggested in AN15.</p>	<p>IT confirmed that the Applicant would justify any departure from the suggested wording for discharge of requirements provided in paragraph 90 of advice note 15.</p>
-------------	---	---

Open floor hearing 1; Margate Winter Gardens, 7pm, 10 January 2019

This is a summary of the case put by RiverOak Strategic Partners Limited (**the Applicant**), at Open Floor Hearing 1 (OFH1) which took place at Margate Winter Gardens, Margate on 10 January 2019.

8 Points made at hearing

8.1 At the end of the hearing Isabella Tafur (**IT**), Counsel for the Applicant, made two points:

- 8.1.1 she explained the different purposes of the 83,220 ATM figure and the 17,170 figure that were given in the application documents. The former was the maximum capability of the airport to provide air cargo services which was relevant to the question of whether it constituted a NSIP under s.23 of the Planning Act 2008, and the latter was the realistic worst case assumption that had been assessed in the ES and the effects of which would not be exceeded; and
- 8.1.2 the applicant has no 'Plan B' to build houses on the site. It has spent considerable time and effort resisting planning applications and local plan changes that would make non-airport development more likely, and is committed to securing and operating a successful airport from the site.

Open floor hearing 2; Margate Winter Gardens, 10am, 11 January 2019

This is a summary of the case put by RiverOak Strategic Partners Limited (the Applicant), at Open Floor Hearing 2 (OFH2) which took place at Margate Winter Gardens, Margate on 11 January 2019.

9 Points made at hearing

9.1 At the end of the hearing Isabella Tafur (**IT**), Counsel for the Applicant, made three points:

- 9.1.1 the applicant has acquired the 'Jentex site' (the fuel farm to the south-east of the airport). Attached as Appendix 3 to this document is the Land Registry register of title demonstrating that acquisition occurred on 17 September 2018, with the relevant entries made on 16 October 2018;
- 9.1.2 the applicant's project will not involve any public funding whatsoever; and
- 9.1.3 the specific reference to the assessment of particulate matter PM_{2.5} sought by Mr Birchall could be found at tables 6.13 (page 6-33), 6.20 (pages 6-41 to 42) and 6.28 (page 6-51) of the Environmental Statement volume 1 (Examination Library ref [APP-033](#)).

APPENDIX 1

Table justifying articles listed in item 4a)

The table below provides justification for those items referred to in the list of Explanatory Memorandum paragraphs at item 4a) of the agenda item for ISH1.

Document references	Applicant's justification
<p>EM para 3.10</p> <p>dDCO article 3(2)</p> <p>Development consent etc. granted by the Order</p>	<p>Section 120 of the 2008 Act provides:</p> <p>“...(5) An order granting development consent may—</p> <p>(a) apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order;</p> <p>(b) make such amendments, repeals or revocations of statutory provisions of local application as appear to the [Secretary of State] to be necessary or expedient in consequence of a provision of the order or in connection with the order;</p> <p>(c) include any provision that appears to the [Secretary of State] to be necessary or expedient for giving full effect to any other provision of the order;...”</p> <p>Article 3(2) has been included and is necessary in order to ensure that there are no acts of a local or other nature which would hinder the construction and operation of a nationally significant project. While the Applicant is unaware of any specific legislation which it considered ought to be disappplied etc., searches carried out are not conclusive but rather proportionate to the scale of the authorised development. There is therefore a chance that there may be some statutory provisions which would fall within either (a)</p>

	<p>or (b) above. The Applicant has therefore taken a cautious approach in including Article 3(2) (which as noted in the EM has been accepted on other consented schemes). The inclusion of this provision will ensure that construction and operation of the authorised development are not jeopardised by any incompatible statutory provisions which might exist. The Applicant has in mind here a provision which would be an absolute restriction which couldn't be dealt with unless by the DCO.</p> <p>The Applicant also notes the SoS's general power in s.120(5)(c) to include within the order any provision which appears...to be necessary or expedient for giving full effect to any other provision of the order; the Applicant considers that this power should be exercised in this case on the basis that the Applicant has sought to conduct a proportionate search of statutory provisions which might affect the authorised development but as noted above there is still a risk that relevant provisions have not been identified.</p>
<p>EM para 3.13</p> <p>dDCO article 5</p> <p>Maintenance of drainage works</p>	<p>The provision is included to ensure that the arrangements for maintenance of award drains are not altered even though there may be some work to, and rearrangement of, award drains. This provides legal certainty to both the Applicant and to those that currently possess that responsibility. The article makes provision for agreement between the responsible parties and the Applicant where it is appropriate to reallocate those responsibilities.</p>

<p>EM para 3.18</p> <p>dDCO article 7</p> <p>Benefit of Order</p>	<p>Section 156 of the 2008 Act (Benefit of order granting development consent) provides (our emphasis):</p> <p><i>“(1) If an order granting development consent is made in respect of any land, the order has effect for the benefit of the land and all persons for the time being interested in the land.</i></p> <p><i>(2) Subsection (1) is subject to subsection (3) and <u>any contrary provision made in the order.</u></i></p> <p><i>(3) To the extent that the development for which development consent is granted is development within section 17(3), the order granting the consent has effect for the benefit of a person for the time being interested in the land only if the person is a gas transporter.”</i></p> <p>Article 7(1) is therefore necessary to ensure that the benefit of the Order is for the Applicant only i.e. not owners of all land affected, who absent the provision would (in theory) have the benefit of the Order powers once in force. However, an exception is still needed in relation to the statutory undertakers and any other relevant persons/ organisations who will expressly benefit from the powers granted by the Order.</p> <p>Whilst the Applicant can identify certain persons who might benefit from works (e.g. the local highway in respect of the highways works at Works Nos. 24-32) it is not able to specify all of those persons and / or organisations who may need to benefit e.g. beneficiaries of as yet unanticipated accommodation works.</p>
---	---

<p>EM para 3.19</p> <p>dDCO article 9</p> <p>Guarantees in respect of payment of compensation etc.</p>	<p>Article 9 provides that the Applicant must not commence the authorised development until it has demonstrated that it has the financial resources necessary to satisfy compensation liabilities arising from exercise of its powers for compulsory land acquisition under the Order. This additional restriction on the Applicant's freedom to exercise powers is thought appropriate as it is a private company rather than a public authority (with the financial certainty that this provides). The provision of security that is necessitated under this article will give comfort to those that will become entitled to compensation that the Applicant must prove the existence of funds to meet that liability before exercising its powers.</p>
<p>EM para 3.29</p> <p>dDCO article 10</p> <p>Application of the New Roads and Street Works Act 1991</p>	<p>Article 10 ensures that provisions of the 1991 Act apply to the scheme where it is appropriate and that certain provisions of that Act are disapplied where it is inappropriate. This is justified as street works will be carried out under Order powers subject to the provisions and requirements of the DCO and not, for instance, under Highways Act 1980 powers. Paragraphs 3.21-3.28 of the EM give a more detailed justification for the various provisions of article 10.</p>
<p>EM para 3.31</p> <p>dDCO article 11</p> <p>Construction and maintenance of new, altered or diverted streets</p>	<p>The justification for this article is given in paragraphs 3.30 and 3.31 of the EM as follows:</p> <p><i>"3.30 The standard position in respect of maintenance of streets is that Highways England is responsible for maintaining trunk roads and other streets are to be maintained by the local authority in respect of highways maintainable at the public expense, or whichever body is responsible for the maintenance of the street in respect of streets which are not maintainable at the public expense. This is reflected in paragraphs (1) and (2). These provisions are subject to any agreement to the contrary between RiverOak and the relevant street or highway authority.</i></p>

	<p><i>3.31 The effects of paragraphs (3) and (4) are that in any action for damages against RiverOak alleging failure to maintain a street, RiverOak will have the defence that it had taken such care as was reasonably required in the circumstances to secure that the street was not dangerous for traffic [...]. These articles are needed to ensure RiverOak is covered by this defence in respect of all the roads that are comprised in the authorised development.”</i></p>
<p>EM para 3.35</p> <p>dDCO article 12</p> <p>Temporary stopping up and restriction of use of streets</p>	<p>This article provides for the temporary stopping up of streets for the purposes of constructing the authorised development and is required because the use of certain streets will become incompatible with the construction of the authorised development at certain stages. Necessary safeguards are provided for maintenance of reasonable access for pedestrians and temporary stopping up cannot take place without the consent of the street authority. Provision is also made for an entitlement to compensation for any person who suffers loss as a result of the suspension of their private right of way under this article.</p>
<p>EM para 3.37</p> <p>dDCO article 15</p>	<p>Article 15 is required in order to provide RiverOak with powers to make traffic regulation orders so that it can implement traffic management measures (i.e. restrictions on the use of roads) necessary to construct the authorised development. These traffic management measures are required to ensure safe and efficient construction of the authorised development. More detailed justification for the article is given in paragraphs 3.37 to 3.40 of the EM</p>
<p>EM para 3.43</p> <p>dDCO article 17</p> <p>Protective work to buildings</p>	<p>The Applicant considers this power necessary as, whilst there may be only limited instances where the power might be required there may still be a need to undertake protective works to buildings.</p> <p>The provision is included for the benefit of adjacent landowners to ensure that, in the unlikely event that any works to buildings are required to rectify the impact of the authorised development, these can be carried out under Order powers.</p>

	It should also be noted that article 17(6) provides that the owner or occupier of a building can serve a counter notice to refer the matter of whether it is necessary to carry out protective works to arbitration. The article also contains provisions relating to compensation ensuring that any works can be done expeditiously and without prejudicing a landowner's rights.
EM para 3.44 dDCO article 18 Authority to survey and investigate the land	The article permits the Applicant to enter upon and survey land both within the Order limits and outside the Order limits where it may be affected by the authorised development. This is justified as it enables the Applicant to assess the effects of the authorised development, or on the authorised development, from outside the Order limits. The inclusion of land outside the Order limits in the scope of land affected by the article means that the Applicant is able to reduce the land within the Order limits which is subject to compulsory acquisition.
EM para 3.48 dDCO article 21 Time limit for exercise of authority to acquire land compulsorily	This article limits the period during which land can be acquired or temporary possession taken using the powers granted by the Order to 5 years from the date the Order is made. The time limit to the Order powers gives certainty to both the landowner (about how long their land will remain subject to those powers) and also the Applicant (about how long it will have to implement its compulsory acquisition or to take possession of land).
EM para 3.50 dDCO article 22 Compulsory acquisition of rights	Article 22 allows for rights in land to be acquired in addition to outright acquisition of that land. This would allow the Applicant to reduce the area of outright acquisition to the benefit of itself (as it reduces compensation) and the landowners affected (as the effect on their landowning is reduced). A more detailed justification of the article is provided in paragraphs 3.49 to 3.56 of the EM.

and restrictive covenants	
EM para 3.56 dDCO article 23 Subsoil or new rights only to be acquired in certain land	Article 23 limits the acquisition of land in certain plots to subsoil or rights in subsoil (in the case of article 23(2)) or surface rights or benefits of restrictive covenants (in the case of article 23(3)). This allows the Applicant to reduce the area of outright acquisition to the benefit of itself (as it reduces compensation) and the landowners affected (as the effect on their landowning is reduced)
EM para 3.65 dDCO article 24 Private rights over land	In order for it to be possible to implement the proposed development, provision is needed for the extinguishment of private rights in the Order land that would be incompatible with that implementation. Article 24 makes provision for that extinguishment.
EM para 3.66 dDCO article 25 Application of the Compulsory Purchase Act 1965	Article 25 is necessary as it applies and modifies the 1965 Act so that it functions properly for particular circumstances of a DCO granted under the Planning Act 2008 (and not a Compulsory Purchase Order (CPO) as envisaged under the 1965 Act).

<p>EM paras 3.67 to 3.70</p> <p>dDCO article 26</p> <p>Application of the Compulsory Purchase (Vesting Declarations) Act 1981</p> <p>(not mentioned in draft agenda)</p>	<p>Article 26 is necessary as it applies and modifies the 1981 Act so that it functions properly for a DCO granted under the Planning Act 2008 (and not a Compulsory Purchase Order (CPO) as envisaged under the 1981 Act). Article 26(1) states that the Order is to be treated as if it were a Compulsory Purchase Order and the rest of the article makes modifications to the application of the 1981 Act such that it functions in relation to a DCO.</p>
<p>EM para 3.72</p> <p>dDCO article 27</p> <p>Acquisition of subsoil or airspace only</p>	<p>The purpose of this article is to allow the Applicant to minimise the acquisition of land. Without this article the Applicant might be forced to acquire the entirety of a plot of land where, for the purposes of the authorised development, only subsoil or airspace is necessary. For instance, instead of acquiring a pipeline passing through the subsoil of a plot under a residential property, the Applicant might be forced to acquire the whole plot including the dwelling. Article 27 enables the Applicant to limit permanent acquisition, and the effect on landowners, as much as the requirements of the authorised development will allow. Its inclusion is therefore considered appropriate by the Applicant.</p>
<p>EM 3.75</p> <p>dDCO article 30</p>	<p>Article 29 allows the Applicant to occupy land temporarily while maintenance works to the authorised development are carried out. This is land which is required temporarily for maintenance purposes but is not required permanently. In the absence of this article permanent acquisition of land may be required to enable possession for maintenance works despite the fact that the land would not be required permanently. The inclusion of this article is considered appropriate by the Applicant as it limits the requirement for</p>

Temporary use of land for maintaining the authorised development	permanent acquisition of land, and the effect on landowners, as much as the requirements of the authorised development will allow.
EM 3.80 dDCO article 31 Statutory undertakers	Article 31 is a general power for the Applicant to extinguish rights of statutory undertakers and to remove and reposition their apparatus. Such a general power is necessary and appropriate as it is not possible to identify and describe all apparatus on the Order land which will be affected by the authorised development. The power is subject to alternative provisions in respect of streets and to Schedule 9, which contains additional protective provisions for the protection of certain undertakers.
EM 3.84 dDCO article 32 Apparatus and rights of statutory undertakers in stopped up streets	Without article 32 there would be no provision for what happens to statutory undertakers' apparatus which is contained in streets that are stopped up for the purposes of the Order. The article provides the undertaker with access to their apparatus, an ability to move, relocate or replace its apparatus and also the power for the SoS to request its removal (subject to a reasonableness requirement). The article also provides for compensation to be paid to the undertaker in certain circumstances.
EM 3.86 dDCO article 34	This article allows any tree or shrub that is near the project to be felled or lopped or have its roots cut back, if it is considered to obstruct the construction, operation or maintenance of the authorised development or anyone using it. Compensation is payable for any loss or damage caused. This article is required to maintain safe operation and is particularly important in the case of an airport.

Felling or lopping of trees and removal of hedgerows	
<p>EM 3.94</p> <p>dDCO article 38</p> <p>Defence to proceedings in respect of statutory nuisance</p>	<p>Article 38 qualifies the defence to statutory nuisance that is provided by section 159 of the 2008 Act (in relation to noise only) so that the defence is available only in limited circumstances. This article is appropriate because it removes protection for nuisance caused by noise unless that noise cannot be reasonably avoided or (for construction or maintenance of the project) is in accordance with controls imposed by the local authority under the Control of Pollution Act 1974. This reduces the chance of those affected by the authorised development suffering unnecessary noise nuisance without remedy.</p>
<p>EM 3.95</p> <p>dDCO article 39, Schedule 9</p> <p>Protection of interests</p>	<p>The draft protective provisions in Schedule 9 reflect precedent established in previous Orders but are subject to amendment. The Applicant has sought the views of those statutory undertakers who are affected by the authorised development and is engaged in discussions which result in alterations to the drafting of Schedule 9.</p>
<p>EM 3.96</p> <p>dDCO article 40</p>	<p>Article 40 prevents the interference by the Applicant with any land or rights in Crown Land held by the Crown without the consent in writing. However, it does permit the Applicant to compulsorily acquire an interest in land which is Crown Land without written permission from the Crown if it is held otherwise than by or on behalf of the Crown. This provision is appropriate to enable the Applicant to carry out the authorised development expeditiously while, at the same time, ensuring that the interests of the Crown are protected.</p>

Certification of documents, etc.	
EM 3.99 dDCO article 42 Service of notices	Article 42 provides certainty as to what constitutes service in relation to a notice or document required or authorised to be served for the purposes of the Order. The article covers common forms of service and addresses situations in which service is required on an unknown landowner. The draft is considered appropriate to give legal certainty to what steps are required to serve notices or documents in relation to a development consent order of this nature.
EM 4.3 dDCO Schedule 2 Part 2 Procedure for discharge of requirements	Part 2 of Schedule 2 provides a single procedure under which discharge of requirements can be achieved. It provides certainty as to what is required from the Secretary of State and the Applicant in relation to the discharge process. A single procedure of this nature is necessary to ensure that all parties are clear on the necessary steps and timescales involved in the discharge process.

APPENDIX 2

Table of amendments made to the dDCO as a result of the effects of the Housing and Planning Act 2016

The following table sets out the drafting changes that have been made as a result of the Housing and Planning Act 2016. For each provision of the dDCO affected it explains:

- The details of any corresponding provision that existed in DCOs prior to the Housing and Planning Act 2016 coming into force;
- The relevant amendment brought about by the Housing and Planning Act 2016 that necessitated the amendment in the dDCO;
- The detail of the consequential amendment made to the dDCO; and
- Further explanation of the need for that amendment.

Article in draft DCO	Provision prior to the 2016 Act	Relevant amendment to said provision in the DCO prior to the 2016 Act	Relevant amendment by the 2016 Act	Amendment of the statutory provision in the DCO as a result of the 2016 Act	Explanation
Article 25(1)(a)	N/A	N/A	Section 4A(1) of the 1965 Act was inserted. It relates to the extension of the time limit for a CPO where the CPO is being challenged.	Amendment of section 4A(1) ensures that the time limit is changed to 5 years and reference is made to section 118 of the 2008 Act rather than section 23 of ALA 1981.	This ensures the appropriate reference is made to the process under the 2008 Act and ensures consistency with the 5 year time limit stated in the DCO.
Article 26(4)	Section 5(1) provided that a GVD could not be executed before the end of a period of 2 months beginning with the date of first publication of a notice of intention under s.3. Section 5(2)	Modification such that the notice referred to in 5(1) should be published in a local newspaper circulating in the area in which the land is situated.	Section 5(1) was repealed.	Entirety of s.5 (which now only includes an extant s.5(2)) is omitted.	This removes any reference to modification of the repealed section 5(1) of the 1981 Act.

Article in draft DCO	Provision prior to the 2016 Act	Relevant amendment to said provision in the DCO prior to the 2016 Act	Relevant amendment by the 2016 Act	Amendment of the statutory provision in the DCO as a result of the 2016 Act	Explanation
	provided that a GVD could not be executed until the relevant CPO has come into operation.	5(2) omitted			
Article 26(5)	N/A	N/A	Section 5A inserted into the 1981 Act. This provision gives a time limit relating to GVDs.	Section 5A is omitted from application to the DCO	Section 5A imposes a three year time limit on executing a GVD (after the CPO becomes operative). DCO has a 5 year time limit so the provision is omitted from application to the DCO to ensure consistency
Article 26(6)	N/A	N/A	Section 5B inserted into the 1981 Act. This	Amendment results in section 5B making	This ensures that the reference is made to

Article in draft DCO	Provision prior to the 2016 Act	Relevant amendment to said provision in the DCO prior to the 2016 Act	Relevant amendment by the 2016 Act	Amendment of the statutory provision in the DCO as a result of the 2016 Act	Explanation
			<p>provision extends the time limit relating to GVDs where there has been a judicial challenge.</p> <p>Section 5B also refers to the “three year period”.</p>	<p>reference to judicial challenges/reviews under s.118 of the Planning Act 2008 (the 2008 Act) rather than the Acquisition of Land Act 1981 (ALA 1981).</p> <p>Amendment results in reference to a 5 year period as stated in the DCO.</p>	<p>the appropriate process under the 2008 Act, rather than the ALA 1981.</p> <p>Ensures consistency with the 5 year time limit stated in the DCO.</p>
Article 26(7)	Section 6(1) of the 1981 Act required serving a notice on every occupier of the land mentioned in the GVD and also on every person who has given information to the	N/A	Section 6(1) has been amended so that a notice has to be served on every occupier of land specified in the GVD (same as previous provision) but the reference to an invitation	Section 6(1)(b) is amended to make reference to an invitation published pursuant to section 134 of the 2008 Act.	This ensures the appropriate reference is made to the process under the 2008 Act, rather than the ALA 1981.

Article in draft DCO	Provision prior to the 2016 Act	Relevant amendment to said provision in the DCO prior to the 2016 Act	Relevant amendment by the 2016 Act	Amendment of the statutory provision in the DCO as a result of the 2016 Act	Explanation
	acquiring authority with respect to any of land in pursuance of an invitation published under section 3(1) of the 1981 Act.		under section 3(1) has been amended to make reference to ALA 1981.		
Article 26(8)	N/A	N/A	Schedule A1 inserted into 1981 Act	Omits Schedule A1 paragraph 1(2) which refers to the ability under section 2A of the ALA 1981 for a CPO to exclude land that is 9 metres or more below the surface from the effect of Schedule A1	Reference to ALA 1981 is removed. Article 27(2) of the dDCO has a similar effect.
Schedule 6,	N/A	N/A	Section 5A inserted into the Land Compensation	Section 5A of the 1961 Act is amended so that it	This ensures that the relevant date provisions

Article in draft DCO	Provision prior to the 2016 Act	Relevant amendment to said provision in the DCO prior to the 2016 Act	Relevant amendment by the 2016 Act	Amendment of the statutory provision in the DCO as a result of the 2016 Act	Explanation
Paragraph 3(2)			Act 1961 (the 1961 Act) which sets the “relevant valuation date” for open market valuation.	applies the relevant date provisions in section 5A to situations where (i) the acquiring authority enters on to land and (ii) where the acquiring authority acquires an interest in the land (pursuant to the 1965 Act as amended by the DCO).	which apply to open market valuation apply to the DCO.
Schedule 6, Paragraph 10	N/A	N/A	<p>Insertion of Schedule 2A into the 1965 Act.</p> <p>Schedule 2A sets out a process whereby:</p> <p>i. a notice to treat is served in respect of part of</p>	Schedule 2A amended so that there is no difference in the procedure whether possession has been taken or not (as is currently the case in the 2016 Act).	This ensures that the changes which were previously put in by the amendments to section 58 of the 1973 Act and the amendments to section 8 of the 1965 Act are replicated in relation to Schedule 2A

Article in draft DCO	Provision prior to the 2016 Act	Relevant amendment to said provision in the DCO prior to the 2016 Act	Relevant amendment by the 2016 Act	Amendment of the statutory provision in the DCO as a result of the 2016 Act	Explanation
			<p>a house, building or factory.</p> <p>ii. The person who receives the notice can then serve a counter notice stating that acquiring authority should purchase the entire interest.</p> <p>iii. The acquiring authority must respond within three months either by withdrawing the notice, accepting the notice or referring the</p>	<p>As with the previous amendments to section 8 of the 1965 Act the amendments to Schedule 2A gives the Applicant the authority to purchase any additional land. It extends the provision so it applies to the acquisition of a restrictive covenant. It further replicates the effect of section 58 of the 1973 Act to ensure consistent assessment principles.</p> <p>A provision is also inserted to ensure that this does not affect the rights under the</p>	<p>– i.e., it applies in relation to the acquisition of rights and restrictive covenants.</p>

Article in draft DCO	Provision prior to the 2016 Act	Relevant amendment to said provision in the DCO prior to the 2016 Act	Relevant amendment by the 2016 Act	Amendment of the statutory provision in the DCO as a result of the 2016 Act	Explanation
			notice to the Lands Tribunal.	protective works article or the temporary use article in the DCO.	

APPENDIX 3 – LAND REGISTRY ENTRY FOR JENTEX SITE



Official copy of register of title

Title number K315361

Edition date 16.10.2018

This official copy shows the entries on the register of title on 15 Jan 2019 at 16:30:04.

This date must be quoted as the "search from date" in any official search application based on this copy.

The date at the beginning of an entry is the date on which the entry was made in the register.

Issued on 15 Jan 2019.

Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.

This title is dealt with by HM Land Registry Nottingham Office.

A: Property Register

This register describes the land and estate comprised in the title.

KENT : THANET

- 1 (15.10.1968) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land and Buildings on the North side of Canterbury Road West, Manston, Ramsgate.

- 2 The Conveyance dated 21 December 1967 referred to in the Charges Register contains the following provision:-

THIS Conveyance shall not include or confer in favour of the Purchaser or Sub-Purchaser any easement liberty or privilege over or in respect of the retained land NOTWITHSTANDING anything in the Conveyance hereinbefore contained the vendor or other the owner or owners for the time being of the retained land or any part thereof shall be at liberty to erect such buildings or erections on any part of the retained land and to alter or add to or use the same or any existing - buildings or erections on the retained land in such manner as he or they may think fit notwithstanding that the access and use of light and air now or at any time hereafter enjoyed by the Sub-Purchaser or his successors in title from and over the retained land may be thereby obstructed diminished or destroyed and any such access and use of light and air as aforesaid shall notwithstanding this Conveyance be deemed henceforth to be enjoyed by the Sub-Purchaser and his successors in title with the consent of the owner or owners of the retained land subject to the provisions of this clause and not otherwise."

NOTE: The retained land referred to adjoins the Northern and Western boundaries of the land in this title.

- 3 (16.10.2018) A new title plan based on the latest revision of the Ordnance Survey Map showing the land added to the title by blue edging on the title plan has been prepared.
- 4 (16.10.2018) A Transfer of the land edged blue on the title plan dated 17 September 2018 made between (1) Tina Jacqueline Cardy-Jenkins and others and (2) Riveroak Fuels Limited contains a provision relating to the creation and/or passing of easements.

-NOTE: Copy filed under K935532.

- 5 (16.10.2018) A Transfer of the land edged yellow on the title plan dated 17 September 2018 made between (1) Nicola Ann Jenkins-Graham and

A: Property Register continued

others and (2) Riveroak Fuels Limited contains a provision relating to the creation and/or passing of easements.

-NOTE:-Copy filed.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (16.10.2018) PROPRIETOR: RIVEROAK FUELS LIMITED (Co. Regn. No. 11535715) care of Calder & Co, 16 Charles II Street, London SW1Y 4NW.
- 2 (16.10.2018) The price stated to have been paid on 17 September 2018 was £2,300,000.
- 3 (16.10.2018) RESTRICTION: No disposition of the part of the registered estate edged yellow on the title plan by the proprietor of the registered estate is to be registered without a written consent signed by Nicola Anne Jenkins-Graham, Tina Jacqueline Cardy-Jenkins, Anthony Norman Jenkins and Jacqueline Jenkins care of Trinity House, School Hill, Lewes, East Sussex BN7 2NN or their conveyancer.
- 4 (16.10.2018) RESTRICTION: No disposition of the part of the registered estate edged blue on the title plan by the proprietor of the registered estate is to be registered without a written consent signed by Tina Jacqueline Cardy-Jenks, Anthony Norman Jenkins and D A Phillips & Co Ltd care of Trinity House, School Hill, Lewes, East Sussex BN7 2NN or their conveyancer.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 A Licence dated 20 March 1967 made between (1) The Secretary of State for Defence and (2) The Mayor Aldermen and Burgesses of the Borough of Ramsgate relates to electric lighting columns, cables, apparatus and installations.

-NOTE: Copy filed.

- 2 A Conveyance of the land in this title dated 21 December 1967 made between (1) The Secretary of State for Defence (Vendor) (2) The Right Honourable William Henry Francis Earl of Mount Charles (Purchaser) and (3) Norman Harold Steed (Sub-Purchaser) contains the following covenants:-

"The Sub-Purchaser hereby covenants with the Vendor to the intent that burden of this covenant may run with and bind the property hereby conveyed and every part thereof into whosoever hands the same may come and to the intent that the benefit thereof may be annexed to and run with the retained land and every part thereof that neither the property hereby conveyed nor any part thereof shall be used for any noisy noxious or offensive trade or business or for any purpose which may be or become a nuisance damage or annoyance to the Vendor or other the owners or occupiers for the time being of the retained land or any part thereof."

- 3 The land is subject to the following rights reserved by the Conveyance dated 21 December 1967 referred to above:-

"RESERVING in fee simple out of this Conveyance for the benefit of so much of the adjoining or neighbouring land of the Vendor - known as Manstone Aerodrome and shown edged green on the plan (hereinafter called "the retained land") and the Estate Owner or Owners for the time being of the retained land and the occupiers thereof the right to use the existing water supply pipe and storm water drains in the approximate positions shown by blue and green lines respectively on the

C: Charges Register continued

said plan annexed hereto the free passage of electricity gas water and soil from and to the retained land through the cables wires pipes drains and channels (if any) which are now in over or under the property hereby conveyed with all easements rights and privileges proper for repairing maintaining and reinstating the same."

-NOTE: Copy Plan filed.

- 4 (16.10.2018) A Transfer of the land edged blue on the title plan dated 8 August 2007 made between (1) Anthony Norman Jenkins and (2) Anthony Norman Jenkins and D A Phillips & Co Limited contains a reservation of a rentcharge as therein mentioned.

-NOTE: Copy filed under K935532.

- 5 (16.10.2018) An Overage Deed dated 17 September 2018 made between (1) Tina Jacqueline Cardy-Jenkins and others, (2) Riveroak Fuels Limited and (3) Anthony Jenkins Fuel Oil Limited contains an obligation to pay further money in the circumstances therein mentioned.

-NOTE: Copy filed.

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

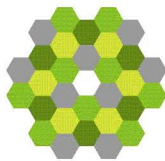
This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 15 January 2019 shows the state of this title plan on 15 January 2019 at 16:30:04. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Nottingham Office .

HM Land Registry
Official copy of
title plan

Title number **K315361**
Ordnance Survey map reference **TR3465SW**
Scale **1:2500**
Administrative area **Kent : Thanet**



© Crown copyright and database rights 2019 Ordnance Survey 100026316. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.

