

CORPORATE RESOURCES

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Date: 15/02/19



Dear Mr MacDonald,

Application by RiverOak Strategic Partners to upgrade and reopen Manston Airport

The Examining Authority's first written questions and requests for information (ExQ1)

Please find below Thanet District Council's response to the first written questions of the Examining Authority.

G1 General and Cross-topic questions (including relevant planning policy)

*G.1.1 Saved Policies EC2, EC3, EC4, EC5 and EC6 of the adopted Thanet Local Plan 2006 are all of particular relevance to the application. **Explain if the application fully accords with these policies and what weight should be afforded to them.***

Thanet Local Plan Policies EC2, EC3, EC4, EC5 and EC6 were drafted to reflect the current operators of the site at that time. However the general tenets of Policy EC2 in relation to assessment of impacts from an operating airport is still applicable to the proposed development and these matters are considered in the Council's Local Impact Report.

Policy EC3 of the Thanet Local Plan 2006 was not saved by Secretary of State direction in 2009 and therefore is not relevant to the application.

It is unclear whether the application is consistent with adopted Policy EC4, which identifies an area specifically for airside development. It is not clear, at this stage, whether the development proposed for the Northern Grass area falls within this definition.

The application is in broad conformity with Policy EC5.

The application does not conflict with Policy EC6 as a policy allocation adjacent to the site. The draft Local Plan (Publication draft 2018), while leaving the way open for the DCO to be considered, does not specifically allocate the site for aviation development. However the Council

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considers that some weight can be applied to the adopted Local Plan policies EC2, EC4 and EC5 in assessing these proposals.

G.1.4 TDC's Draft Local Plan to 2031 (dated 26 October 2018) states at paragraph 1.43, with reference to Manston Airport that: "...the site has an existing use for aviation, subject to other relevant legislation." Explain the inclusion of the phrase "subject to other relevant legislation".

The phrase "subject to other legislation" recognises the fact that Airport operations are subject to other controls outside the local planning authority's remit (eg: CAA licencing).

G.1.5 TDC's Draft Local Plan to 2031 (dated 26 October 2018) states at paragraph 1.44 that: "If a DCO for aviation use at the site is granted, this would require a partial review of the Local Plan in relation to housing land supply provisions, aviation and environmental policies and other related matters." Explain the effect that the consenting of the DCO would have on the draft Local Plan's housing land supply and why a partial review would be required in this regard.

Thanet District Council has previously raised concerns about the potential housing impacts arising from the job figures stated in the application (relevant representation submitted to PINS in October 2018).

The report submitted by the applicants (RPS "Employment and Housing Land Technical Report" March 2018 indicates (para 5.9) that no additional housing is required to support the new workforce up to 2031. However, this conclusion appears to be based on the capacity of housing sites submitted as part of the Strategic Housing Land Availability Assessment (SHLAA) process, rather than sites actually allocated in the draft Local Plan (Table 4.4).

This suggests that additional housing sites would need to be allocated for the period of the draft Local Plan to 2031, and therefore a review of the housing land position would be required if the DCO was granted.

G.1.6 TDC's Draft Local Plan to 2031 (dated 26 October 2018) allocates a site called Manston Green for 785 dwellings, which it states has planning permission. Some of the site falls within the DCO application boundary. Explain the effect that the consenting of the DCO would have on the delivery of the site.

The limits of the order would include an area specifically outside the approved housing parameter plan areas in the outline permission for Manston Green under reference OL/TH/14/0050. Whilst the DCO application boundary would incur within the Manston Green boundary, it would not physically prejudice the residential development coming forward. Thanet District Council considered the impact of aircraft noise from an operating airport on the Manston Green development during the course of the application, and the planning committee reports are provided at Appendix 1 and 2. The delivery of the site would be subject to market forces in the knowledge of what was considered in the planning application and any subsequent approved developments.

*G 1.7 TDC's Draft Local Plan to 2031 (dated 26 October 2018) allocates several housing sites in close proximity to the application site. **What effect does this have on the application and what weight can be afforded to the proposed allocations at this time?***

The housing site allocations in the draft Local Plan (at Ramsgate, Cliffsend and Minster) were originally allocated (2015 Draft Preferred Options Plan) when it was proposed that the Airport would continue to be operational.

This was done on the basis that the allocations in question would not be adversely affected by, or unreasonably constrain, ongoing Airport operations, as envisaged by draft Policy SP05 (2015 Draft Plan).

Many of the allocations in these locations have planning permission. The two key allocations where planning permission has not yet been granted are:

- Land at Tothill Street, Minster (draft Policy HO12) - this site is currently the subject of a planning application, ref TH/18/1488; and
- Land at Manston Court Road/Haine Road (draft Policy SP18) - part of this site (the eastern section) is currently the subject of a planning application, ref TH/18/0261. The western section of the site is allocated, but not yet the subject of a planning application.

In both cases, a number of comments were received at Publication stage (Reg 19) - 19 and 15 respectively. Therefore given housing site in close proximity have planning permission and the low number of comments on those allocated sites without permission, moderate weight can be applied to those allocated sites.

*G 1.9 Manston Airport is being promoted for redevelopment for housing and mixed use scheme. **What is the current status of this proposal?***

A hybrid planning application for comprehensive redevelopment of the site involving the demolition of existing buildings and structures and removal of hard standing and associated infrastructure, and provision of mixed use development comprising Employment (Use Classes B1a-c/B2/B8), Residential (Use Classes C3/C2), Retail (Use Classes A1-A5), Aviation (Sui Generis), Education and other non-residential institutions including museums (Use Class D1), Sport and Recreation (Use Class D2), Hotel (Use Class C1), Open space/landscaping (including outdoor sport/recreation facilities) was made valid by Thanet District Council on 9th May 2018 under reference OL/TH/18/0660. The application remains live and under consideration, with further information on highways and environmental matters and any potential revisions to parameter plans agreed to be submitted by the applicant. The determination period has currently been extended until 31st March 2019 pending the receipt of the additional information.

AQ.1 Air Quality

*AQ 1.5 Table 6.2 of the ES [APP-033] scopes out the above compounds for the reasons given at paragraph 6.4.19 of the ES. **Do NE and TDC agree with this scoping out?***

Thanet District Council agrees that sulphur dioxide and carbon monoxide can be screened out as described in paragraph 6.4.19 of the ES. Provided the impacts of nitrogen dioxide, PM10 and PM2.5 can be satisfactorily controlled, no impacts due to sulphur dioxide or carbon monoxide would be expected to occur. Emissions of volatile organic compounds (VOCs) are similarly unlikely to pose a risk of adverse impacts on health, but VOCs are a potential concern from the perspective of odour. The ES includes an assessment of odour including the potential contribution of VOCs (Appendix 6.4). On this basis, TDC agrees with the approach set out in Section 6.4.19 and Appendix 6.4.

AQ1.5 Does TDC agree with the statement in paragraph 6.3.3 of the ES [APP-033] that no additional air quality monitoring was required?

The main purpose of baseline monitoring in the context of producing the ES is to enable the air quality model to be verified against measured concentrations. There is sufficient measurement data to enable the model verification process to be carried out adequately. This was specifically investigated during review of the PEIR, in which TDC's consultants concluded that: "We consider the baseline data and its sources to be appropriate and adequate to enable the identification of likely significant effects." In view of this, we agree with the statement in paragraph 6.3.3 "it was not considered that any additional monitoring was required for determining baseline concentrations."

AQ 1.23 The ES proposes to provide funding to TDC to reinstate air quality continuous monitoring at the ZH3 Thanet Airport location. This will monitor NO and NO2 at hourly intervals in real time.

i. Does TDC consider that the proposed monitoring is sufficient for operational air quality emissions arising from the Proposed Development and is the approach agreed with the Applicant?

Thanet District Council would like the airport air pollution monitoring station (ZH3) reinstated with continuous monitoring of nitrogen dioxide, fine particles (PM10 and PM2.5) and sulphur dioxide. The Council will also request ongoing support for passive monitoring using diffusion tubes at receptors close to the airport. Although the ES anticipates no exceedances of the air quality objectives it will assist the Council in fulfilling its Local Air Quality Management obligations under Environment Act to monitor and assess these key pollutants. In addition there will be annual costs associated with continuous monitoring, servicing and maintenance (officer time conducting calibrations), data management (QA/QC & ratification) and passive monitoring at receptors around the airport (diffusion tubes for nitrogen dioxide, BTX tubes - deployment/ collection and analysis). Sufficient funding should be provided by the applicant to cover both reinstatement and ongoing operational costs of the ZH3 monitoring station. Because the proposed development is forecast to have only a slight impact on air quality, further monitoring to that set out above would not be effective in enabling any impact of the airport on air quality to be identified. TDC therefore considers that the proposed reinstatement of monitoring station ZH3, supported by further passive monitoring using diffusion tubes, is sufficient.

ii. What remedial action does TDC consider should be undertaken in the event that emissions are worse than forecast due to the Proposed Development?

Assessment should be based on worst case and impacts considered at the application stage so any deterioration in air quality leading to an exceedance of health objectives is prevented. Thanet District Council will have no powers to require the operator to implement subsequent mitigation should

unacceptable impacts occur and it would be extremely difficult for the local authority with limited resources to offset other sources of key pollutants to prevent an exceedance of the air quality objectives through the Local Air Quality Management (LAQM) process. This is why it is important for the application to comply with TDC's technical guidance on air quality, which requires air quality impacts in Air Quality Management Areas to be mitigated.

iii. How is funding secured for the continuous monitoring?

A basis for calculating an appropriate level of funding to offset the forecast impacts of the airport on air quality is set out in the ES Section 6.13. The council will seek a obligation through a Section 106 agreement under Section 174 of the Planning Act 2008 with the applicant for funding to be secured in perpetuity for the operation of the monitoring stations.

AQ 1.24 Are there any implications from the Government's new Clean Air Strategy (<https://www.gov.uk/government/publications/clean-air-strategy-2019>) for the Proposed Development?

Section 5.7 of the Clean Air Strategy addresses aviation, but does not have specific implications for this application. It may have strategic implications for airline and airport operations in the longer term. The implementation of Section 5.7 of the Clean Air Strategy would tend to result, if anything, in lower forecast impacts than those set out in the ES.

On the other hand, adopting new, more demanding air quality standards (e.g. for PM2.5), as set out in the Clean Air Strategy Chapter 1, could potentially result in an increase in significance of the impacts of the proposed development on air quality. The applicant is best placed to comment on any implications of tightening standards for the application.

CA.1 Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations

CA 1.13 DCLG Guidance related to procedures for the compulsory acquisition of land (2013) advises at paragraph 8 that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) should have been explored. Provide details of any previous initiatives to seek the Compulsory Purchase of this site, including any by River Oak Investments, setting out the reasons why these were not successful and whether there remains the possibility of using this route again.

The Thanet District Council Cabinet report from October 2015 with respect to the assessment of RiverOak as an indemnity partner is attached at Appendix 3. The conclusion of that report was: "Given the above, your legal advisors and officers are not satisfied at this moment in time that the information or assurances provided to date by RiverOak justify the Council deciding to make a CPO or as part of that process to support the appointment of RiverOak as the Council's indemnity partner in advance of deciding whether to make a CPO."

The Thanet District Council Cabinet report from June 2016, relating to the soft-market testing process is attached at Appendix 4. The assessment of that soft market testing exercise concluded: "Based on the above assessment one can draw the conclusions that in terms of the key lines of enquiry, the

market cannot deliver on the council's requirements; there is no established market which is able to deliver, or an adequate number of operators; the market has no capacity to deliver the requirements and there is no cost or other benefits in taking this matter further."

Thanet District Council has no plans to support a CPO without a suitable indemnity partner.

*CA 1.42 Special Category Land. The ExA is minded to recommend that the circumstances set out in s131(4) or 132(4) related to replacement land; 131(5) or 132(5) relating to area, or use and necessity of replacement land; 131(4A) or 132(4A) relating to availability of replacement land and public interest for a speeded procedure; or 131(4B) or 132(4B) relating to acquisition for a temporary purpose do not apply in relation to plots 185b, 185c, 185d, 185f. **Show any evidence to the contrary.***

Thanet District Council offers no evidence to the contrary.

*CA 1.43 PA2008 s132(3) states that this subsection applies if order land, when burdened with the order right, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public. **Set out your reasoned opinion as to whether this subsection is fulfilled in the case of the Special Category Land at plots 185b, 185c, 185d, 185f.***

Thanet District Council considers that the Special Category Land at plots 185b, 185c, 185d, 185f will be no less advantageous to either the Council or the public, given that it will remain as public open space/cycleway available for use by the public and for maintenance by the Council where appropriate.

E.1 Other environmental

*E.1.18 Shortlist of projects for cumulative assessment. **Does TDC agree with the shortlist of projects considered in the cumulative effects assessment [APP-035]? If not please specify which other development TDC considers has the potential to give rise to significant cumulative effects that should be considered.***

The approach taken with regard to selecting the major sites for cumulative assessment is agreed and the zone of influence is generally agreed for the majority of topics in the ES but not all.

Some of the allocations in the Draft Local Plan have not been included in the cumulative Assessment and the ES will need to be updated to reflect all of these.

Appendices 18.1 and 18.2 have not been included in the submitted application so it is unclear which sites were initially included in the long list of sites and full comparison on cumulative sites is not possible.

As stated in the LIR, TDC expects Lydd Airport to be included in the cumulative assessment, particularly in relation to socio-economic impacts.

As part of the LIR, TDC has provided in Appendices 2 and 3 additional sites which the Applicant should consider in the cumulative assessment. TDC expects the Applicant to justify why these sites are included or not included in the cumulative assessment, or provide an update to the application as to the implications on the impacts from the proposed development taking account of these additional sites.

HE.1 Historic Environment

*HE 1.22 Non-designated assets within the airport. Paragraph 5.192 of the NPS states that the Secretary of State will consider the impacts on non-designated heritage assets on the basis of clear evidence that the assets have a significance that merits consideration in that decision. **What clear evidence is there that the non-designated heritage assets within the airfield have a significance that merits consideration in the decision?***

The ES makes clear that the Northern Grass Area (NGA) has been excluded from assessment as access was not obtained to undertake further intrusive investigations. The ES states that over 800 previously identified non-designated archaeological features within the site and the 1km study area and therefore, it can be expected that there may be a similar extent of significant archaeological remains in the NGA which merits consideration in the decision.

LV.1 Landscape and Visual

*LV 1.3 Landscape and Visual Impact - Thanet Local Plan. Table 11.1 in Chapter 11 Landscape and Visual, in Environmental Statement Volume 2 [APP-034] quotes relevant policies from the Thanet Local Plan (2006) Saved policies. **State the effects that the new deposited local plan policies would have in this respect.***

Adopted plan policies are CC1 - Development in the Countryside now replaced by draft policy SP21, and CC2 - Landscape Character Areas now replaced by draft policy SP23.

Whilst the Council supports the use of the 2017 Thanet Landscape Character Assessment as the most up to date study, the application of policy SP23 in the draft local plan (2018) should also have been assessed as it is this policy to which the landscape character assessment relates and seeks to implement. As part of this implementation, it is the council's intention to adopt the Landscape Character Assessment as a supplementary planning document and this was advertised and consulted upon to this effect, for 6 weeks from 23rd August to 4th October 2018. Whilst the document APP-034 Environmental Statement Volume 2 - Landscape and Visual refers to the key characteristics of each of landscape character areas that have the potential to be affected by the proposal, it does not address the key sensitivities and qualities in any great detail for each LCA. In addition APP-034 does not address the Guidelines set out in the Council's document for each of the LCA's in relation to the proposal. The draft policy SP23 states that development proposals "...should demonstrate how they respect and respond to the character, key sensitivities, qualities and guidelines of the relevant landscape character areas, as detailed in the Landscape Character Assessment (LCA) ..."

LCA A1: Manston Chalk Plateau is probably the critical area and the ridgeline is vulnerable to development impacts. The Council does not accept the assessment in APP-034 that the susceptibility of the area is "low". It is dependent on how development proposals affect the ridgeline, and views of the ridgeline, through their precise location and scale.

The importance and vulnerability of the skyline of the central chalk plateau is recognised by both the existing policy CC02 and the draft policy SP23. Policy CC2 part (4) "On the central chalk plateau, a number of sites are identified for various development purposes. Where development is permitted by other policies in this plan, particular care should be taken to avoid the skyline intrusion and the loss or interruption of long views of the coast and the sea"

Policy SP23 "All development should seek to avoid skyline intrusion and the loss of interruption of long views of the coast and sea, and proposals should demonstrate how the development will take advantage of and engage with these views."

The draft policy also addresses the impact of views from other landscape character areas towards the plateau. The policy states :

"Development proposals should demonstrate how their location, scale, design and materials will conserve and enhance Thanet's local distinctiveness, in particular:

...

5. Long-distance, open views, particularly across the Dover Strait and English Channel, North Sea and across adjacent lowland landscapes; and

6. Subtle skylines and ridges which are prominent from lower lying landscape both within and beyond the District. "

LCA's that are particularly affected by long distance views to, from and across the LCA towards the chalk plateau are: B1: Wantsum North Slopes E1 Stour Marsh, E2 Wade Marshes. In addition long distance views to the coast and seascape and landmark features together with avoiding new large vertical reflective development are also important in LCAs C1 St Nicholas at Wade Undulating Chalk Farmland and C2: Central Thanet Undulating Chalk Farmland

ND.1 Need

ND.1.29 The RR from Pinsent Masons LLP on behalf of Stone Hill Park Ltd [RR-1601] states that TDC previously sought to explore whether airports operations at the site would be viable but could not find suitable partners to carry out such operations.

i. What is your view on this statement; and

ii. has anything changed in this respect since October 2015?

This question is responded to at question CA 1.13 above.

SE.1 Socio-economic effects

SE.1.4 TDC's Draft Local Plan to 2031 (dated 26 October 2018) states at Policy SP02 that: "Manston Business Park is the key location for advanced manufacturing and large scale job creating

development." Explain the effect that the consenting of the DCO could have on the attraction of advanced manufacturing and large scale job creating development.

Consenting the DCO could have a range of effects depending on the type of advanced manufacturing and job creating development. If the manufacturing requires close proximity to an airport, or is a noisy use, then it may be attractive to new employers or at least have a neutral effect. However, some forms of advanced manufacturing may be more susceptible to aircraft noise or airborne pollution, particularly those located at or considering locating at Manston Business Park. It is therefore difficult to definitively state whether the effect of an airport use on MBP would be positive or negative.

One of the transformational initiatives put forward in the Thanet Economic Growth Strategy 2016 is investing in high value manufacturing and engineering across Thanet and East Kent. It says that securing the future of this advanced manufacturing and engineering will require a consideration of:

- essential up-front infrastructure;
- links to higher education and further education to ensure appropriate STEM skills provision;
- the development of supply chains;
- joint networking of opportunities between Thanet sites and Discovery Park due to the number of firms locating there and thriving; and
- collaborating with relevant partners and stakeholders (including Locate in Kent for promotion and marketing and the South East LEP whose priority sectors include advanced manufacturing).

The list suggests that there are a number of potential drivers influencing the attraction of advanced manufacturing development and the consenting of the DCO alone may not have a significant impact.

If the Northern Grass area accommodates employment-generating commercial development then this could be in direct competition with Manston Business Park.

TR.1 Transportation and Traffic

Tr.1.13 Do TDC and KCC agree with the scope of cumulative projects considered in the transport assessment [Section 10, APP-061]?

TDC raise concerns that the scope of projects in Section 10.1 do not represent the full extent of highway improvements that are planned in line with the most recent revision of the Thanet Transport Strategy (which has been endorsed by both KCC & TDC). In particular, the following have been omitted:

- An additional new road link between Shottendane Road and Hartsdown Road through housing allocation (H02 - Land north and south of Shottendane Road, Margate) within the emerging Thanet Local Plan.
- An additional road link between Shottendane Road and A28 Canterbury Road, through proposed strategic housing allocation SP15 - Westgate within the emerging Thanet Local Plan

A proposed one-way flow from B2050 Park Lane to A28 Canterbury Road has been incorrectly included as a committed road improvement. This is not committed, although it does still form part of

the wider plans across the Local Plan period, but is dependent on the delivery of the other new road links in and around the Birchington locality.

Tr.1.36 In the ES Volume 15, Part 2 [APP-061] Section 10 deals with sensitivity testing for possible changes resulting from the adoption of the TDC local plan. The potential for changes to the measures proposed for improvement and mitigation to alter as a result of this sensitivity testing is identified.

At what stage, if at all, will these changes be made?

The draft Local Plan has been submitted for Examination but the hearings have not yet taken place. Clearly there will always be the possibility of changes arising from the adoption of the new Local Plan up until the point that the Inspector publishes their final report. The draft Local Plan and the supplementary draft Thanet District Transport Strategy 2015-2031 provides a framework to guide schemes and projects that are deliverable but their implementation is dependent on the rate of development coming forward.

A key part is the delivery of the Inner Circuit Route Improvement Strategy (ICRIS) which will provide direct access between the A28 and A299 and local destinations that will facilitate the strategic developments allocated in the draft Local Plan. TDC will seek contributions from any proposed development, allocated or otherwise, that will require improvements to the highway network and that the ICRIS will be delivered in phases aligned with the funding/delivery of development.

The proposed development will have a direct impact on the ICRIS as currently the Manston to Haine Road Link of the ICRIS is proposed to connect Manston Road with Manston Court Road via the Northern Grass Area. However, it is understood that an alternative link road may be provided about which discussions are still ongoing between the Applicant, Kent Highways and TDC. It is considered that the proposed development should contribute towards the delivery of the ICRIS in line with other allocated and non-allocated developments.

Section 106 Agreement

The Council can confirm that the Section 106 agreement and supplemental agreement both dated 26th September 2000 was not formally altered by all signatories and therefore no additional documentation is provided.

If further clarification is required then please do not hesitate to contact me on the information above.

Yours sincerely



Iain Livingstone

**Planning Applications Manager
Thanet District Council**

D04

OL/TH/14/0050

PROPOSAL: Application for outline planning permission including access for the erection of 785 dwellings, highways infrastructure works (including single carriageway link road), primary school, small scale retail unit, community hall, public openspace

LOCATION: LAND EAST AND WEST OF, HAINE ROAD, RAMSGATE

WARD: Multiple Wards

AGENT: Icen Projects Ltd

APPLICANT: Cogent Land LLP

RECOMMENDATION: **Defer and Delegate**

Defer and delegate to the Planning Manager to approve subject to appropriate safeguarding conditions and a legal agreement to secure the community facilities and affordable housing provision as set out in this report.

SITE LOCATION AND DESCRIPTION

The application site lies outside of the urban confines to the west of Ramsgate and to the east of Manston village. The site comprises of three parcels of undeveloped agricultural land totalling 47.7 hectares the proposed residential development area comprises 23 ha of the overall site. The topography of the site slopes gently from north to south towards Pegwell Bay which lies some 1.5km further to the south.

The larger two parcels of land proposed for residential development sit either side of Haine Road and extend to 18 ha. Haine Road at this point runs on a north-south axis. At the southern end is a roundabout junction with the A256. At the northern end is the Staner Hill roundabout junction with Manston Road.

The only existing built form along this stretch of Haine Road is a group of buildings that sit towards the Manston Road junction (Ozengell Grange on the eastern side of the road, and a single dwelling on the western side). The buildings on the eastern side of Haine Road include two Listed buildings (Ozengell Grange (Grade II), a house dating from 1711 of red brick construction with a clay tiled roof, and a tithe barn (Grade II*) dating from the late 14th or early 15th century. The barn is an oak frame construction, with a flint base and weatherboard elevations.

The buildings on both sides of the road are surrounded by mature tree belts that largely shield views of the built form within.

The third parcel of land which makes up the residential area of the application site extends to 4.5 ha and is located at the northern most section of the site and is bounded by

Manston Road to the south, Leigh Road industrial estate to the north, Haine Road to the west and existing residential development including Staner Court and Meridian Village to the east.

A bridleway (TR10) bisects the western section of the site (just to the south of the dwelling on the western side of Haine Road). The bridleway currently stops where it meets Haine Road. A Public footpath (TR29) borders the northern boundary of the site.

In the wider area, to the south east of the site is the existing built up area of Ramsgate (Nethercourt). At the points closest to the application site are 'The Beacon', NHS nursing centre, Tesco supermarket, and existing residential areas. To the west is Manston Airport and to the north west Manston village. Beyond the Staner Hill roundabout to the north west lies the Manston Golf Centre. The southern boundary of the site abuts the Ramsgate to London railway line. Beyond the southern boundary (i.e. on the other side of the railway line) lies an anglo saxon cemetery which is identified as a Scheduled Ancient Monument.

In terms of proximity to local services, taken from the centre of the site, Ramsgate town centre lies approximately 2.5km to the south east of the site; and Westwood Cross shopping centre 2km to the north. In terms of existing education provision the Marlowe Academy is approximately 1.2km to the north east, there are three primary schools within a 2km radius of the site (Newington Primary School; St Lawrence in Thanet Junior School and Chilton Primary School). The nearest retail store would be Tesco, Manston Road which is 800 metres away (approximately 10 minutes walk) to the east, and which includes a petrol filling station, there are additional shopping and convenience facilities located in St Lawrence around a 20 minute walk from the site. There are a number of Doctors surgeries within a 2km radius, and the QEQM hospital is around 2.5km away.

Bus services run along Manston Road (No38) a service runs along the Canterbury Road East (No9). Both services are hourly during the week with less frequency at weekends.

PLANNING HISTORY

There is no planning history relevant to this application.

PROPOSED DEVELOPMENT

The application is submitted in outline, with all matters of detail (except for means of access) reserved for future consideration. The proposal is to provide up to 785 dwellings, highway infrastructure works including a new single carriageway link road, a new 1 form entry primary school, community hall, small scale convenience retail unit and a total of 9ha of public open space.

Members should note that the description of the proposal has changed since the application was initially submitted. Firstly, a public transport interchange originally proposed towards the south of the site has been omitted following negotiation with Officers and advice from KCC Highways which concluded that there was no justification for the facility, and following confirmation of the existence of a significant amount of archaeology within this area. Secondly, the proposed link road has been revised from a

dual carriageway to a single carriageway, again following negotiation with Officers and KCC Highways and finally the number of dwellings has been revised downward from 800 to 785 to allow for greater space around the listed buildings at Ozengell Grange.

The application is accompanied by an 'illustrative' masterplan which is informed by a series of 'indicative' parameter plans and a Design and Access Statement which set out the principles that the applicant will apply to develop future details of the scheme at reserved matters stage. These parameter plans and the DAS form the applicants submission and are for consideration as part of this outline application, the parameter plans are concerned with following:

Land use and amount - this plan sets a gross residential density within each parcel of land of 35dph. It also defines land for school (2.05ha), community centre (0.10ha) and highway infrastructure and public openspace. The plan indicates that southern section of the site would remain undeveloped. This plan has been amended to omit the transport interchange and reflects the potential archaeological significance of the land to the south, and the presence of groundwater source protection zone on this part of the site.

Scale - indicates that in the main, the residential development would comprise 2 -2.5 storey housing, with a ribbon of 3 storey housing primarily located along the Manston Road frontage. The plan sets the position of the school and community centre within the site.

Landscape - identifies where the areas of openspace will be located across the site and includes Village greens, pocket parks, Local Areas of Play both equipped and unequipped, allotments, green corridors, casual public openspace and areas for tree buffer planting. In total the plan indicates that the proposals would incorporate 9ha of public open space. There would be a landscaped setting to the Listed Ozengell Grange

Movement - Defines the hierarchy of streets within the development. It identifies existing and proposed new footway, cycleway and bridleway connections within and outwith the site. It also includes the new single carriageway link road which is intended to act as a bypass to the existing section of Haine Road that runs through the site. The road is proposed to skirt the western boundary of the development, connecting with the Lord of the Manor Roundabout to the south and incorporating a new high capacity roundabout junction at Manston Road to the north. The existing Haine Road would be downgraded and a new gateway at the junction of Haine Road and Manston Road

The development is proposed to comprise several 'character areas' intended to respond to and develop individual characteristics around key parts of the site. In addition to the character areas, there are principles to be applied to the residential streets which are interspersed within the development and which link into the 'character areas'. A summary of the key features of each 'character area' is outlined below:

This application is accompanied by an Agricultural Land Quality assessment which in part relies upon Agricultural Land Classification (ALC) survey work undertaken on behalf of MAFF in 1994 and relates to the area of the site to the east of Haine Road. This work identified the land as grade 2 (46%) grade 3a (37%) and grade 3b(5%). In the absence of any previous survey work for the western section of the site i.e. between Haine Road

and the airport the applicants commissioned their own study which was undertaken in September 2013. The methodology involved recordings taken from 27 points across the land including excavating three small pits to establish the soils composition and quality. The results indicate that the land is made up of grade 2 (18%), grade 3a (69%) and grade 3b (13%). Overall the results combined show that the land falls primarily within grade 2 and grade 3a of the ALC with some small areas of grade 3b to the north.

The planning application has been subject to an Environmental Impact Assessment, and is accompanied by an Environmental Statement

DEVELOPMENT PLAN POLICIES

Thanet Local Plan 2006

CC1	Development in the countryside
CC2	Landscape Character areas
H1	Residential Development Sites
H4	Windfall Sites
H8	Size and type of housing
H14	Affordable housing negotiations on housing sites
TC1	New retail development
TR3	Provision of transport infrastructure
TR12	Cycling
TR15	Green Travel Plans
TR16	Car parking provision
D1	Design principles
D2	Landscaping
HE11	Archaeological assessment
HE12	Archaeological sites and preservation
SR4	Provision of new sports facilities
SR5	Doorstep and local play provision
EP5	Local Air Quality monitoring
EP7	Aircraft noise
EP8	Aircraft noise and residential development
EP9	Light pollution
EP13	Groundwater protection
CF1	Community facilities
CF2	Developer contributions

Draft Thanet Local Plan - Preferred Options Consultation (January 2015)

Policy SP13 – Identifies the site for housing provision for up to 700 houses at a maximum density of 35 dph (net); with the provision of a minimum of 9ha of open space, a fully serviced area of 2.05ha to accommodate a new two form entry primary school, a small scale convenience retail provision required to accessibly serve day to day needs. There is also a requirement for a minimum of 30% affordable housing across the site including (if appropriate) sheltered and extra care homes, together with a proportion of houses that would exceed the ratio required by draft policy SP18.

It also states that phasing of the development will be in accordance with draft policy H01(1), and shall provide for the construction of a school to one form entry specification at such a stage of the development as required by KCC.

Masterplanning of the site will be informed by the following:

- Pre-design archaeological assessment taking into account the presence of significant and sensitive remains;
- The setting of listed buildings at Ozengell;
- The need for deposition of development and landscaping to enable a soft edge between the site and the open countryside and minimise impact upon long views southward towards Pegwell Bay;
- Predicted aircraft noise;
- The alignment of the runway and the operational needs of the airport;
- Sustainable urban drainage, taking account of the site's location in the Groundwater Source Protection Zone (herein referred to as the GSPZ);
- The needs to clearly demonstrate how the SPA mitigation strategy as set out in Policy SP25 is being met and how it will ensure that development does not increase recreational pressure on designated sites;
- A wintering and breeding bird survey to assess the impact upon bird populations within the district and the need to mitigate/compensate;
- Liaison with service providers to investigate the need to upgrade the capacity of any utility services and infrastructure;
- A statement of social impacts arising from the development and how any increased demand on community facilities will be addressed.
- Specific highway improvements and suitable contribution to be made to enable delivery.

NOTIFICATIONS

The application as submitted was publicised within the local press, several site notices were posted within the vicinity of the site and neighbouring occupiers adjoining the site were notified in writing. As a result 36 letters of representation have been received making the following comments:

- Loss of open countryside detrimental to the character and appearance of the area;
- Loss of valuable agricultural land and food production resource;
- Should be making better use of the vacant housing stock already in Thanet;
- Road infrastructure improvement needed before any housing should be built;
- What guarantee is there that the applicants will deliver all these plans;
- Development of this scale magnitude and impact should be decided within the development plan process and not in an ad hoc application;
- Brownfield land should be reused;
- The rail station will not be needed;
- Parkway station could impact on viability of Ramsgate station and lead to its closure;
- Park and ride a 'stupid idea';
- Could impact upon viability a future expansion of airport;

- Noise impact from aircraft activity on the flight path, noise corridor is dependent on prevailing winds;
- Dangerous to build so close to a flight path;
- The historic buildings within the site will be trapped in a new estate losing all their uniqueness;
- The proposal would annihilate the historical environment of this heritage site;
- Flood risk;
- Extra traffic congestion;
- Pressure on local resources i.e. schools, hospitals, GPs, dental practices;
- Majority of houses will be for people from outside Kent;
- How much of the social housing will be dispersed throughout the estate? it can affect sales;
- Increase traffic congestion, movements and vehicle emissions in Westwood Cross area;
- New link road would not be constructed until after 468 houses already constructed;
- Park and ride road improvements not proposed to be completed until after completion of the facility;
- Development would destroy historic panoramas over open undeveloped agricultural land towards the sea;
- This development in conjunction with other residential development at Westwood would lead to serious traffic congestion and emissions;
- There is sufficient supply of housing coming forward therefore this site is not needed;
- Lacks physical connectivity to existing built up area and does not represent a logical extension and is not sustainable; and
- Loss of open areas in Thanet.

The Broadstairs Society

- In view of the amount of housing developments currently being undertaken in the Thanet area is there a need for a further 800 homes?
- The proximity to the airport would cause an undeniable noise impact upon the occupiers of the properties
- The practicalities of the drainage/water supply, due to obvious increase in usage the proposed properties will bring to the bear on these resources
- Even taking account of the proposed highway infrastructure works there is no real evidence that this would alleviate the strain on the already congested road system around the area

The Ramsgate Society

- Apart from other considerations, we are concerned about the listed buildings within this development area. There is a 14th century/early 15th century barn which is grade II listed and on the English Heritage 'at risk' register; Ozengell Farmhouse itself is grade II listed.

Manston Parish Council

- Hugely concerned that the bypass will not be built until approximately 500 houses have already been built. They are of the opinion that the existing road system would not be capable of maintaining the extra capacity of vehicles and the infrastructure of major roads needs to be implemented at the first stage of development.
- Housing development should not be considered on greenfield land. 90% of the development is on best and most versatile agricultural land and should be preserved as such. Brownfield sites around the area would be more appropriate.
- Would encourage more birds to the area which would cause a hazard to the airport and increase risk of bird strike.
- Concern that the noise level from the airport as the development is so close to the flight path.
- Question whether another school being built in the area is necessary as one is already due to be built at Westwood Cross.
- The development does not address the housing needs of the existing residents.

Cliffsend Parish Council

- The developers seem to be forcing the application through with indirect threats;
- Affordable housing has barely been referenced, why is there no affordable housing within the development?
- The statement 'a natural rounding off of the existing built up area' could be used for all developments in Thanet;
- The area is green wedge and should not be developed on under the current local plan;
- The developers do not appear to assess the noise levels from aircraft;
- The noise contour assumes all aircraft keep to the centre line this is not always the case;
- The number of households will have a detrimental effect on the road which are already congested;
- The new bypass will not be constructed under phase 5 when 468 houses will already have been constructed;
- The rail connections from the park and ride will not take place until phase 5 but the facility will be provided in phase 3 will this leave an empty car park?
- We would like to see all the roads improved around the site due to the increase number of cars from the development;
- The proposed new road through the airport will only happen if the parkway goes ahead and this is currently under discussion with TDC and KCC with no definite plans this should not be in the application;
- The road noise surveys out of date as it was undertaken before EKA2 phase 2 was completed and shows all the traffic going along Canterbury Road west, can a proper noise levels survey be undertaken?
- Preparation of the community centre will not take place until phase 7; if all phases are not completed this could possibly not happen;

Minster Parish Council

No objection in principle subject to the following concerns:

- The assurance that the development will not take place until the road network to serve the properties and the other infrastructure works are in place;
- The impact upon Minster and the adjoining communities if the proposed development results in the closure of Minster railway station resulting from the construction of Parkway; and
- The Council supports executive type accommodation within the scheme which will encourage professional people to the area.

Ramsgate Town Council

No comment.

Broadstairs and St Peters Town Council

The town council recommends that the application is approved subject to the following concerns:

- Insufficient infrastructure, drainage, highways, increase in traffic, loss of countryside and Grade 3a and 2 agricultural land, proximity to airfield and the risk of confusion between airfield lights and other lights

CONSULTATIONS

KCC Highways Services Raise no objections - Kent Highway Services have been involved with the applicant's Transport Consultants regarding the impact of the development upon the existing Highways network. In highways terms, the County Council have confirmed that the proposal is acceptable, subject to the proposed link road being completed at an agreed stage of the development; improvements to the including the replacement and upgrading of the Staner Hill Junction and a financial contribution towards works to mitigate the impact of the development on the network around Westwood Cross. The provision of a financial contribution towards pump priming and initial running costs of new bus service through the site and approval of a construction management plan and subject to conditions relating to car and cycle parking and travel plan submission.

KCC Heritage Conservation (archaeology) Raise no objections - the details present in the revised D&AS and additional parameter plans all address heritage concerns and provide positive heritage benefits. This is welcome and suggests that outstanding concerns on impact below ground have been addressed as far as reasonably possible at this stage and to inform this outline planning application. However, further assessment and evaluation works will still be required to inform the reserved matters phases of the development but conditions can cover the staged programme of archaeological work still required for most of the site.

KCC Ecological Team - Raise no objections - subject to the impact upon protected sites being mitigated by a commuted sum to be secured in accordance within a legal agreement to fund an access and management package for the SPA, and provided a biodiversity enhancement and management plan and details of the lighting scheme are submitted for consideration at reserved matters stage.

KCC Economic Development - Raise no objections - subject to the provision secured through legal agreement of the identified financial contributions towards primary education (including land transfer to KCC of 2.05hecs and a financial contribution towards the build costs of a 1 form entry school with capability for expansion to a 2 form entry); Community learning; youth services; libraries and adult social care.

KCC Public Rights of Way Raise no objections - following amended plans which address previous concerns about the number of vehicular crossing over the bridleway (TR10) that bisects the western part of the site, and the usability and lack of open space.

NHS Property Services Raise no objections - subject to securing a financial contribution towards mitigating the impact of the development upon the local primary and community health services within a 2 mile radius of the site.

Heritage England Raise no objections - following submission of amended plans the most serious aspects of harm to the setting of 'The Grange' have been addressed. There will still be some less than substantial harm remaining this has the potential to be mitigated further by the careful handling of the landscape buffer to 'The Grange' to as much as possible reflect the open and informal character of farmland. It is still HE's view that there would be some harm to the significance because the listed buildings open setting would be much reduced. This harm would therefore need to be balanced against the public benefits of the application. The remaining harm should not be dismissed lightly and the requirement for 'great weight' to be give conservation of designated heritage assets still applies.

Natural England Raise no objection - subject to the provision of a contribution towards appropriate mitigation measures it is considered that there will be no likely significant effect on the Thanet Coast and Sandwich Bay Special Protection Area, Ramsar site, Sandwich Bay Special Areas of Conservation, Thanet Coast Special Areas of Conservation, the Sandwich Bay and Hacklinge Marshes Site of Special Scientific Interest or the Thanet Coast Site of Special Scientific Interest and the development will then accord with the Habitat Regulations and the National Planning Policy Framework

Kent Wildlife Trust Raise no objections - Subject to additional details of SPA Mitigation and appropriate mitigation for the loss of agricultural land being addressed at the next detailed application stage

Kent Police Raise no objections - subject to detailed consideration, at reserved matters stage, of 'Safer Places: The Planning System and Crime Prevention.

Fire Service Raise no objections - there are no evident inadequacies regarding access for fire appliances as none of the streets are below the 3.7 metres in width which is what is required for a fire appliance access.

Kent International Airport/ Department for Transport No comments received

Southern Water Raise no objections - confirm that there is currently inadequate capacity in the surface and foul drainage network to accommodate the development, however they confirm that the foul water drainage layout has been agreed with the developer and that this can be secured under a S78 agreement under the Water Industry Act to accommodate the development. A condition is requested to ensure that the water supply mains crossing the site are protected.

Environment Agency Raise no objections - the development is located over a principal aquifer and within a groundwater source protection zone SPZ 1 and 2, however there is no objection to development subject to a number of conditions requiring a risk assessment associated with any contamination of the site and where necessary remediation strategy and verification report; no infiltration to groundwater without prior approval and submission of a detailed surface water scheme.

TDC Strategic Housing Manager Raise no objections - there is a high need for affordable housing in the District, which needs to be addressed. I am happy with the overall provision and the mix detailed in the Heads of Terms.

TDC Environmental Health (Noise)

Airport noise raises no objection. - the information provided by the applicant, based on the airport operations of the last airport operator demonstrates that they have the ability to provide adequate mitigation measures. The applicant has adopted a worst-case position based on the future aspirational operational targets of the last airport operators using the measured level of noise from the airport in 2013, 2010 worst-case noise contours and the future masterplan published by the last airport operator. Due to the current situation at Manston Airport there is an unknown potential for change in the future operation. It would be difficult for the applicant to devise a strategy to demonstrate future impacts and subsequent mitigation measures against any unknown alterations to the last operators masterplan. In short the applicants have demonstrated that they can mitigate within the known and previous aspirational aviation.

Road Noise Raises no objection - subject to mitigation detailed in the ES being implemented.

TDC Environmental Health (Air quality) raises no objections - satisfied that the air quality assessment in terms of the methodology used and the conclusions drawn are acceptable and accurate. Although the assessment shows that air quality will not impact upon health objective for local or future residential is essential that the framework travel plan minimises potential wider effects on Thanet air quality by encouraging sustainable travel and contributes to offsetting schemes that improve road design reduce congestion and encourage public transport.

TDC Environmental Health (contaminated land) Raises no objection - given the proposed end use and the potential for (on site and off site) historic contaminants identified in the conceptual model to impact upon sensitive groundwater receptors at this

site further investigation is required to ensure that the site is free from significant contamination prior to development to prevent mobilisation of potential contaminants. Therefore an intrusive investigation will be required and if contamination is identified appropriate remediation should be undertaken to render the site suitable for development. The department would therefore recommend a planning condition be applied to require a intrusive investigation and risk assessment to be undertaken and a remediation strategy agreed before development commences.

TDC Sport and Recreation Raise no objections - the on-site Local Areas of Play (LAP) and Local Equipped Areas of Play (LEAP) provision is necessary and should be policy compliant. Provision for older children could be made through a contribution to upgrade works at Warre recreation ground which is within a 20 min catchment of the site. A commuted sum of £21k towards the restoration of the basketball court at the recreation ground would be preferable to the provision of an on-site Multi Use Games Area because of the potential for anti-social behaviour.

TDC Waste and recycling Raise no objections -the following is lifted from some guidance which we are currently confirming, specifically regarding vehicle access. Developers must adequately consider and design developments to take account of the standard vehicles weight, tuning circle, height and width as indicated below:

- Gross vehicle weight 26,000 kg
- Turning circle 23 m
- Overall length 13 m
- Width 2400 mm
- Height 3500 mm

Vehicles must be able to enter and exit the site in a forward direction. Dead end roads must be provided with a suitable turning area. If reversing is unavoidable this must be limited to a maximum of 15m with clear visibility down the access route.

Planning will dictate the number of off street car parking places to be provided per household, however general road design must facilitate access by larger vehicles. Developers should consider the future impact of any trees planted adjacent to the highway, ensure manholes are off sufficient strength and all turnings are suitable and that they cannot be easily disrupted by inconsiderate car parking.

If the Councils vehicle is unable to access the road or part of the road on the day of collection due to any of the above, the collection of waste or recycling from residents will be disrupt.

TDC Conservation Officer Raise no objections - support the proposal in line with Heritage England comments.

COMMENTS

The application is brought before the Planning Committee as the site lies outside of the urban confines on previously undeveloped land, and is not allocated for development in the adopted local plan. It is therefore a departure from the Development Plan and has

been advertised as such. The proposal is also considered to be of significant public interest.

The main issues for the application will relate to the following matters:

- Principle of development including an assessment of housing needs;
- Loss of agricultural land
- Character and appearance of the development;
- Impact upon the landscape character and visual appearance of the area;
- Impact upon existing highways and transportation;
- Impact of the development on the heritage significance within and around the site;
- Impact upon the living conditions of surrounding residents and future occupiers;
- Impact upon ecology and bio-diversity;
- Impact upon existing infrastructure including groundwater protection and flood risk
- Consideration of affordable housing provision;
- Adequacy of existing infrastructure to serve the development including schools, health care provision, social care, recreation and community facilities

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

However, Government policy in the National Planning Policy Framework (NPPF) states where the development plan is absent or silent or relevant policies are out-of-date planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or where specific policies in the NPPF indicate development should be restricted. Government Policy in the NPPF states that where a Council cannot demonstrate a 5 year supply of housing sites to meet their objectively assessed need, decisions on proposals for new housing development should be made in accordance with the NPPF.

The NPPF seeks to 'boost significantly the supply of housing' and requires Local Planning Authorities to demonstrate that they have a 5 year supply of housing sites to meet their objectively assessed needs. These sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site and in particular that the site is viable. The Council cannot currently demonstrate a 5 year supply of housing land which means in principle applications for housing development fall to be determined in accordance with the requirements of the NPPF. Consideration should also be given and some weight albeit limited, should be attributed to the Council's Draft Local plan preferred Consultation Document.

The Draft Local Plan, allocates this site for housing, based upon a full assessment of the available evidence, in particular the evidence gathered as part of the Strategic Housing Land Availability Assessment (SHLAA), which looked at a range of potential housing sites across Thanet and assessed their appropriateness, and which indicated that this site would in principle be suitable for housing. The SHLAA assessment involved consideration

of the suitability, achievability and availability of sites put forward for consideration by landowners and identified by the Council as potential housing sites within Thanet. Those put forward in the Draft Local Plan were considered to be sustainable sites that could meet the identified housing needs of Thanet. It was on this basis that the site was identified for housing development.

Given that the Council cannot demonstrate a 5 year supply of deliverable housing sites the Government advice is clear that objection to the development of housing on the site purely due to its location outside of the urban confines upon greenfield land could not be sustained and therefore in principle housing development on the site could be considered acceptable.

Loss of agricultural land

The loss of the best and most versatile agricultural land is a key consideration in the determination of this planning application. The NPPF states that *'where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality agricultural land in preference to that of higher quality'* (Para 112, NPPF). The application site comprises undeveloped greenfield land, still actively in use for agricultural purposes.

The *'best and most versatile agricultural land (BMV)'* is defined as land in Grades 1, 2 and 3a, Grade 1 being land which is of the highest quality, providing the best inherent properties for agricultural production.

The applicants assessment of Agricultural Land Quality concludes that the site consists of best and most versatile land falling within grades 2-3a. In terms of how this compares with land across the District, there is little up to date information on ALC, the most recent District wide survey was undertaken by MAFF in 1983 at this time it shows that Thanet comprised predominantly Grade 1 land with some pockets of Grade 2 (including much of the application site). There are a number of more detailed studies on parcels of land around the Ramsgate post 1988 identified by the applicant which show land of Grade 2 with areas of Grade 3a quality.

This development would clearly involve the loss of best and most versatile agricultural land. Thanet is rich in BMV land and therefore its loss will need to be balanced alongside all other material planning considerations in particular the need for housing in the weighing up process.

Landscape and visual impact

As a large site in an exposed location consideration of the affects upon the landscape and visual impact of the development is necessary. The site lies within the Central Chalk Plateau landscape character area the main features of which are the long distance views attainable across the Chalk Plateau towards the coast. Currently given the topography of the site which slopes north to south there are long views across the site to the coast from Manston Road and Staner Hill Junctions.

The perception of the significance of change resulting to the landscape character of the site will be dependent upon the viewpoint and the distance at which the site is being observed. It is clear that within short distance views including locations within 0.5km of the site the effect will be substantial due to the very open nature of the site. These views will be relatively unobstructed and therefore the magnitude of the change will be high. Turning to medium and longer distance views including for example Fowlmead Country Park and Pegwell Bay the impacts are less likely to be so immediately noticeable given the distances.

The western portion of the proposal (lying to the west of the existing Haine Road), would more visibly extend outside of the urban area into the undeveloped landscape. Here, new housing, together with significant road infrastructure, would introduce a notable change to the immediate landscape. It is considered that there will be harm arising from the development of the land because by implication it will involve development of an existing open landscape resulting in loss of openness and the erosion of long distance views across the site.

The eastern parcel of the site, could appear as a natural extension of Ramsgate the site is closely related to the western built up edge of Ramsgate and therefore have less impact on landscape being a more natural addition to the existing urban area.

Some mitigation to the impact upon the landscape is provided on the southern and western boundaries as the proposals show lower density and lower height buildings adjacent to the open countryside and this combined with landscaping proposals would I consider positively contribute towards mitigating the impact of the development within the landscape. Notwithstanding this there will inevitably be residual visual impacts due to the scale of the development and its location which will still cause harm, however this residual harm will need to be considered and weighed against the wider benefits of the development in terms of providing housing to meet identified need.

Character and appearance of the development

The application has been submitted in outline form with all matters reserved for further consideration with the exception of means of access. The development does include an 'illustrative' master plan to demonstrate how a development of this nature could be accommodated within the application site; together with a set of 'indicative' parameter plans and a Design and Access Statement (herein referred to as the DAS) which set out the design principles that will be applied to the development proposals at reserved matters stage. The contents of the parameter plans and the key features of the DAS were outlined in the 'Description of proposal' section of this report.

The NPPF, places significant importance to the design of the built environment. Good design is a key aspect of sustainable development, and is indivisible from good planning. It should contribute positively to making places better for people. Policy D1 of the Thanet Local Plan is concerned with 'Design' and states that all new development will be expected to provide high quality and inclusive design, sustainability, layout and materials.

The NPPF is clear that local authorities should promote high quality design that promotes or re-enforces local distinctiveness. This is a key consideration in the determination of any

planning application, and to my mind, of particular importance to a development of this scale, which would be very much an 'entry point' into the built up area of Thanet (when entering from the A299).

The Kent Design Guide (2005) (KDG) emphasises that design solutions should be appropriate to context and the character of the locality. In order to respect the context, the KDG states that development should achieve some or all of the following:

- reinforce positive design features of an area;
- include public areas that draw people together and create a sense of place;
- avoid a wide variety of building styles or mixtures of materials;
- form a harmonious composition with surrounding buildings or landscape features; and
- seek to achieve a sustainable pattern and form of development to reduce the need to travel and improve the local context.

Through good design, and using principles in the Kent Design Guide, the proposed development is expected to make efficient and effective use of the site in a manner sensitive to both the immediate locality and the wider local environment. Whilst the emerging Development Plan policy which seeks to allocate this site (SP13) carries little weight at this stage, it does provide a guide as to the type and form of development that the Council seek to achieve upon this site. This draft policy makes reference to the need for development and landscaping to enable a soft edge between the site and open countryside to minimise the impact upon long views southwards towards Pegwell Bay.

The design principles proposed to be applied to the development of the site are considered to be generally sound. In defining a number of key character areas throughout the scheme, there will be potential to create a series of spaces each with their own identity but reflecting the characteristics of the individual parts of the site, it is considered that this will help in establishing a strong sense of place, the hierarchy and inter-relationship of the individual streets including the footpaths and bridleway will promote connectivity within the site and beyond to the wider area.

The approach also provides a series of landscaped spaces which run through the development and which provide pedestrian and cycleway linkages which tie the development together providing a safe and appealing alternative to using the car.

There is a clear focus on providing a permeable development which would not be car dominated and would provide opportunities for residents to move through the site easily and safely by foot and cycle and to access employment opportunities and services beyond the site without the need to navigate routes used by vehicular traffic.

The proposed density (at 35dph) is considered to represent a good use of land, but also to respond positively to the context of the site. With a good level of landscaping and car parking provision, the development would not appear as cramped or over developed; and this would be reinforced by the proposed heights of the buildings.

The approach put forward within the application concentrates the higher scale and more densely knit areas of development towards the north of the site focusing this around the newly designed Staner Hill roundabout and the eastern section of the Manston Road, this is thought to be an appropriate and sympathetic response given that this part of the site is most closely associated with the existing road infrastructure and the built form of the established urban area where more intensive development would be most suited. Development of the scale proposed, primarily 3 storeys but including 2 -2.5 storeys further to the north, would also be consistent with existing development further along the Manston Road including Staner Court and the New Meridian Village

Further south towards the core of the development which sits either side of the Haine Road, development is proposed to be no more than 2.5 storey or 11.7 metre in height, comprising a combination of outward facing perimeter blocks served primarily by a mixture of minor streets and shared surface routes. The development here would be arranged around a series of open spaces and interconnecting routes with a focus around the public bridleway TR10 that runs through the site and which is proposed to be upgraded to a combined cycle/footpath/bridleway route, this route would bisect the development running east to west providing access to Ramsgate to the east and the countryside to the west. This would have the added benefit of creating a safe and attractive green route, which will link into the existing bridleway including its extension across the Haine Road, this would provide an 'heart' to the scheme which would create a peaceful and attractive setting within the core of the development.

The proposal is also to downgrade a section of Haine Road that currently divides the site to a status of a 'lane', it is intended that the 'lane' would only be open to bus traffic and all other traffic would be directed to take the link road. It is considered that in urban design terms the downgrading of the road has positive benefits by allowing greater integration and cohesion between the eastern and western parts of the development.

Development around the southern and western extremities of the site will be no more than 2 storeys with an informal character comprising enclosed informal space and mostly non continuous frontage with informal landscaping. This approach would create a less formal and more open character which would be appropriate given that this area would be seen from the open countryside to the south and west.

Overall, the proposed development will create its own 'sense of place' through the introduction of character areas, and by the use of established urban design principles. It is considered that the approach taken to the development makes best use of the site at an appropriate density whilst allowing the opportunity for good quality layout solutions to be achieved and scale and height parameters to be established which respect the characteristics of the site and its relationship with the urban area and the countryside.

Overall, I consider that the design approach proposed would support the principles of good design as set out in Local Plan policy D1, Government policy contained within the NPPF and Kent Design Guidance.

Heritage

With regard to heritage/archaeology there are two main areas for consideration. The first is the impact of the proposal on the setting of the two listed buildings that are surrounded by the application site (Ozengell Grange (Grade II) and the Tithe Barn (Grade II*)). The second is the likely impact of the proposal on the archaeological significance of the site.

Ozengell Grange and Tithe barn

Ozengell Grange was a medieval grange owned by St Augustine's, Canterbury. It seems likely according to Heritage England (HE) based upon historic maps and aerial photos that the landholding extended considerably to the east of the buildings and was farmed in association with 'The Grange'. The grade II* tithe barn is the only remaining building standing from the medieval grange (late 14th early 15th century) though buried archaeological remains also survive. It was once intimately associated with the landscape because it was where crops were threshed and stored. It is also the part of Ozengell Grange most visibly linked with those fields because it sits only just within the treeline to the east of the site. It is currently on the Heritage England 'National Heritage at Risk Register' as its condition is very poor. HE have looked into the possibility of seeking grant funding towards renovation works to the barn however to date this has not been resolved.

It appears that at sometime between 1963-1984 the plot area was reduced to its current size, and trees planted around the now smaller enclosure. The site is now entirely enclosed by a dense boundary of trees such that views into the site are very limited, due to this the appreciation of the buildings outside of the site is currently limited.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty on the District Planning Authority as regards listed buildings in exercise of its planning functions. It provides that, in considering whether to grant planning permission for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Considerable importance and weight should be attached to this duty.

Paragraphs 128-137 of the NPPF seek to protect heritage assets. In summary:-

Paragraph 129 provides that local planning authorities should identify and assess the particular significance of any heritage assets that may be affected by a proposal (including development which affects its setting) taking account of the available evidence and any necessary expertise;

Paragraph 132 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be;

Paragraph 133 advises that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that such harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or other criteria applied, which are not applicable in this case; and

Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

As such, the NPPF acknowledges that harm to designated heritage assets may be acceptable if outweighed by public benefits. Less than substantial harm does not translate to less than substantial objection. Preservation in this context means not harming the interest, as opposed to keeping it utterly unchanged.

The NPPF defines 'significance' in the context of heritage assets as:-

'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.'

It is clear that a development of this scale in this location will inevitably result in some degree of harm since there would be a loss of the wider agricultural setting of the buildings. In view of the above, considerable weight should be attached to any harm arising. It is however relevant to note that the existence of the thick hedge boundary which encloses the site affects the visibility of the buildings currently such that their relationship with the wider landscape is already compromised to some degree.

HE initially objected to the proposal on the basis that the development would unduly impact upon the setting of the listed buildings. HE's view being that there would be 'substantial' harm to the setting of the listed buildings because their agricultural context would have been entirely lost due to the proximity of the development to the buildings.

As a consequence of these concerns, discussions have taken place between the applicant and HE, the result of which is that the parameter plans that define the scope of the proposals now incorporate a greater area of informal open space to the south and east of the listed buildings. The purpose of this space is to provide some degree of open setting around the most sensitive views of 'The Grange' which HE have confirmed are to the south and east. HE have commented that the revised plans would, in their view, overcome the most serious aspects of harm to the setting of the buildings, and now consider that the harm caused by the development is 'less than substantial'. They consider that some harm still does remain. They indicate that the remaining harm has the potential to be mitigated further by the careful handling of the landscape buffer to 'The Grange' so as to reflect, as much as reasonably possible, the open and informal character of farmland through the avoidance of Highways paraphernalia. If Members are minded to grant planning permission I would recommend that a planning condition be applied to ensure that this matter is adequately addressed as part of reserved matters in due course. The submitted parameter plans indicate buildings to be set back from the existing Haine Road in an informal arrangement. I consider that this would frame the view towards 'The Grange' site and provide a sense of openness.

HE's assessment of harm is accepted. In particular, it is considered that, having applied considerable weight to the harm that arises, such harm is less than substantial. As such, it is then necessary to weigh this harm against the public benefits of the proposal, pursuant to paragraph 134 of the NPPF.

In this regard there are considered to be significant public benefits which should be weighed against the harm including the provision of: housing where there is a recognised shortfall; and the necessary infrastructure including a new school and highway improvements to support it.

Additionally, the link road is likely to divert traffic away from the listed buildings and thus could be said to act to enhance their setting.

Overall, it is considered that the harm caused to the listed buildings – to which considerable weight is attached – is less than substantial and is outweighed by the significant public benefits of the proposal. Therefore, it is concluded that the proposal accords with the NPPF and complies with the duty set out in Section 66(1) of the 1990 Act.

Furthermore, the applicant has proposed a contribution towards the renovation of the grade II*listed tithe barn. HE have indicated there is a possibility that they could obtain the owners co-operation in securing an opportunity to renovate the barn. Should they be successful there is an opportunity for the contribution proposed to be used along with a HE grant at some point in the future.

Archaeology

The site lies within an area of high archaeological sensitivity associated with known heritage assets, including the Listed Ozengell Grange and Barn and the significant prehistoric and Anglo-Saxon burial monuments. In addition, there is high potential for significant archaeology associated with these known sites across the entire application site.

The applicants have undertaken a series of archaeological investigations across the site. Discussions regarding archaeology have been extensive, and post submission there have been additional archaeological investigations undertaken with a degree of involvement with KCC Heritage. The additional investigations have involved further targeted trial trenching to supplement the original desk based and geophysical evaluation.

One of the key changes to the plans to reflect in part the heritage constraints has been to see the entire omission of development to the southern section of the site (previously where the Transport Interchange would have been located). This area of the site was known previously to KCC as an area which contained a number of substantial prehistoric burial monuments which were considered to have a national significance. Whilst there will no longer be any above ground development in this area there will be underground geocell storage tanks associated with the drainage of the site within a certain sections of the land, the area where these tanks have been located has been assessed for archaeological potential and KCC are satisfied that there is no archaeology in these locations to be affected. As such they have confirmed that the tanks can be located as shown on the drainage plans submitted without harm.

KCC have confirmed that the additional work identified by them during the application process taken together with the original desk based assessment and evaluation works are now adequate to inform the outline planning application, and following the amendments to

the plans that avoid known sensitive areas outline planning permission could be granted for the development. They have indicated that as only certain parts of the site have been investigated to date that they would wish further detailed investigative work to take place as part of the reserved matters to inform further knowledge of the presence and significance of archaeology across the site.

Habitats/Ecology/Biodiversity

In terms of ecology, there are no particular ecological sensitivities on the site itself. Natural England and KCC biodiversity team have not raised objections to the scheme based upon ecological impacts within the site. In environmental terms, the proposal incorporates a significant proportion of natural green space (in excess of 9ha) which has the potential to make a meaningful improvement to biodiversity in the area, whilst providing a series of green corridors and amenity spaces. There is recommendation by KCC biodiversity that the large recreation areas are created and managed long term to provide enhancements to bio-diversity.

The site does lie within close proximity to European designated site (also referred to as Natura 2000 sites) and therefore there is potential to affect its interest features. European sites are afforded protection under the Conservation and Habitats and Species Regulations 2010 (as amended the Habitat Regulations) and there is a duty placed upon the competent authority (in this case TDC) to have regard to the potential impact that a project may have. Projects can only be permitted having ascertained that there will be no adverse effect on integrity of the protected area, either alone or in combination with other projects or plans.

Natural England has previously advised that the level of population increase predicted in Thanet should be considered likely to have a significant effect on the interest features for which the SPA and RAMSAR have been identified. Evidence from annual survey work looking at bird numbers has indicated that there is already some level of disturbance from human recreational activity which has resulted in a decrease in levels and change in distribution of bird activity across the site. In order to mitigate these effects a strategic access management scheme is being developed in conjunction with adjoining authorities which will feed into the current local plan process, this work is on-going and the evidence base for it is currently being compiled. In advance of the results of this work and to ensure that the impacts are adequately addressed as is required under Habitats Directive an interim approach to mitigating the harm has been devised in conjunction with NE. The strategy currently agreed is a scheme of wardening of the SPA to be funded by financial contributions borne from development proposals. The applicant has proposed to mitigate the impact of their development following the principles agreed with Natural England and are offering to secure a contribution of £184 per applicable unit towards the 'wardening' scheme. This is proposed to be secured through s106 agreement. This mitigation approach is considered appropriate to offset the impact of this development on bird populations and therefore complies with the requirement of the Habitats Regulations.

Affordable Housing

The adopted Local Plan policy (H14) requires for the provision of 30% affordable housing within any development of more than 14 units or over 0.5ha in area.

The applicants have proposed affordable housing in accordance with this policy requirement totalling 30% across the site. The tenure and mix will also be in accordance with policy requirements being proportionate to the mix of units across the site and split in tenure 70% social rented and 30% shared ownership. They propose that the affordable housing will be split across the three phases of the development, in favour of a lesser amount (10%) in the first phase with 40% then being assigned to phases 2 and 3.

As such the proposed development would accord with policy H14 of the Thanet Local Plan. The applicant has proposed that the affordable housing is provided with 10% in the first phase and that a greater proportion be provided within the later two phases to make up a total of 30% across the site in order to kick start the development. The Council's adopted Supplementary Planning Document (SPD) 'Developer Contributions' states that affordable housing should be shown in small clusters or pepper-potted. Whilst the proposed affordable housing accords with policy H14 initial viability testing carried out as part of the work on the emerging Local Plan has indicated that, at least in the short term, viability is an issue for the Manston Green site, having regard to the relatively low predicted sales values for the development. However, it is anticipated that the viability position is likely to improve in the longer term. In the light of this evidence I consider that there would be good justification for agreeing to the applicants request for the necessary affordable housing to be provided within the later phases of development. This could also encourage early delivery of the housing by increasing the viability of the first phase which includes the provision of the primary school site.

Overall therefore, having regard to the particular circumstance that exist in relation to this site, the fact that there is a pressing need for housing in Thanet I consider it appropriate to be flexible with regard to the phasing of the affordable housing.

Members should also be aware that with any planning permission there is provision for affordable housing to be either re-negotiated or an application be made to vary the S106 agreement. The applicant in this case has asked that the Council confirm by way of a clause in the S106 agreement that it would be prepared to consider the overall affordable housing requirement if viability evidence is presented at the time. This request is considered reasonable having regard to the particular circumstances relating to this application. Any such request would be reported to planning committee for their consideration and there would be no implied obligation on TDC to agree any such amendment to the legal agreement, and separately, of course, the applicant has the legal right to formally apply for a variation to the agreement at any time with there being the right of appeal should this be refused by the Council.

Transport/Highways/Access

There have been extensive discussions involving Kent Highways Services with regard to the transportation impacts of the development and further work has been undertaken to support the transport assessment originally submitted. These discussions in part contributed towards the applicants agreement to amend the proposal to omit the transport interchange from the southern part of the site.

Proposals for the site include providing, as a matter for detailed consideration, a new single carriageway by-pass link running alongside the western perimeter of the site. The route will connect from the Lord of the Manor junction in the south, to a new roundabout junction on Manston Road in the north and would see the replacement of the existing roundabout and junction arrangements around Staner Hill. With this route in place Haine Road will be closed to through traffic and downgraded through a S278 agreement under the Highway Act with all existing traffic apart from buses being diverted around the new by-pass. The downgrading of the Haine Road is proposed within the access parameter plan, and the mechanism for the securing this including the timing of its closure to coincide with the opening of the new link road is addressed within the Heads of terms

KCC have also stated that the development needs to mitigate its impact beyond the site particularly in relation to additional traffic impact upon the Westwood area such that it presents a 'nil detriment' effect. The applicant has agreed to provide a financial contribution of £350,000 towards improvements suggested by KCC around the existing Westwood network and which form part of an overall 'Westwood Relief Strategy' which is currently being prepared by KCC. In particular the contribution has been 'earmarked' to go towards the widening of the northbound approach between the Toby Carvery roundabout and the Westwood Cross roundabout, the actual works may be subject to change however dependent upon priorities at the time, but will be certainly be related to this overall project. This contribution will be secured through legal agreement. KCC have stated that this contribution would in their view adequately mitigate the effect of the development on the Westwood Area.

In addition the applicant is proposing to upgrade the roundabout and junction at Manston Road/Haine Road which would serve the north part of the site to provide a single higher capacity roundabout thereby doing away with the existing right turn lane currently situated just north of the roundabout. The approach would involve the construction of a single higher capacity roundabout which KCC have confirmed they would favour as an approach since it would improve traffic flow and relieve congestion particularly as currently experienced at peak times. They do consider that this new highway arrangement will need to be operational prior to the occupation of any dwellings due to the capacity issues at this junction currently experienced, which indicate that further pressure on this junction from any additional development would not appropriate. The applicant has confirmed that they would fund the construction of this new roundabout to be completed prior to first occupation, this will be subject of a S278 agreement under the Highway Act and the timing will be defined within the S106.

Sustainability in terms of accessibility

In terms of sustainability, the site is located at the periphery of the urban area and there are currently limited bus services in the local area, to enhance this facility the applicant is proposing to contribute £400,000 towards to kick start a bus service to operate along the Haine Road towards Westwood. The introduction of a bus service will enhance the sustainability of the development. The site layout provides good pedestrian and cycle linkages throughout the development itself and through connections to existing routes which go beyond the site. The proposal also involves realigning the exiting footpath TR29 which currently runs just beyond the northern boundary so that it follows the new pedestrian route through the development, this will enhance the quality of the route by

increasing overlooking of it, it will also will also connect into a new pedestrian link to Auckland Avenue which is proposed enabling an alternative off road route to the wider area.

Car and cycle Parking

The parking provision for cars and cycles will be in accordance with Kent Design Standards, and KCC are agreeable to this approach. The details of this will form part of the reserved matters application. As such, the site location is considered to accord to the relevant Local, Regional and Central Government Policy Guidelines in terms of being in a suitable location and accessible by modes other than the private car.

Noise and Vibration

The impacts of noise on the future living conditions of the occupants of the development will be a material planning consideration.

The most relevant noise impact is likely to be that of noise sustained by further occupiers of the development, the most notable noise sources which could affect residents of this development will be Manston Airport and the nearby road noise including that of the proposed link road to the western edge of the development site.

Airport noise

In terms of airport noise, as members will be aware the airport is currently closed and its future is still uncertain. Nonetheless it is necessary to assume that the airport could be operational again in the future, and to therefore have regard to the potential impacts upon the living conditions of future residents from the noise of aircraft.

The applicants as part of their Environmental Statement work have undertaken a noise and vibration assessment based upon a review of existing evidence of the operation at the airport prior to its closure which included undertaking noise surveys from points around the site. They have considered the impact of airport operations using the latest accepted prediction of existing and foreseeable ground noise measurement of aircraft noise available evidence and their own survey work. The methodology used is in line with the policy requirements of EP7. Furthermore, the Environment Health Officer has pointed out that it would be difficult for the applicant to devise a strategy to show what the potential future impacts of the airport would be should it reopen and therefore the information provided with this application is considered to be appropriate.

Policy EP7 of the adopted Local Plan includes the noise exposure categories for developments which are likely to be affected by aircraft noise. In this case the noise contour plan which informs policy EP7 shows that a significant part of developable area (excluding the north parcel which falls within NEC A and is therefore not impacted by aircraft noise) falls within the NEC B category where predicated aircraft noise will be between 57-63DB(A) (daytime), based upon average noise levels during the daytime hours. This means that the residential development will be affected by aircraft noise, and this impact will need to be taken into account in determining this planning application. However, the policy states that this will not necessarily preclude development in principle,

and that it may be appropriate to apply planning conditions which would ensure an adequate level of protection against noise is secured through sound insulation to the buildings.

It is recognised that the survey shows that there may be individual instances during the night when aircraft noise could exceed the levels commensurate with NEC B, however, having regard to the advice of the Councils EHO, I consider that these occasional events would not justify refusal under Policy EP7.

Overall the results of the applicants survey is consistent with the noise contours shown within Thanet Local Plan which indicates that the majority of the site will fall within NEC B and therefore, in principle, the site is considered acceptable for housing development subject to mitigation measures being incorporated within the design of the building to minimise the noise effects. These mitigation measures can be secured by planning condition.

Road noise

The majority of the development will be located along newly created roads or off of established local road network within these cases the noise levels will be typical of those found in many housing developments in and around urban areas, and would not be considered to be likely to result in adverse noise impacts, However due to the new road proposals involving a link road around the western edge there will be a level of road noise introduced which could potentially affect residents in particular in the western part of the site. The applicant is proposing to mitigate the impacts of this by creating a noise barrier in the form of a raised bund along the western boundary. The Environmental Health Officer has reviewed the applicants proposals and is satisfied that the mitigation approach put forward would secure an acceptable level of attenuation against road noise and protect the amenity of future occupiers.

Flood Risk and drainage

The NPPF requires local authorities to adopt a proactive strategy to mitigate and adapt to climate change, taking account of flood risk and coastal change. The NPPF steers development away from areas which experience flood risk and where development is proposed in an area known to be at risk of flooding the sequential text is applied.

In this case the site does not lie within an area identified by the Environment Agency flood risk maps as an area susceptible to flooding. However the site does lie within 50 metres of a principal aquifer and within groundwater protection zones (SPZ 1 and 2). As such careful consideration of groundwater protection and potential for pollution will be needed, and this will also influence the options available for drainage of the site since infiltration of the ground water will be restricted.

Surface and foul water drainage

The NPPF promotes the use of sustainable Drainage Systems SUDS and states that local planning authorities should prevent both new and existing developments from contributing to, or being put at unacceptable risk of water pollution.

The application includes a section within the Environmental Statement and DAS which deals with drainage aspects associated with the site and includes details of the constraints regarding available drainage options.

Much of the site has limited possibilities for ground infiltration due to its proximity to the SPZ associated with a public water aquifer. As such the applicant has opted for a range of SUDS methods to manage surface water run-off and protect water quality included amongst these area; filter swales and strips, rainwater harvesting systems, rain gardens and tanked systems, the methods will involve the surface water being collected and channelled through pipes into the existing foul and surface water disposal network. In addition, the chosen methods also take account of the need to avoid SUDS devices that are likely to attract birds for examples ponds, basins wetlands because of the proximity to the airport and potential for birdstrike. These methods can be secured by appropriate planning conditions.

The Environment Agency has considered the proposals including the methods for SUDS and have confirmed that they have no objection to the methods in principle subject a variety of Planning conditions designed to ensure that groundwater is protected.

In respect of foul and surface water disposal Southern Water have confirmed that there is currently inadequate capacity in the local network to provide foul and surface water disposal to the development. However the applicant has entered into an agreement for the necessary off-site improvements to be constructed. As such Southern Water has confirmed they have no objection to the proposal.

The applicant is proposing to submit a Construction Environment Management Plan for agreement at reserved matters stage, the purpose of which will be to prescribe a method to control construction activities, including surface water management during construction to ensure that procedures followed and methods adopted during the construction phase of the development will avoid the potential for any surface water infiltration and consequent environmental effects.

Retail

A small retail unit is proposed which would serve the day to day needs of residents within the development and therefore positively contributes to the sustainability of the development.

Community Infrastructure

The applicant has submitted a draft Heads of Terms following discussions with Officers. As with any planning application, the requests for financial contributions needs to be scrutinised in accordance with Regulation 122 of the Community Infrastructure Regulations 2010(which were amended in 2014). These stipulate that an obligation can only be a reason for granting planning permission if it meets the following criteria:

It is:

- (a) Necessary to make the development acceptable in planning terms;
- (a) Directly related to the development; and
- (b) Fairly and reasonably related in scale and kind to the development.

The following outline the financial contributions that have been sought by Kent County Council, NHS Primary Care Trust and Thanet District Council to mitigate the impact of the development upon services, these contributions are all for specific capital projects which have been identified and assessed by Officers to comply with the regulations as amended.

Education

Kent County Council in its capacity as education provider, has a duty to ensure that adequate school places are provided to accommodate current and future projections for primary school needs.

The scheme incorporates the land required to allow for the provision of a 2 form entry primary school, and a contribution totalling £4,486,400 towards the build costs of a one form entry primary school, the site area secured of 2.05ha would allow for expansion if the school to a 2 form entry if this is required by KCC in the future. This would meet the needs of both the development itself, and to satisfy a proportion of the shortfall in school places in the local area (the Kent County Council 'Commissioning Plan for Education Provision 2012 – 2017' states that at least an additional two forms of entry are required in the short term to address current shortages at Key Stage 1 level). KCC are satisfied with the proposed level of provision and site area.

Health Care Provision

The NHS Property Services have identified that the development would increase the demand on local primary and community health care services. To ensure that the development would adequately mitigate its impact upon these services NHS property Services are seeking a financial contribution towards improvements to a number of surgeries located within a 2 mile radius of the site.

The surgeries identified include:

- Newington Road Surgery
- Summerhill Surgery
- Dashwood Medical Centre
- St Peters Surgery
- Mocketts Wood Surgery

This contribution sought is based upon an established NHS Kent and Medway formulae for calculation based upon a set figure of £360 per person calculated upon an assumed occupancy rate of 2.34 persons per household, for the 785 units proposed this would result in a total contribution figure of £678,240. NHS Property Services have confirmed that this money will be directly related to supporting the improvements within primary care

at the surgeries and will be used to fund capital projects by way of extension, refurbishment and/or upgrade in order to provide the required capacity.

Public open space

The proposals include formal and informal public open space, including equipped play areas within the site in accordance with the policy requirement. Furthermore, a contribution of £21,000 has been proposed for works to upgrade the existing facilities at Warre Road Recreation Ground. The application also provide for a larger area of amenity land to the south and west of the proposed housing.

Libraries

Contribution is to be used towards providing new book stock at Newington Library which is situated at Marlowe Academy over 3 years. This will require 2 x standard book display units , 2 x moveable book display units and 1 x picture book display unit in order to accommodate the additional book stock. Capital works and appropriate adjustments will have to be undertaken to house the book stock and display units within the existing library space. This project has a total cost of £45,240.

Adult Social Care

Contribution to be used towards capital works and enhancements at the Monkton Nature Reserve hall which is used by the Good Day Programme as a satellite hub for people with learning disabilities as a resource for them to engage in outdoor activity. Works required to bring the building up to the specified standards of the service include providing changing places and accessible toilet facilities that are appropriate for wheelchair users, electricity installation to allow for interactive learning and access adjustments to the building for wheelchair users. Total project cost of £73,000.

Community Learning

Contribution is to be used towards providing capital works and enhancing facilities at Broadstairs Memorial Hall in order to meet suitable standards for use by Adult Learning classes. The works are required to be undertaken in order to meet the increased demand generated from the development. Works to be conducted include; repairing the roof of the main block of the building and considerable works to be able to provide access to all users which includes replacing external doors and providing ramps to enable access for wheelchair users. The total cost for the enhancements of the existing facilities in order to meet the required standard is £36,090.

Community Hall

The proposal also incorporates a new community hall which, the applicants have confirmed, can be made available for adult education, evening classes, as well as the normal range of community uses that one would associate with such a facility. KCC have indicated that they would not require the community hall in light of the contributions towards projects identified by them above and which would mitigate the impact of the development by contributing financially. Therefore no obligation is to be placed on the developer to provide this facility at this time. However to ensure that the position is open

to review at later point the developer has proposed a marketing strategy within the Heads of Terms so this can be revisited.

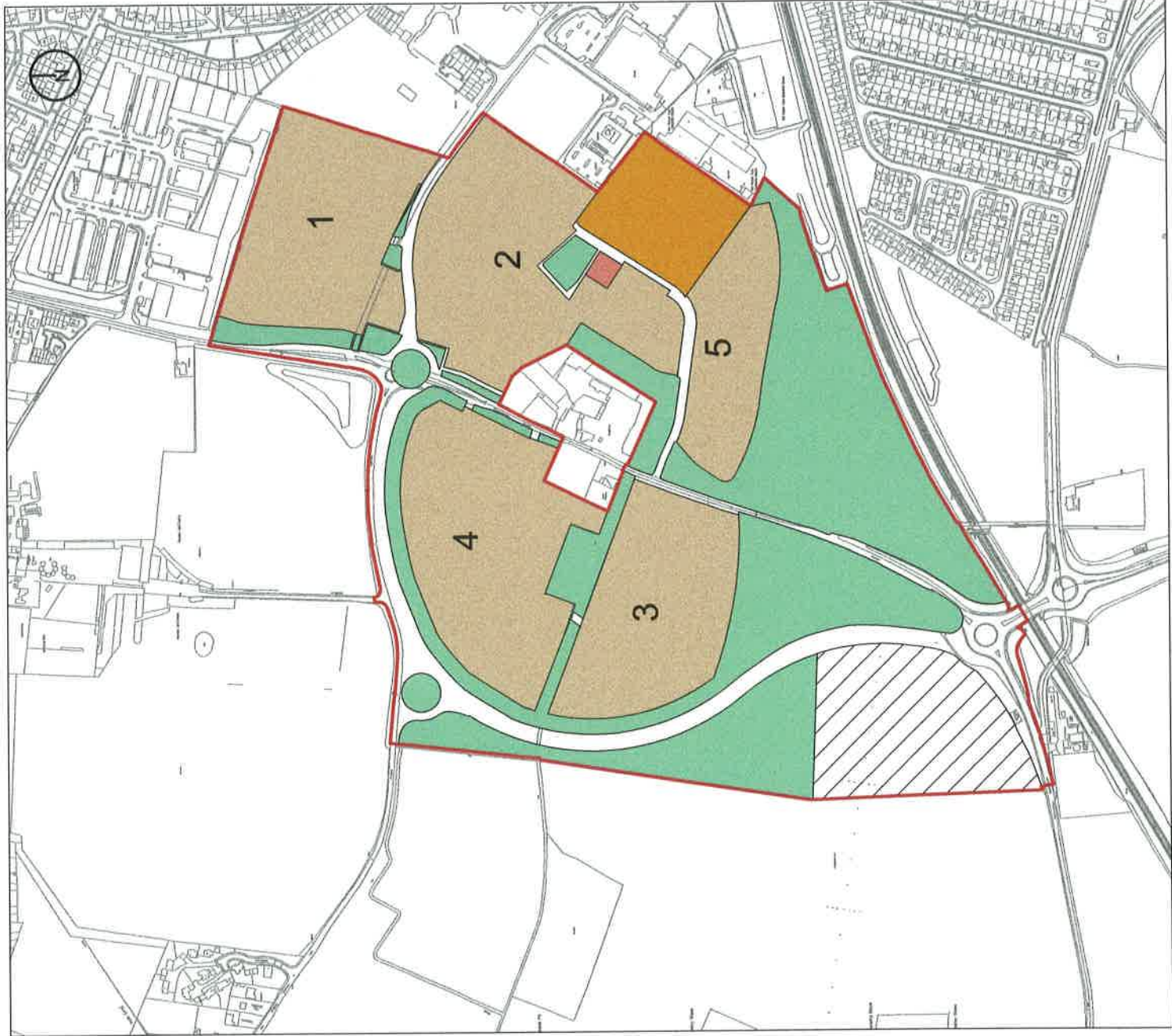
Conclusion

In considering whether the development constitutes sustainable development in accordance with the NPPF, this report has set out and evaluated the material considerations, including the impacts on the heritage assets, loss of best and most versatile agricultural land and the impact on the landscape. Overall, the proposed development would provide housing that is required in Thanet and the necessary infrastructure including a new school, provision for GP's and highways improvements to support it. I therefore consider that, subject to appropriate mitigation measures being secured through a S106 agreement and safeguarding conditions, the balance of considerations in this case weighs in favour of granting planning permission.

As such it is recommended that outline planning permission be delegated to the Planning Manager to grant subject to the imposition of appropriate safeguarding conditions, and subject to a Section 106 Agreement requiring that the applicant or their successors in title commit to the following:

- The provision of 30% affordable housing across the site;
- The provision of land for a primary school, together with a financial contribution towards the construction of the school;
- Financial contribution towards mitigating impact from the development on local health care provision;
- Provision of and financial contribution towards off site highway infrastructure works;
- Provision and on-going management of public open space;
- Financial contributions towards wardening of the Pegwell Bay Special Protection Area;
- Financial contribution towards renovation of Grade II* listed tithe barn
- Financial contributions towards libraries, community learning, adult social services, and play area. The latter contribution to be used for improvements to at Warre Recreation Ground.

Legend



- Application area 49.7HA
- Residential area (including 0.4HA Local Areas of Play)
- Primary School
- Strategic open space
- Community Centre / Archaeological Interpretation Centre
- Area to accommodate existing (retained) airport landing lights and proposed drainage area

Amount

	Ha
Residential Area inc. LAPs	22.17
Public Open Space	15.8
School	2.05
Community Centre	0.10
Strategic Highway	TBC

Gross Residential Density					D/Ha
Parcel	Msq	Ha	Ac		
1	45326	4.5	11.2		35.3
2	56248	5.6	13.9		160
3	41436	4.1	10.2		199
4	53640	5.4	13.2		146
5	25059	2.5	6.2		189

221709	22.17	48.6	783
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Project		MANSTON GREEN, HAINE ROAD	
Thames		Job Ref	
Drawing Title		1450000003	
Parameter Plan 1 - Land Use and Amount		12 50000001	
		Drawing no. 011	
		Date 08.07.2013	
		Rev M 28.01.2016	

OL/TH/14/0050 – Land east and west of Haine Road, Ramsgate



**LAND EAST AND WEST OF HAINE ROAD, RAMSGATE-PLANNING APPLICATION
NUMBER OL/TH/14/0050**

To: **Planning Committee – 15 July 2015**

By: **Simon Thomas Planning Manager**

Classification: **Unrestricted**

Summary: This report advises Members on the information that has been submitted by the applicant in response to issues raised by the planning committee at the June meeting. Annexed to this report is the previous Officer report which sets out the material considerations and recommends that the planning application be deferred to the Planning Manager to approve subject to conditions and legal agreement being made.

For Decision

1.0 Introduction and Background

- 1.1 At the Planning Committee meeting on the 17th June 2015 it was resolved by members that the planning application be deferred for further information to be provided by the applicant in respect of agricultural land classification and the potential noise impacts on the development from the operation of Manston Airport.

2.0 The Current Situation

- 2.1 The applicant has provided further information to address the requirements of the Planning Committee. In this report I will summarise and appraise this information.

Noise

- 2.2 The applicant has as part of their original submission considered the previous airport operators 2009 Masterplan to 2018 where predicted passenger numbers were 2.2million and predicated freight was 167,000 tonnes. Members were concerned that this did not provide enough information. As such the applicants have sought to give members greater information on potential noise impacts by reviewing the previous operators Masterplan and looking to its fullest aspirations for growth which would have resulted in 4.7 million passengers and 401,000 tonnes of freight by 2033.
- 2.3 The 2009 Masterplan acknowledged that it was not possible to accurately predict noise contours to 2033 because of the likely change in aircraft type and noise signatures at that time. However, the applicant has for the purposes of assessing the impacts as members requested, assumed exactly the same aircraft mix as 2018. On this basis the applicants indicate that overall noise levels would be increased by 2DBA but they point out that this would be likely offset by reduction of 1DB in future aircraft noise level resulting in a likely increase of 1DB.

- 2.4 Based upon this assessment the applicants have concluded that the noise impacts at 2033 would not exceed 63DB, 57-63DB which falls within category B for the purposes of Local Plan Policy EP7, other than for a small part of the site at the southern boundary. Proposed development within category B will not be precluded but noise will be taken into account in determining applications and where appropriate noise mitigation may be required.
- 2.5 The applicant also points out that a large area of existing properties to the east of Ramsgate will most likely be within the 57DBA contour at 2033, at these levels the airport will be required to provide sound insulation or grants to these properties to mitigate noise impact.
- 2.6 Having discussed the findings with the Environmental Health Officer has reviewed the information submitted by the applicant and has provided the following advice:

I spoke with the acoustic consultant this morning and based on the information they had available to them they have used appropriate methodology to reach their conclusions, unfortunately given the circumstances it is almost impossible to predict future noise impact from aviation to the extent requested especially as you cannot predict the make-up of possible flight movements. It should be noted that all of these predictions are based on a master plan with aspirations of passenger flights which are generally newer quieter planes than cargo planes.

Given the predictions they have made show some housing that would fall into the higher predicted noise contour I would recommend that the plans need some reconfiguration to reduce possible impact.

The acoustic consultant is confident that a sound insulation scheme submitted as part of any planning condition will mitigate any impact of aircraft noise.

- 2.7 Having regard to the new information submitted along with the matters discussed within the previous Officer report, we are satisfied that the evidence provided by the applicant adequately demonstrates that the potential expansion of the airport would not increase the impact of aircraft noise on the development. Only a very small part of the site would be within a noise Category C as set out in the local plan and where development will not normally be accepted. is already impact by the airport and as such it is recommended that should planning permission be granted it should be made conditional upon there being no dwellings located within the small area of the site that would be within the area that falls within the noise category C which would be affected by noise should the growth aspirations of the previous airport operator (by 2033) be realised.

Agricultural Land Quality

- 2.8 The applicant has sought to clarify the position in respect to the quality of agricultural land. The current MAFF agricultural land classification system was last revised in 1988 and the application site is shown on the ALC map as having been assessed by MAFF in 1983 as mainly grade 2 with areas of grade 1 locally present. Given the fact that the 1983 figures could not be relied upon since they were not undertaken in accordance with the 1988 Guidelines, the applicant undertook more investigation and identified that an ALC was undertaken in 1994 on the eastern side of the site, as previously referred to in the Officers report, this study revealed mainly Grade 2 and 3a.

- 2.9 The applicants have confirmed that the MAFF Guidelines on agricultural land classification are based upon an assessment of limiting factors including climate, site and soil and the way in which these factors interact.
- 2.10 They applicants state:
- In respect to climate; The ALC guidelines requires specific climate data to be taken from a specific data set from 1989, as such the data that would be used today would be the same data as that used in 1994.
 - Site factors including gradient, micro relief and flood risk and soil characteristic which include texture, structure depth and stoniness would not have changed over the last 20 years so as to affect the grading the applicants state that this is because Soil type, depth, underlying wetness levels, proportions of sand, silt, clay etc, all take very long time periods to develop and therefore also to change. As such these proportions will not have changed significantly since 1994 (the land has not been landfilled or otherwise worked since 1994), and as they were assessed under the current ALC rules, those results are capable of being relied upon today.
 - Fertility levels can be changed readily by, for example, adding inorganic fertiliser. The effects are short-lived. Therefore fertility levels do not reflect long-term land potential and so are not included in the ALC system. This has the benefit of, for example, discounting attempts to downgrade land quality by leaving the land unmanaged or unfertilised. Organic farming does not, for example, result in a downgrading of agricultural land quality.
- 2.11 The applicant has therefore concluded that the 1994 ALC would not have changed and can thereof continue to be a reliable source of up to date data of the land quality of the eastern side of the site.
- 2.12 In respect to the western part of the site this had never previously been surveyed as part of the submitted information accompanying the application the applicant commissioned a new study of this part of the site. This revealed this to be mainly grade 2 and grade 3a with pockets of 3b This data was produced in accordance with the 1988 MAFF guidelines and is therefore consistent with the up to date approach. The applications consider that this work adequately addressed the matter of the current soil condition of the western part of the site.
- 2.13 Given that the applicant has further clarified the basis upon which the information was provided within the original application, this effectively confirms that the land is BMV agricultural land and as Thanet is rich in BMV land as outlined in the committee report this will therefore its loss will need to be balanced alongside all other material planning considerations in particular the need for housing.

3.0 Recommendations

- 3.1 In response to comments by the members the applicants has provided further clarification of the issues of aircraft noise and agricultural land quality. Officers consider that the information provided adequately addresses the concerns expressed by members and as such the recommendation for defer and delegate as set out in the Committee report (as appended) remains unchanged.
- 3.2 It is therefore **recommended that members defer and delegate the planning application to the Planning Manager to approve subject to appropriate safeguarding conditions and subject to a legal agreement to secure the community facilities and affordable housing provision as set out in the previous report.**

Annex List

Annex 1	Previous report to Planning Committee
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REVIEW OF CPO INDEMNITY PARTNER FOR MANSTON AIRPORT

To: **Extraordinary Cabinet – 29th October 2015**

Main Portfolio Area: **Leader of the Council**

By: **Director of Corporate Governance**

Classification: **Unrestricted**

Ward: **All**

Summary: **To update Cabinet on the review of the appointment of a CPO indemnity partner for Manston Airport.**

For Decision

1.0 Introduction and Background

- 1.1 At the beginning of this report, it is worth setting out the main objective in seeking an indemnity partner. In the report to Council of the 11th December 2014, it said:

'The objective of seeking an indemnity partner is to ensure that – if the Council determines to pursue a CPO – a viable airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council.'

- 1.2 On the 11th December 2014 Cabinet received a report on the soft-market testing exercise for an indemnity partner for a Manston Airport CPO. The report said that the Council had made every effort to work constructively with (RiverOak) including making several deadline extensions for submitting the information requested from the potential indemnity partner. The report and minute are attached as Annex 1 and Annex 2, respectively.

- 1.3 The Cabinet considered the following as relevant considerations, which remain relevant today:

- (a) The objective of seeking an indemnity partner (set out at 1.1 above).
- (b) The new owners intend to bring forward regeneration policies for the site.
- (c) The new ownership of the site and any proposals put forward would make it much more challenging to demonstrate an overwhelming case for compulsory purchase. It is important that the Council establishes on objective grounds, the financial status of any partner. The assessment must have due regard to the potential scale of the project and the need to demonstrate that resources are available to complete it.
- (d) Any indemnity partner needs to demonstrate the resources to acquire by private treaty well before the stage of seeking a CPO.
- (e) The experience in other local authorities emphasises the need to ensure a prospective indemnity partner has the resources in place to acquire the site and complete the development. Once the land transfers to the indemnity partner any redress for delay or non-completion could prove difficult to pursue. The main purpose of the CPO is for the authority to achieve a viable development, so the

status of the indemnity partner to deliver the development in its entirety is highly relevant.

1.4 On the 14th July 2015, Cabinet agreed:

1. The recommendation from Council on the 21st May 2015 to review its position in relation to the Manston Airport site, taking account of all the surrounding circumstances relating to an indemnity partner for a possible Compulsory Purchase Order;
2. To authorise that specialist legal and finance advice be obtained to determine whether RiverOak are a suitable indemnity partner in relation to a CPO for Manston Airport and to provide advice on the indemnity agreement and CPO process generally.

2.0 RiverOak

- 2.1 On their website, RiverOak Investment Corp describe themselves as 'having a reputation for identifying under-utilised assets & creating new value from them on behalf of our client investors'. A new company RiverOak Aviation Associates has been set up to deliver this project (referred to as RiverOak).
- 2.2 The proposal from RiverOak is that they will fund the legal CPO process but will not themselves be funding the purchase of the land or the development of the airport. These legal CPO costs are not insignificant and it is intended that £2m will be placed in what is known as an escrow account, reserved specifically for these costs.
- 2.3 The funding for the land purchase and development of the airport will instead come from private investors that RiverOak will try to attract to invest in the project. From the documentation so far provided to the Council by RiverOak it appears that those investors will not be investing until after the confirmation of the CPO by the Secretary of State which would be after any inquiry conducted by a planning inspector.
- 2.4 Prior to and during the progress of the CPO the Council should seek to purchase the land by negotiation which can be done in parallel with the CPO process. The Council has no resources itself to buy the land prior to the securing of funding by RiverOak. The Council has seen no evidence that RiverOak have the resources now available to buy the land prior to the confirmation of the CPO.
- 2.5 Counsel has advised that the possibility of a party wanting to sell their land voluntarily to the Council even if the CPO is abandoned would need to be covered in the indemnity agreement to protect the Council. RiverOak have provided no evidence during the negotiations of their ability to cover this eventuality.

3.0 Timeline

June 2015

- 3.1 Following a meeting in May 2015 RiverOak wrote to the Council setting out their position in relation to the CPO and their proposed role as an indemnity partner. RiverOak included their intention to deposit £250,000 in their solicitor's bank account to fund the CPO process. RiverOak also described how that money would be topped up as the scheme progressed.

July 2015

- 3.2 At a meeting with Council representatives on the 3rd July 2015, RiverOak gave a presentation on their proposals for the airport which included the use of the site to recycle 'end of life' aircraft with some cargo and future passenger activity.

Proposals were also made by RiverOak about financing the scheme and the ability of RiverOak to prove that they could resource the CPO, the land purchase and the development of the airport. Those proposals included:

- (a) An 'escrow' account held by RiverOak's lawyers with funding of up to £2m to fund the CPO process. This was welcomed since it addressed the concern raised in the December report about funding the CPO in stages. Once the escrow account was put in funds, then the whole CPO legal process (but not the land acquisition nor airport development) would be funded.
 - (b) RiverOak also proposed to provide a 'letter of credit' from a major European financial institution to cover the costs of land purchase and development of the airport. This meant in the event that RiverOak's third-party investors were unable to make payment on the land purchase, the bank would cover the outstanding amount. This was also welcomed since it addressed the concerns in the December report about the lack of certainty over funding for the land acquisition.
- 3.3 The Cabinet met in July (1.4 above) to agree to review the Council's position in relation to Manston Airport. The Council then instructed Sharpe Pritchard Solicitors who have considerable expertise in CPOs to act for it in negotiations with RiverOak's solicitors. In addition, the Council has also taken advice from a barrister at Landmark Chambers in London who specialises in compulsory purchase. For the sake of brevity, in the rest of the report, references to 'RiverOak' or the 'Council' include RiverOak's solicitors and the Council's solicitors.
- 3.4 Having reviewed the draft indemnity agreement provided by RiverOak, the Council asked them for an up to date business plan for their proposals. The business plan was required to give the Council an understanding of how RiverOak's current proposals met the public interest test which the Council needed to consider before entering into the indemnity agreement.
- 3.5 RiverOak subsequently informed the Council that they would not now be providing their proposed legally binding letter of credit from a bank. So the funding in relation to the costs of the land acquisition reverted back to its December 2014 position. That is, that there is no provision for funding any shortfall from RiverOak or its investors in respect of the monies required to acquire the site. Instead, RiverOak offered to provide a non-binding letter of assurance from a major financial institution.
- 3.6 In response to the request for an up to date business plan, RiverOak referred the Council back to the financial projections previously provided and declined to provide a business plan indicating that this would be provided once the CPO process was underway. This meant that the Council was being asked to enter into an indemnity agreement for the reopening of the airport with no up to date information on the business plan supporting the scheme.

August 2015

- 3.7 RiverOak informed the Council that their next stage in the process was to develop the business plan in detail.

- 3.8 In substitution for the letter of credit, a letter of support was provided by RiverOak. It was a 'subject to contract' letter from a large American financial services company which 'supported' the efforts of RiverOak regarding the opening and development of Manston Airport following a successful CPO. However, the letter says that it is not a 'binding legal commitment' to the project and that 'any investment is subject to confirmation of the CPO for acquisition of the airport site, as well as, usual and customary funding terms and internal approvals'.
- 3.9 Whilst the letter was from a company with a business history of ownership and management of airports, the letter is not legally binding and there is no indication that any investment will be made before the CPO is confirmed and, therefore, for the purpose of providing assurance that finances will be available for acquisition of the land before the CPO is confirmed, it is of little value.
- 3.10 The Council therefore requested RiverOak to provide the financial guarantees (if any) which they would be providing to secure the council's interests in delivering a viable airport operation as quickly as is reasonably possible without any residual cost to the Council. A deadline of the 14th August was given for RiverOak to provide this information.
- 3.11 The Council's legal advice on this point is clear. Whilst funding does not have to be secured at the outset of the CPO process, the Council does have to satisfy itself that there is a real prospect that the scheme will proceed and this means that the Council needs to consider scheme viability and/or funding before making the CPO. At this stage the Council did not have confidence in the finances (which were based solely on the letter of support from the American company) and no written evidence of RiverOak's current proposals for the airport.
- 3.12 The Council then received confirmation from Riveroak that they had placed £1,325,000 with their lawyers which it is intended to be put into the escrow account should the indemnity agreement be entered into. It is worth repeating that this was a positive step forward from the December position where the CPO legal process was to be completed in steps as funds allowed.
- 3.13 On the deadline of the 14th August 2015, RiverOak provided two redacted letters from potential investors (with the details of those investors removed). As with the letter from the company referred to above, the letters expressed strong interest in participating in RiverOak's acquisition of the airport through a CPO. One letter of support was conditional on the CPO process being concluded in a manner satisfactory to RiverOak and its partners. The other potential investor said they were in a position to invest up to £20m subject to satisfactory final documentation. Their final investment decision was conditional 'upon standard commercial due diligence, valuation of the asset and confirmation of the CPO by the secretary of State'.
- 3.14 Since the letters had the details of the authors removed, the Council has been unable to carry out any investigation into the authors of these letters. Counsel has advised that if we knew who the letters were from and could check their bona fides, the redacted letters could have greater weight.
- 3.15 Counsel has advised that the three letters from potential investors by themselves are not sufficient for the council to be satisfied as to the resourcing of the CPO and the likelihood of the scheme going ahead. The letters are of some evidential value but do not by themselves show that all the necessary resources are likely to be available to complete the scheme.

- 3.16 Counsel has pointed out that the letters do not require either the American company or the two investors to fund the CPO if RiverOak were unable to do so. A bond or escrow account or other form of guarantee if sufficient to cover the land acquisition costs and to enable delivery of the project would provide reassurance to the Council. However, the Council would still have to be satisfied that £20m was an accurate figure for land acquisition and start-up costs.
- 3.17 RiverOak referred to a bond in the original draft of their draft indemnity agreement. The Council requested details of this bond with a deadline of the 18th August 2015; the response from RiverOak was that discussion of the bond was somewhat premature.
- 3.18 Counsel advised that the requirement for a bond relates to the financial strength of the indemnity partner and the extent to which they can satisfy the Council that they can resource the CPO. Where there is a concern over the resources of an indemnity partner then a bond or other security would be a sensible way to proceed. It is not necessary for the bond or surety provider to be a party to the indemnity agreement but the Council would have to be satisfied as to the enforceability of the bond or surety before any indemnity agreement was finalised.

September 2015

- 3.19 Representatives from RiverOak and the Council and their respective solicitors met to discuss outstanding issues. The agenda included what has changed since the December Cabinet report; evidence of financial resources for underwriting the CPO costs, land acquisition and scheme costs; the business plan and viability of the scheme; the public interest test; contractual commitment to proceed with the scheme if the land is acquired.
- 3.20 Prior to the meeting, RiverOak were informed that the Council would need all necessary information to be able to draw up a report to Cabinet which evidences that all the necessary resources/funding will be available when required to fund the CPO process, the land acquisition and the implementation and on-going airport operation, of the airport scheme as proposed by RiverOak.
- 3.21 The action points from the meeting were:
- a) Explanatory note covering compliance with the tests outlined in Circular 06/2004 to be drafted by RO and issued to TDC as soon as possible and in any event before 30 September 2015.
 - b) CPO Indemnity Agreement to be reviewed by TDC's legal advisors and comments issued to RO as soon as possible and in any event before 30 September 2015.
- 3.22 Compliance with the tests in Circular 06/2004 was described in the minutes of the meeting as:
- 'TDC being able to satisfy itself and show at a public inquiry that the tests in CPO Circular could be met before the Council agreed to use its CPO powers. In order to do so, TDC requested an overall picture of how the financial resources will be put together from start to finish and how the public interest test under the Circular would be satisfied. For the purposes of accurate, clear and confident reporting within TDC and in order to fully address all points raised by TDC in respect of funding and public interest issues, a request was made of RO to demonstrate how the proposed scheme would match the requirements of the Circular both in terms of resources and the public interest test in promoting the CPO.'

- 3.23 The time limit for the actions after the September meeting (3.21 above) was amended at RiverOak's request to the 22nd September (and then the 23rd September) when it was agreed that our respective documents would be exchanged. The Council provided its documents on the 23rd with RiverOak providing theirs on the 24th September.
- 3.24 In accordance with the action point from the meeting, the Council reviewed the CPO indemnity agreement and proposed amendments to RiverOak. It was proposed to amend the bond so that it secured that funding was in place to acquire the land prior to the confirmation of the CPO by the Secretary of State. RiverOak's position was that a bond would only be available after the confirmation of the CPO.
- 3.25 Another proposed amendment was a requirement for RiverOak to request the Council to acquire the land within a set period after the confirmation of the CPO. This is because in the absence of any other agreement requiring RiverOak to proceed expeditiously with the reopening of the Airport, the Council had to impose an obligation on RiverOak to not delay the revival of operations at the Airport. The Council could not permit the Airport land sitting under the shadow of an unexercised CPO with nothing happening on the ground.
- 3.26 These two provisions were intended to secure the Council's interests in ensuring that the airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council.
- 3.27 RiverOak did not agree with the amendment to the timing of the provision of the bond and subsequently publicly announced on the 11th October 2015 'We want to be perfectly clear, as we have in the past, we will not provide a bond. It is neither economically nor commercially viable to do so and is absolutely not required by the governing law'.
- 3.28 RiverOak have argued that providing funding for the project, for which the CPO is required, post consent is the usual order of events in an infrastructure project, and is not something that is unique to RiverOak. In support of this contention, they cite Hinkley Point C, Crossrail, HS1, HS2, all of which they say were/are to be funded post consent. The difference with any Manston Airport CPO is that the projects referred to by RiverOak were/are backed by Central Government whereas the Council has no resources to back the Manston CPO, which is why it requires a bond or other surety in place to cover the period from when the CPO is made.
- 3.29 With respect to the need to acquire the land within a set period after confirmation of the CPO, RiverOak said that they would need time after confirmation of the CPO to secure and document the funding for the project. Given that the CPO process might take up to two years before the CPO is confirmed by the Secretary of State, RiverOak could then take up to 3 years to obtain the funding, this could see the airport lying dormant for potentially five years if there is no obligation on RiverOak to secure its funding within a set period of the confirmation.
- 3.30 RiverOak provided an explanatory note as agreed in the action point from the September meeting. However, at that time it did not provide the picture of the overall financial framework as agreed and nor did it explain how RiverOak's proposals met the public interest test of Circular 06/2004.

October 2015

- 3.31 At the end of October, over three weeks after the deadline for providing this information had expired, RiverOak provided a revised version of their explanatory note (3.28 above). The document sought to address the public interest test and, as part of this, the other tests that needed to be satisfied; the planning test, the wellbeing test, the financial test and the necessity test. The paper however lacks detailed evidence which it is suggested will be provided in the future and suggests that Council officers are better placed than RiverOak to comment on whether the planning and well-being tests are met. In the absence of an up to date business plan it is difficult to assess that all the tests will be met. The information that has been provided to seek to satisfy the finance test is covered in this report already and the necessity test is based upon the decision of the present owners not to reopen the airport and that therefore the CPO is required to bring back airport use. However, this assertion by RiverOak as to why the CPO is required has to be balanced against the intentions of the current landowners and whether there is any likelihood that the current landowners' proposed use of the site would also satisfy the public interest test.

4.0 The Indemnity Agreement and CPO Powers

- 4.1 RiverOak have sought to separate the decision on whether to enter into an indemnity agreement from the decision whether the Council should use its CPO powers in relation to Manston airport. Counsel's advice is that there is no particular justification for seeking to take a decision to enter into an indemnity agreement separate from the consideration of whether to make a CPO in support of a particular scheme.
- 4.2 RiverOak has not provided sufficient evidence to show the Council that the funding available to deliver the scheme is currently available or likely to be available to deliver the scheme. Information has been provided that sets out RiverOak's funding intentions but it depends on the CPO being confirmed, and there is little clarity as to the funding in place. In relation to the public interest balancing exercise, that requires a balanced view to be taken as between the intentions of the Council in making the CPO to deliver the underlying scheme, and the interests and intentions of the current landowners. The Council considers it sensible to consider the question of entering an indemnity agreement with RiverOak (and its principal terms) alongside the principle of making a CPO, which requires the Council to be satisfied that there is a real prospect of the underlying scheme going ahead.
- 4.3 RiverOak have had many opportunities to provide this evidence and the Council has itself requested this evidence. In the meeting with RiverOak in July their presentation was provided on flip charts which were taken away after the meeting. In August the request for an up to date business plan was refused. In September despite it being agreed that the finances and public interest argument would match the requirements of Circular 06/2004 the expected level of evidence and explanation was not provided.
- 4.4 In relation to finances generally, the figures for the scheme have not been justified to the Council and the Council has not been given an opportunity to satisfy itself that those figures are reasonable. The mechanism through which that investment would occur has not to date been explained or what role RiverOak would have in delivering the project.
- 4.5 In relation to specifics of the funding. An offered letter of credit was subsequently withdrawn. A bond to cover any shortfall in funding was also offered and then withdrawn.

5.0 Changes since the December 2014 Cabinet Decision

- 5.1 The main material change since the December 2014 Cabinet decision is the provision of an escrow account which will guarantee the funding of the CPO process. This is welcomed and means that the CPO process can be run at no cost to the authority as a whole process rather than the step-approach as originally proposed.
- 5.2 However the purpose of the Council using its CPO powers is not to run a CPO process, but to ensure that a viable airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council. In order to do that, both the land acquisition and airport development, will need to be funded.
- 5.3 The only evidence to support other funding are two non-binding, conditional and redacted letters of support and a similar letter of support from an American company. There is uncertainty about how any shortfall in funding will be met and indeed the offer of a bond at any stage of the CPO process now appears to have been withdrawn by RiverOak (as per paragraph 3.27 above).
- 5.4 Counsel has advised that it is reasonable for the Council at the stage of deciding the principle of the CPO to seek evidence that it is likely that the key resource and financial tests are fulfilled. If not, it would be very difficult to move forward unless the Council has a high degree of confidence that these matters would be addressed shortly.
- 5.5 RiverOak's track record of failing to provide necessary information throughout the process dents this required confidence. This also begs the question as to why the Council should progress, before receiving the necessary assurances. There seems little purpose in entering into an indemnity agreement separate from taking a decision on the principle of the CPO which requires consideration of the likelihood of the scheme progressing as part of the necessary public interest test.

6.0 Conclusion

- 6.1 The objective of seeking an indemnity partner is to ensure that – if the Council determines to pursue a CPO – a viable airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council.
- 6.2 The relevant considerations raised in the December 2014 Cabinet report (at paragraph 1.3 above) remain relevant today. In addition the review of this decision since July 2015 has highlighted the following issues:
 - 6.2.1 There remains the lack of evidence that financial resources are in place or proposed to be in place to acquire the land prior to the confirmation of the CPO despite the fact that the Council is obliged to attempt to purchase the land by negotiation in parallel with the CPO process.
 - 6.2.2 Whilst letters of support for the project have been provided by potential investors, any commitment to the project has been caveated and, in the absence of any binding commitment, there is limited evidence of the financial resources proposed to be in place to acquire the land and develop the airport scheme after the confirmation of the CPO and the evidence is not sufficient for the council to be satisfied as to the resourcing of the CPO and the likelihood of the scheme going ahead.
 - 6.2.3 RiverOak's public announcement indicates that no bond or surety will be offered to fund any shortfall for the proposed funding either before or after the confirmation of the CPO. A bond is required both before and after confirmation.
 - 6.2.4 There is insufficient evidence currently available for the Cabinet to be satisfied that a proposed CPO is likely to be successful which would justify its entering into an

indemnity agreement. There is good reason to consider the principle of the CPO alongside the decision to enter an indemnity agreement.

- 6.3 Given the above, your legal advisors and officers are not satisfied at this moment in time that the information or assurances provided to date by RiverOak justify the Council deciding to make a CPO or as part of that process to support the appointment of RiverOak as the Council's indemnity partner in advance of deciding whether to make a CPO.

7.0 Corporate Implications

7.1 Financial and VAT

- 7.1.1 There are no resources currently available to fund costs in relation to a CPO described in this report. The financial context is of limited financial capacity of the Council, together with the prospect of continued severe financial constraint. Any proposals that involve exposing the Council to unspecified and/or unknown costs would substantially increase financial risks and potentially undermine the Medium Term Financial Strategy. It is therefore the Council's objective to secure that all costs related to the CPO are borne by the indemnity partner.

7.2 Legal

- 7.2.1 The legal advice is set out in the report.

7.3 Corporate

- 7.3.1 There are no direct corporate implications at this stage.

7.4 Equalities

- 7.4.1 There are no direct equality implications.

8.0 Recommendations

- 8.1 Having reviewed its position, details of which are contained in this report, that no further action be taken at the present time on a CPO of Manston Airport, on the basis that RiverOak do not fulfil the requirements of the Council for an indemnity partner;
- 8.2 Cabinet note that this is the second time that RiverOak have not fulfilled the requirements of the Council for an indemnity partner.

9.0 Decision Making Process

- 9.1 This is a non-key decision and subject to call in.
- 9.2 This is a Cabinet decision.

Contact Officer:	Tim Howes, Director of Corporate Governance & Monitoring Officer
Reporting to:	Madeline Homer, Chief Executive

Annex List

Annex 1	Cabinet Report 11 December 2014
Annex 2	Cabinet Minutes 11th December 2014

Background Papers

Title	Details of where to access copy
None	N/A

Corporate Consultation Undertaken

Finance	Tim Willis, Director of Corporate Resources
Legal	Tim Howes, Director of Corporate Governance
Communications	Hannah Thorpe, Interim Head of Communications

MANSTON CPO SOFT MARKET TESTING EXERCISE

To: **Cabinet – 16 June 2016**

Main Portfolio Area: **Council Leader**

By: **Director of Corporate Governance**

Classification: **Unrestricted**

Ward: **All wards**

Summary: **To report back on the outcome of the soft market testing exercise to identify an indemnity partner for a potential CPO for Manston Airport.**

For Decision

1.0 Introduction and Background

- 1.1 On the 10th December 2015 Cabinet agreed a formal process for identifying interest from third parties to be a Council indemnity partner for a potential CPO for Manston Airport.
- 1.2 The process involved publishing a prior information notice in the Official Journal of the European Union in early 2016 with a questionnaire to be completed by potential partners.
- 1.3 Organisations responding to the soft market test were required to provide information on finance, company structure, business plans, financial guarantors and how they viewed the CPO public interest test would be met. These organisations would be given four weeks to submit responses to the questionnaire, after which a report back on the assessment of responses would be considered at a future Cabinet meeting.

2.0 The Current Situation

- 2.1 A prior information notice (PIN) calling for expressions of interest was published in the Office Journal of the European Union (OJEU) on Friday 15 January. Parties had until Tuesday 9 February to register their interest. A total of five expressions of interest were received by this deadline.
- 2.2 The interested parties then had until Friday 12 February to submit responses to a follow up questionnaire. These questions were posed to establish the extent of their interest, capacity and capability. A total of three valid submissions were received. And further information was sought from one of those interested parties prior to final assessment of the expressions of interest.
- 2.3 There was a delay in completing the assessment of the interested parties due to the time taken in assessing the bona fides of one of those parties.

3.0 Assessment of the expressions of interest

3.1 The responses from the three parties (referred to as A, B and C) were assessed by a panel comprising the Chief Executive, the Director of Corporate Governance and the Strategic Procurement Manager.

3.2 The assessment of the responses was based upon four key lines of enquiry which were:

- Assessing capability of the market place to deliver the requirements
- Assessing whether there is an established market to deliver and an adequate number of operators
- Assessing the capacity of the market to deliver the requirements
- Assessing the feasibility and cost viability of any proposed action going forward.

3.3 The interested parties were scored (on a scale of 0-5) based on their responses to their questionnaire:

Project Questions/Parties A, B, C	A	B	C
PQ1. Please list and explain your company's involvement in any airport operation and development projects over the past 10 years. Are you able to disclose future projects to which you are committed in this area?	0	0	0
PQ2. So that we have an understanding of scale and depth, would you please list projects that your organisation has been involved in attracting or providing long-term investment for the construction of major facilities and their subsequent operation?	0	0	0
PQ3. In reopening Manston as an airport, what specific proposals do you feel would be appropriate for Manston?	1	1	0
PQ4. The potential compulsory acquisition by TDC would require partner commitment to meet the full cost and a commitment to a long term agreement to operate. How would you satisfy this requirement? What is your view on the management of the financial risks and future long-term arrangement with TDC? How would you see the legal and financial structure working?	0	0	0
PQ5. Describe how your proposals would meet the 'public interest test' which is required in promoting any CPO? You should explain and provide evidence of social, environmental and economic benefits, if not included elsewhere. In particular consider the balance between your proposals for an operational airport and the proposals from the owners of the site.	0	0	0
<p>Note:</p> <p>A score of '0' indicates 'No response to the question or the response is not considered relevant. The response is unconvincing, flawed or otherwise unacceptable. Response fails to demonstrate an understanding of the requirements.</p> <p>A score of '1' indicates 'The response provided is limited or contains aspects that are substantially irrelevant/inaccurate/misleading or only partially addresses the question or contains ambiguities or deficiencies which could not be tolerated.</p>			

- 3.4 The council has also undertaken a 'creditsafe' assessment of the interested parties. The results of that assessment were:

	Status	Latest accounts etc	Credit Limit	Credit rating	Principal Activity
A	Not incorporated Crowd funding initiative	none	none	none	Operating Manston Airport
B	Incorporated 2015 UK private limited company Active	No financial information yet filed	£500	47 (moderate risk)	Not stated
C	Incorporated 2014 UK private limited company Active	No financial information yet filed	£500	39 (moderate risk)	Freight Air Transport

- 3.5 Based on the above assessment one can draw the conclusions that in terms of the key lines of enquiry, the market cannot deliver on the council's requirements; there is no established market which is able to deliver, or an adequate number of operators; the market has no capacity to deliver the requirements and there is no cost or other benefits in taking this matter further.

4.0 Additional Interest

- 4.1 The council did receive interest from other parties, prompted by the CPO soft market testing process.
- 4.2 One party is approaching the current owners to negotiate a purchase and hence did not participate in the soft market testing process. They are backed by sovereign wealth funds (and potentially public sector pension funds) and are considering investing up to £150m, subject to a feasibility study showing that investment in the airport makes economic sense.
- 4.3 The other party also wanted to express their interest in exploring the opportunity of acquiring the Manston Airport site; therefore, they have also been directed to the current airport owners.
- 4.4 Two rounds of soft market testing have not produced a suitable indemnity partner in relation to a CPO for Manston Airport. Any additional interest in pursuing a CPO outside the soft market testing process would of course have to pass the same stringent tests.

5.0 Corporate Implications

5.1 Financial and Taxation

- 5.1.1 There are no financial considerations in relation to the recommendation.

5.2 Legal

- 5.2.1 The soft market testing exercise was carried out in accordance with the relevant rules and legislation.

5.3 Equity and Equalities

- 5.3.1 Given the recommendation it is considered that there are no implications in respect of the council's public sector equalities duty.

6.0 Recommendation

- 6.1 Cabinet note the results of the soft market testing assessment and take no further action in respect of the interested parties.

Future Meeting if applicable:	Date: 16 th June 2016
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Contact Officer:	Tim Howes, Director of Corporate Governance
Reporting to:	Madeline Homer, Chief Executive

Annex List

None	N/A
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Background Papers

Title	Details of where to access copy
None	N/A

Corporate Consultation Undertaken

Finance	Director of Corporate Resources
Legal	Director of Corporate Governance
Communications	Head of Communications