

MANSTON DCO: SUBMISSION FOR DEADLINE 4  
COMMENTS ON APPLICANT'S RESPONSE TO ExA's FIRST WRITTEN QUESTIONS (OPERATIONAL) SUBMITTED  
BY FIVE10TWELVE LTD

Dated: 8 MARCH 2019

**FOREWORD**

In an effort to aid the ExA we are submitting comments with evidence in the form of a row under each of the answers provided by the Applicant on a section by section basis

- Our comments have been highlighted in yellow for ease of identification
- We respectfully request the questions in red below the comments are considered by the ExA and/or asked of Applicant as appropriate
- As a general comment, we would like to take this opportunity to point out that the Applicant does not appear to have provided any independent evidence to support any of the statements it has made throughout its responses in the Operational section, unless such underlying third party documents have been specifically referred to by the ExA in its original questions, (e.g. Aviation National Policy Statements, ("NPS"). Any and all footnotes in this document are therefore provided by Five10Twelve Ltd as independent evidence to support our comments
- Comment or question (or lack of) does not mean agreement with or support for Applicant.

**FIVE10TWELVE LTD STATEMENT REGARDING CONFLICT OF INTEREST AND IMPARTIALITY**

For the avoidance of any doubt and in the interests of full transparency, we hereby confirm that neither Five10Twelve Ltd or its subsidiary, Love Ramsgate Ltd, or any of our Directors have any interests, either financial or otherwise, in the Manston site or any other rival development beyond those of a local business and local residents with strong concerns regarding the devastating impacts of the proposed development on the local area, economy, environment and population.

Neither Five10Twelve Ltd, or Love Ramsgate Ltd, or any of our directors have accepted any payments or any other form of compensation or inducements for presenting this or any of our other submissions or representations to the ExA. Any offers or suggestions of such from any party will be refused and immediately reported to the ExA.

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Ref No.	Respondent	Question
OP.1 Operational Issues		
OP.1.1	The Applicant	<p><b>Take-offs Runway 28/Landing Runway 10</b></p> <p>Based on <b>historic monitoring data and previous airport usage</b>, confirm how <b>probable the proposed runway preferences identified in the noise mitigation plan (APP-009)</b> are for take-offs on runway 28/landing on runway 10.</p>

<sup>14</sup> At paragraph 9.94 of the Planning Statement [APP-080] states there are ten properties?

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		<p>Applicant's Response:</p> <p>When weather conditions allow, and taking into account other operational and safety considerations including runway utilisation, the Applicant, then Airport operator / owner, will seek to operate take-offs from Runway 28 and landings on Runway 10 subject to such operations being in accordance with CAA guidance and the aircraft operator's own limitations and safety management systems.</p> <p>The Applicant has made a study into the use of the above 'Preferential Runway Strategy'; however this will not always be achievable due to prevailing wind and runway conditions. The results of the study were sensitive to rain fall and changes in wind direction. However, the study shows that around 70% of landings could be made to Runway 10 and that up to 80% of take offs could be made from Runway 28.</p> <p>The anticipated capability to use 'Preferential Runway Strategy' is due mainly to improved aircraft performance and regulatory changes, but the recognition that historically previous Manston Airport owners or operators had neither considered a 'Preferential Runway Strategy' nor planned for this type of operation when the actual weather, and forecasts, allowed. The navigational equipment (instrument landing system (ILS)) that existed previously was only of category 1 precision and, in the case of runway 10, lacked a glide path indicator. The development plan for the airport includes the installation of full category 3 ILS on both runways. The comparative lack of precision coupled with the absence of a glide path indicator on runway 10 meant that the aircraft had to rely on visual methods to perform a landing; thus landing on runway 10 required good visibility and consequently 28 was the preferred landing runway in many cases of less than good visibility (such as rain).</p> <p>At busy airports, switching from one runway direction to the other causes delays and is therefore discouraged. However, at current forecast Manston ATM, an average of less than 3 movements (a landing and a take-off) per hour will take place. This allows for judicious runway switching and utilisation without requiring delays or holding circuits.</p>
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		<p><b>COMMENTS</b></p> <p>We note that Applicant did not answer the question about historic monitoring data and previous airport usage and instead talked about what could/ seek/ hope to happen.</p> <p>We also note Applicant makes a number of statement and assumptions without any evidence.</p> <p>We note the Applicant contradicts this answer below at OP.1.13B</p> <p>According to the CAA an aircraft's ability to follow an exact route is affected by such factors<sup>1</sup> such as:</p> <p><b>(1) navigational equipment</b></p> <p><b>(2) the type and weight of aircraft</b></p> <p><b>(3) the weather conditions - particularly winds that may cause drift when aircraft are turning or if a headwind becomes too strong (gusts included) or crosswind become too strong (gusts included)</b></p> <p>Applicant does not in fact know what will the weather will be in the future.</p> <p>Applicant does have historic data of weather patterns including weather from last year which show historically weather patterns<sup>2</sup> which show a predominant wind from the South-West which would mean that Applicant has fudged historic facts or taken the best case scenario.</p> <p>Applicant does not in fact know what type and weight of aircraft will be operational.</p> <p>It is also well known in the industry - at least to the Independent Transport Commission - that dedicated freighters are usually either conversions of older passenger aircraft or the last aircraft from a given aircraft production line. This means that the rates of technology implementation for dedicated freighter airlines are among the lowest in the industry<sup>7</sup>.</p>
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<sup>1</sup> CAA Noise Preferential Routes **OP-001**

<sup>2</sup> [http://rp5.co.uk/Weather\\_archive\\_in\\_Manston\\_\(airport\)](http://rp5.co.uk/Weather_archive_in_Manston_(airport))

<sup>3</sup> Peter Hind and RDC Aviation, March 2016, The Sustainability of UK Aviation: Trends in the mitigation of noise and emissions (Independent Transport Commission) Para 4.23. **OP-002**

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		<p>Applicant does have historic data of the types of aircrafts that were operational at Manston before it closed.</p> <p>Currently Applicant has no track record and no airplane operators it is reasonable to assume that Applicant may not have as much choice as it would wish as to aircraft operators and by extension which planes.</p> <p>Applicant above it states that <b>ON CURRENT FORECASTS</b> 'an average of less than 3 movements (a landing and a take-off) per hour will take place' this will amount to <b>26, 280</b> (24 hours X 3 ATMS X 365 days) on a 24 hour day. As stated above this is just a "current forecast" (shaded in red above).</p> <p>George Yerrall one of the directors of Applicant is interviewed on 7 October 2018 by the Guardian, this article states that "...could see Manston reopen as a cargo hub, handling up to <sup>2</sup> 7,444 (nearly 674 every day) freight aircraft a year<sup>8</sup>".</p> <p>However, below Applicant has stated at <b>OP 1.11</b> the physical capability of Work No. 9, the 19 cargo stands, is as mentioned in the application, calculated as <b>83,220 ATMs a year</b>. The physical capability of Work No. 10, the three recycling stands is calculated as <b>36 ATMs a year</b> (each stand receiving one aircraft which takes a month to dismantle). The physical capability of Work No. 11, the four passenger stands, is calculated as <b>43,800 ATMs a year</b>. This is based on each stand managing <b>15 incoming and outgoing flights between 0700 and 2300</b> with an hour's dwell time and 10 minutes between a flight leaving and the next one arriving.</p> <p>It seems now the worse case realistic number of ATMS is <b>127,056 ATMs (freight + passenger+ planes for recycling)</b> this is <b>740% MORE</b> than what was assessed in the Environmental Statement.</p>
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<sup>4</sup> 7 October 2018 Top-Flight Venture or Relic of the Past, Thanet Must Decide on Manston Airport bottom of Page 1. **OP-003**

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		<p><b>RESPECTFULLY REQUEST OF THE EXAMINING AUTHORITY</b></p> <ol style="list-style-type: none"> <li>1. Applicant should be asked to provide realistic noise data on historical use of the runways and with type of aircrafts Manston historically attracted (particularly as nothing has changed - it is in the same place with the same surface access infrastructure - as you will be aware the HS1 opened on 2007 whilst the former airport was a working airport) .</li> <li>2. Applicant should be asked to provide update Figures provide in <b>APP-042</b> and the Environmental Statement to reflect this realistic scenario.</li> <li>3. Applicant should be asked to provide the same as a worse case realistic basis.</li> <li>4. Applicant above at OP1.1 has stated that “<b>current</b> forecast Manston ATM, an average of less than 3 movements (a landing and a take-off) per hour will take place”</li> <li>5. Applicant should be asked to provide worse case realistic scenario Environmental Statement on its revised number of ATMs which are <b>127,056</b> ATMS.</li> <li>6.</li> </ol>
OP.1.2	The Applicant	<b>N60dbLsmax (APP-042]</b>

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		<p>The ES provides N60 contours for night time noise in Figures 12.12 and 12.13 [APP-042].</p> <p><b>In line with the requirements of the Air Navigation Guidance 2017 – paragraph 3.11 in reference 7 of Chapter 12 of ES (APP-034), confirm whether N65 daytime contour maps have been prepared for the Proposed Development.</b></p>
		<p>Applicant's Response:</p> <p>This is a duplication of question Ns.1.36 – please see response to that question.</p>
OP.1.3	<p>The Applicant</p> <p>Civil Aviation Authority (CAA)</p> <p>European Aviation Safety Agency (EASA)</p>	<p><b>Aerodrome certificate</b></p> <p>Box 1.1 of the Environment Statement [APP-033] states:</p> <p>“The CAA is the statutory corporation which oversees and regulates, either directly or indirectly, all aspects of civil aviation in the UK; it is a public corporation of the DfT. Any airport in the UK which is used for commercial passenger flights, public transport flights and/or flying training in aircraft above a specified weight, is required to obtain, from the CAA, an Aerodrome Licence.</p> <p>The EASA is an agency of the European Union (EU) with regulatory and executive tasks in the area of civilian aviation safety. Representatives from the member states national aviation authorities, such as the CAA, sit on the EASA's advisory bodies. From 31 December 2017 aerodromes in the UK which are open to public use and which serve commercial air transport, where operations using instrument approach or departure procedures are provided, and which have a paved runway of 800m or above, or exclusively serve helicopters, are required to comply with EASA regulations and obtain an EASA Certificate to replace their CAA Aerodrome Licence.”</p> <p>Paragraph 4.8 of the Consultation Report [APP-075] dated July 2018 states:</p>

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		<p>"The process of obtaining these consents will run alongside the DCO application process and a decision on them will be made by the CAA rather than the Secretary of State."</p> <p><b>What is the current status of this parallel application?</b></p>
		<p>Applicant's Response:</p> <p>The Applicant has <b>not yet commenced</b> the CAA's regulatory process under the Civil Aviation Act 2012, although it has <b>started the Airspace Change Process (ACP)</b>, having obtained <b>a special permission to do so</b> at an airport that is closed, to allow coordination with the DCO application. <b>The start of the certification and licensing application is expected in the latter part of 2019.</b></p> <p>The Applicant has held a number of meetings (See Appendix Ns.1.11 in TR020002/D3/FWQ/Appendices) with the CAA, including the facilitation of a <b>CAA/PINS Process Workshop</b>, to ensure that the Aerodrome Certification process remains aligned with, and within the bounds of, the DCO submission.</p> <p><b>Based on guidance from the CAA</b>, the application for an Aerodrome Certificate will not be submitted <b>until all aspects of the operation have been identified</b>; this is likely to be after the DCO decision has been made. However, work on building the extensive body of evidence required to support the submission has already begun. The Aerodrome Certificate application, in terms of the Airport's physical infrastructure, extent, concept of operation and management, to the CAA will remain within the bounds of the DCO submission.</p>



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		<p><b>COMMENTS - AERODROME</b></p> <p>A. An Aerodrome requires an Aerodrome Traffic Zone - this is a Level 2c Airspace Change Proposal (one of the two Airspace Change Proposals required) - in addition to the Aerodrome certification as well as the Level 1a Airspace Change Proposal.</p> <p>B. Aerodrome certification takes approximately 1 ½ years. Level 2c Airspace Change Proposal will take less than 110 weeks. Level 1a Airspace Change Proposal will take 110 weeks.</p> <p>C. The Applicant held the CAA/PINS Process Workshop back in mid 2017.</p> <p>D. Applicant received what it refers to above as “a special permission to<sup>5</sup>” progress the application but not to have issued to it an aerodrome certificate some <b>two years ago</b>. This still has not progressed the Aerodrome Licence pre-issuance stage.</p> <p>E. As evidenced in <b>REP2-013</b> CAA 2(a) Aerodrome Licence: On 16 January 2017 CAA wrote to Applicant stating (bold has been added for emphasis):</p> <p>“...RiverOak does not meet the conditions necessary to apply for a certificate. However, knowing their plan to acquire the aerodrome and the timescales required to do this and then to achieve certification (together with the necessary airspace elements), the CAA Aerodrome Sector is prepared to accept an application. It must be understood that we will not issue an aerodrome certificate until clause (b)(<sup>6</sup>) is met, notwithstanding progress against all the certification requirements. Additionally, as discussed at the meeting, RiverOak understands that it holds the risk with this approach as the ownership of the site or the agreement of the landowner is required or us to issue a certificate. [CAA] would appreciate your confirmation of this, following which we would be willing to allow the certification process to commence<sup>6</sup>”</p>
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<sup>5</sup> Unlike an Airspace Change Proposal **which is not linked to land ownership**. An Aerodrome Certificate can only be issued to the owner of the site consequently all the work could be done but the certificate not issued until (and if) Applicant became the owner of the land.

<sup>6</sup> Email dated 16 January 2017 between Applicant, Osprey and CAA from a pack called 20170919Attachment1.pdf through a Freedom of Information Act 2000 request by third party for any correspondence, minutes of meetings, telephone conversations or other forms of contact between CAA and any party with respect to Manston Airport since the licence to operate was revoked by the current owners of the site. Please include in particular details of all and any contact with RiverOak Investments In the United States, RSP Ltd the company trying to acquire the site using a DCO, Sir Roger Gale MP, Craig MacKinlay MP and The Planning Inspectorate in the UK **ATTACHED to REP2-013 at SJH\_12**

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		<p>The next day, Applicant reverted confirming to CAA "[Applicant] is prepared to proceed at [our] risk<sup>7</sup>".</p> <p>F. On 54 March 645<sup>1</sup> CAA wrote to Applicant stating:          "...The most suitable to make the formal application will be approximately 5 + years prior to opening. Once [CAA] have received the certification fee, completed the application form and Aerodrome Manual, [CAA] can allocate and Inspector(s) to the workstream. It will be necessary to conduct a pre--certification site inspection and audit which ideally should be done approximately <sup>3</sup> months to 5 year before opening; this normally provides sufficient time to put in place any changes necessary in order to meet compliance and ahead of certification<sup>8</sup>". As of 5 February 2019 CAA confirmed that it had not received any application for an aerodrome licence from RiverOak Operations Ltd, RiverOak Strategic Partners Ltd or RiverOak Investment Corp<sup>9</sup>".</p> <p>G. We note Applicant states that it will start this process in the latter part of 2019. This will push opening back (conditional if able to access site to commence necessary works re Special DCO and Operation Stack and Applicant has sufficient financing and funding and all other matters are dealt with re Compulsory Acquisition as well as Level 1a Airspace Change Proposal) <b>to mid 2021</b>. If not, until <b>mid 2022 or later</b>. This would affect all forecasts particularly in light of time scales for Heathrow and Gatwick increases in capacity. As well as a number of other airports increasing airfreight capacity.</p> <p><b>RESPECTFULLY REQUEST OF THE EXAMINING AUTHORITY</b></p> <ol style="list-style-type: none"> <li>1. In light of the above exchange between the CAA and Applicant, it is unclear why Applicant was pushing to proceed with Aerodrome Certification and indeed confirmed to CAA that it was ready to get to pre-issuance over 2 years ago. We respectfully request that the ExA might question why the change of plans?</li> <li>2. Applicant should provide revised forecasts as information within the Azimuth report is significantly out of date currently being 4 and in places 9 years old and in pushing it back to 7 to 12 years it will be severely out of date.</li> </ol>
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<sup>7</sup> Ibid Email of 17 January 2017 between Applicant, Osprey and CAA **ATTACHED to REP2-013 at SJH\_12**

<sup>8</sup> Ibid Email of 10 March 2017 between Applicant, Osprey and CAA **ATTACHED to REP2-013 at SJH\_12**

<sup>9</sup> Email of 15 February 2019 between CAA and me **ATTACHED to REP2-013 at SJH\_12**

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		<p>3. We note Applicant states “ <b>until all aspects of the operation have been identified</b>” above (last para line 1). Applicant should provide clarification as to what it in fact means by this statement. Particularly as we are a third of the way through the Examination.</p>
OP.1.4	The Applicant	<p><b>Defence Industry Organisation Safeguarding (DIOS) [RR- 0442]</b></p> <p>The Proposed Development occupies the statutory technical safeguarding consultation zone surrounding the Manston High Resolution Direction Finder (HRDF) and DIOS have consistently raised concerns to this application due to no successful mitigation being identified. The HRDF is a critical piece of technical equipment for the MOD it is used to precisely locate transmissions from aircraft and supports the delivery of air traffic control functions. The mast serves as an integral part of UK</p>

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		<p>wide network (the UK Diversion and Distress Facility) which is used to locate aircraft or personnel and direct rescue emergency response capabilities for the management of air safety incidents. DIOS believe the application in its current form may cause a physical infringement to the operation of the asset.</p> <p><b>What mitigation is the Applicant proposing for the HRDF?</b></p>

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		<p>Applicant's Response:</p> <p>The Applicant fully recognises the critical importance of this installation and has been engaging with the Defence Industry Organisation (DIO) on the topic since 3 January 2017. To ensure its continued availability, the Applicant commissioned a detailed safeguarding assessment of both the current installation and up to 5 alternative locations both on and off the airfield which it has shared with DIO. As a result the Applicant has identified an alternative location which, assessments indicate, would give at least the same level of capability provided by the current location. The Applicant has reached agreement with the landowner of a site it considers would be suitable to accommodate this facility. It is adjacent to the land which will accommodate the approach lights in respect of which the Applicant has a 25 year lease with the same landowner. Subject to DIO agreement, the Applicant proposes to secure an appropriate site (outside the subject development 'red line') and building and testing a new installation to the satisfaction of DIO, before the current installation is decommissioned. The Applicant's intention is to provide an equivalent level of capability, at no cost to DIO, and with no break in service.</p> <p>On 18 October 2018 the Applicant held a meeting with DIO staff, including safeguarding and legal representatives, to discuss the Applicant's proposals. It was agreed that there is now a need for a technical assessment of the proposed new location by a third party organisation (Aquila) on behalf of the MOD to confirm the level of capability that the new site would provide. The Applicant believes the new site to be acceptable and in some respects better than the current location (e.g. fewer nearby structures).</p>
OP.1.5	The CAA	<b>Prototype routes</b>

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		<p>Paragraph 9.89 of the Planning Statement [APP-080] states:</p> <p>"Prototype routes have been used for the assessment of aircraft noise, which have been developed around design principles, namely 'avoid overflying populations', 'overfly populations' and 'swathe centre line'. An options appraisal of these principles is presented in Appendix 12.3 of Chapter 12 of the ES [document reference TR020002/APP/5.2-12] which, demonstrates that the variation in the population adversely effected and significantly adversely effected by noise across the design principles is less than 1%, based on the operating conditions modelled. This process is both normal and unavoidable due to the separate consenting regimes. The assessment is therefore robust because it has considered the range of design outcomes which could occur following the completion of the ACP."</p> <p><b>i. What is the view of the CAA of the &lt;1% calculation?</b></p> <p><b>ii. Does the CAA agree that the ES [APP-034] has considered the range of design outcomes that will be part of a future ACP application?</b></p> <p><b>iii. In CAA's experience, is it always necessary to seek an ACP following a planning consent application?</b></p> <p>Applicant's Response:</p> <p>N/A</p>
OP.1.6	The Applicant	<p><b>Night flights</b></p> <p>Section 12.5.8 of Volume 2, Chapter 12 of the Environmental Statement [APP-034] proposes an annual quota count for night flights (23:00-07:00).</p> <p><b>How is this value (3,028) calculated?</b></p>

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		<p>Applicant's Response:</p> <p>The proposed annual night-time quota count (QC) was calculated by applying established QC values to the aviation forecast used for the calculation of night-time aviation noise. The calculation is based on the representative fleet mix (ie. aircraft types) provided at ES Appendix 12.3 [APP-057], and an annualised number of night flights (6.7 per night over the course of one year). The proposed night-time QC is therefore consistent with the realistic worst-case scenario presented in the noise assessment.</p>
		<p><b>COMMENT</b></p> <p>A. Paragraph 5.62 of the Airports National Policy Statement<sup>10</sup> states: The Government also expects a <b>ban on scheduled night flights for a period of six and a half hours</b>, between the hours of 11pm and 7am, to be implemented<sup>11</sup>.</p> <p>B. Therefore there should be no scheduled night flight at all.</p> <p>C. Applicant has publicly stated there will be <b>no night flights</b> whilst being interviewed by the Guardian<sup>12</sup></p> <p>D. Applicant has publicly explained on video submitted as evidence<sup>13</sup> when there will be night flights:</p> <p>"0:44am - 1:44am for passenger flights only (7/8/9/0 dependent on Ryanair)"</p> <p>"evening slots scheduled up to 54:44pm but sometimes these could run late".</p>

<sup>10</sup> [ ]

<sup>11</sup> 11pm to 7am is the standard night period used in noise measurement, and is used in World Health Organisation guidelines and the Environmental Noise Directive

<sup>12</sup> 7 October 2018 Top-Flight Venture or Relic of the Past, Thanet Must Decide on Manston Airport Page 2

<sup>13</sup> YouTube Video 25 November 2018 Applicant at a Save Manston Airport BBQ explaining when there will be night flights means (sound bites are taken from the audio recording) (**separately provided and labelled**)

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		<p>"the night shift will be finishing 67:44 so there will be no-one there manning, staffing the airport then anyway"</p> <p>"we will allow in some circumstance late running inbound cargo aircraft to land BUT there will be no night departures from Manston of cargo - we will not schedule it - we will not allow it!<sup>14</sup>"</p> <p>E. We note that from what the Applicant has said publicly that no night flights are required until (and if) there are passenger flights.</p> <p>F. We note from Applicant description of Quota Counts and with a quota count of 3028 that there could be an even greater number night flights.</p> <p><b>RESPECTFULLY REQUEST OF THE EXAMINING AUTHORITY</b></p> <ol style="list-style-type: none"> <li>1. There has never been night flights at Manston.</li> <li>2. The airport has been closed for 5 years.</li> <li>3. Applicant should remove the night flight quota count until (and if) passenger flights are located at Manston.</li> <li>4. Applicant should evidence how it worked out there will be 8 flights a night (ie one a night not scheduled flight). Elsewhere Applicant has stated that it will 3 (O.P 1.1 above) or 5 flights an hour.</li> <li>5. Applicant should remove scheduled night flights.</li> </ol>
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<sup>14</sup> YouTube Video 25 November 2018 Applicant at a Save Manston Airport BBQ explaining when there will be night flights means (sound bites are taken from the audio recording) **(separately provided and labelled)**

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OP.1.7	The Applicant	<p><b>Safety</b></p> <p><b>i. Do your forecasts indicate a date by when Public Safety Zones (PSZs) may need to be implemented?</b></p> <p><b>ii. If so, what provisions and modelling have been put in place for such an eventuality?</b></p> <p><b>iii. Would such PSZs affect any existing or consented residential properties?</b></p> <hr/> <p>Applicant's Response:</p> <p>i. The Applicant's forecasts <b>do not indicate a date by when Public Safety Zones (PSZs) may need to be implemented</b>. The Annex to the Department for Transport (DfT) Circular 01/2010 (Control of Development in Airport Public Safety Zones) dated 5 March 2010 [see Appendix OP.1.7 at TR020002/D3/FWQ/Appendices] states at paragraph 1:</p> <p>Public Safety Zones are areas of land at the ends of the runways at the busiest airports, within which development is restricted in order to control the number of people on the ground at risk of death or injury in the event of an aircraft accident on take-off or landing.</p>
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		<p>Appendix A – Circular 01/2010 does not specifically define what constitutes the 'busiest airports' but it is understood that the DfT's current policy is that PSZs should be established at those airports which are shown to average more than 1,500 Air Traffic Movements (ATM) a month and are likely in due course to exceed 2,500 ATM's a month.</p> <p>Based on this understanding of the DfT's policy the threshold for establishment of a PSZ is 18,000 ATM's per year. This assessment is supported by evidence of the 32 UK airports which currently have a PSZ. Based on CAA Statistics [see Appendix OP.1.7 at TR020002/D3/FWQ/Appendices], with the exception of Doncaster Sheffield Airport which in 2017 had 17,435 movements (average 1,453 per month), all other airports that have PSZ averaged over 1,500 ATMs a month. Therefore, the Applicant, as the then operator / owner, would consider the introduction of a PSZ if movements were to exceed the 18,000 per year threshold.</p> <p>ii. To determine which airports should have PSZs, the DfT considers CAA Statistics [see Appendix OP.1.7] on ATM as well as risk-model analysis. National Air Traffic Services (NATS) are responsible (under contract to the DfT) for operating and designing the risk contours that predict the size and shape of PSZs. This is done using the DfT's risk contour model and is based on up-to-date worldwide accident data and data regarding operations supplied by the airport.</p> <p>As it is not yet clear when the threshold for a PSZ would be reached at Manston Airport and because the risk modelling requires the latest airport and worldwide accident data, the Applicant has no current plans for such modelling. However, should the threshold be reached, the Applicant, as the then operator / owner would engage with DfT to confirm the requirement and commission NATS to conduct the necessary risk modelling.</p> <p>iii. PSZs are areas of land at the end of runways established at the busiest airports in the UK, The area of a PSZ corresponds to the 1 in 100,000 individual risk contour for that airport; any person who lives within this risk contour for a period of a year, or has their normal place of work within this contour, has approximately a 1 in 100,000 chance per year of being killed as a result of an aircraft accident. This is the level at which the risk from aviation activity begins to merge with other non-aviation or 'background' risks. Compared to other risks we take every day, this is very low (the risk of being killed in a road accident is about 1 in 18,500; 5.4 times higher than the chance of being killed as a result of an aircraft accident). The size of a PSZ is subject to many factors, some of which (such as worldwide accident data) will change over time. Equally, the DfT risk model operated by NATS is a highly complex series of algorithms and calculations. It is therefore very difficult to say definitively at</p>

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		<p>this stage whether a future PSZ would impact on existing or consented residential properties. Individual risk is generally defined in safety literature as the risk of death per year to a representative or specified individual as the result of the realisation of specific hazards. For airport Third Party Risk (TPR) assessment the risk considered is death as a direct result of an aircraft crash. Individual risk at a particular location in the vicinity of an airport is assessed for a nominal individual who is assumed to reside at that location for 24 hours a day, every day of the year. This clearly results in an overestimate of the risk actually experienced by a real individual although this approach is consistent with the methods used when assessing TPR from industrial activities. In order to calculate the individual risk at a given location near to an airport, 3 quantities are needed:</p> <ul style="list-style-type: none"> <li>• the annual statistical expectation that an aircraft crash occurs in the vicinity of the airport (crash frequency);</li> <li>• the probability, given that a crash has occurred, that it affects a particular location (crash location model); and</li> <li>• the size of the area likely to be damaged as a result of a particular crash and the proportion of people in this area likely to be killed (crash consequence model).</li> </ul> <p>The crash frequency at an airport is determined by the number of aircraft movements that occur and the crash rates of the aircraft types performing those movements. Crash rates are calculated for generic groups of aircraft dependent upon the type of operation they are undertaking. Crash location and crash consequence models are derived from analysis of historical crash data. The large aircraft specific model consists of four separate mathematical location probability distributions for different types of crashes:</p> <ul style="list-style-type: none"> <li>• landing overruns (including veer-offs)</li> <li>• landing crashes from flight</li> <li>• take-off overruns (including veer-offs)</li> <li>• take-off crashes from flight</li> </ul>

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		<p>It should be noted that whilst every effort is made to ensure that the modelled scenarios are as representative of real life as is possible, risk modelling can never predict future ATM operations with 100% certainty.</p> <p>It is not unusual for a PSZ at one end of a runway to be generally a little larger than the PSZ at the other end due to frequency of use for take-off or landing. A 'Preferential Runway Strategy' will be used at Manston whereby the majority of flight departures will be to, and arrivals from, the west.</p> <p>PSZs tend to extend away from the runway (a region behind the runway's landing threshold), as an isosceles triangle with its base centred at the end of the runway and extending outwards centred on the extended runway centreline, decreasing in width with distance from the end of the runway., The triangle tapers with a slight concaved curve to meet the extended width of the runway at approximately one third of the overall triangular length from the base, The PSZ length for the major runways at London Heathrow, with forecast movements for 2022 of 740,000, averages 3 kilometres (km). The PSZ for Exeter Airport's runway are less than 2km at both ends for current movements of 15,000. The Applicant understands that it is very unlikely that the 1 in 100,000 contour at the end of runway 28 (to the west of the Airport) would affect any existing or consented residential properties but at the end of runway 10 impingement of the contour apex to the western edge of the domestic area of Ramsgate enclosed by the railway line and Manston Rd to the northwest and the A299 and A255 to the southeast (being less than 2km from the end of the Manson runway) cannot be discounted.</p>

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		<p><b>COMMENTS</b></p> <p>A. The basic policy objective governing the restriction on development near civil airports is that there should be no increase in the number of people living, working or congregating in Public Safety Zones and that, over time, the number should be reduced as circumstances allow.</p> <p>B. Public Safety Zones (PSZs) are currently in place at all airports referenced in Applicant's July 2018 Consultation Report (<b>APP--075</b>) notably Bournemouth, London Luton, Prestwick (Glasgow), Southend, Southampton and since 2011 even Jersey<sup>15</sup> The Applicant has identified Jersey as less busy than (below).</p> <p>C. As confirmed below a Public Safety Zone is established on <b>forecasts about the numbers and types of aircraft movements fifteen years ahead<sup>16</sup></b>.</p> <p>D. The current policy is that PSZs should be established at those airports shown to average more than 1,500 ATMs a month (18,000 ATMs a year) and are likely in due course to exceed 2,5000 ATMs on forecasts <b>about the numbers and types of aircraft movements fifteen years ahead</b>.</p> <p>E. On the numbers and types of aircraft that Applicant has forecast Public Safety Zones are required.</p> <p>F. In addition, Ramsgate is on top of a cliff and the altitude must be taken into account. As well as the fact that the runway's distinct orientation, proximity to Ramsgate (about half a mile) and height of low--flying planes (400--600 feet from ground over Ramsgate Town centre and Royal</p>
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<sup>15</sup> States of Jersey - revised 2011 Island Plan - Airport Public Safety Zones

<sup>16</sup> Department of Transport Circular 01/2010 (5 March 2010) Control of Development in Airport Public Safety Zones (**Separate attachment as secure document**)

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		<p>Harbour).</p> <p>G. This unique set of factors existing for Ramsgate - cliffs/ high altitude, close proximity to runway and orientation of runway over town centre is NOT replicated in the above example.</p> <p>H. Even on a worse case realistic scenario they are required because of one of the above factors let alone all 3 factors in addition to the ATM forecast fifteen years ahead.</p> <p>I. Applicant is also planning to recycle 36 planes a year which by definition are not airworthy. It is unclear how these planes will arrive at Manston and whether they will fly over residential areas and schools.</p> <p>J. It is also well known in the air cargo industry - at least to the Independent Transport Commission - that dedicated freighters are usually either conversions of older passenger aircraft or the last aircraft from a given aircraft production line. This means that the rates of technology implementation for dedicated freighter airlines are among the lowest in the industry<sup>51</sup>.</p> <p>K. Applicant is well aware that Public Safety Zones are a requirement from his time working at Manston previously as it was discussed in 2009 during his time at Kent International Airport (now known as former Manston airport) during the Draft Masterplan consultation.</p> <p>L. Pursuant to the Department for Transport Circular 01/2010 administrative responsibilities for implementing the Public Safety Zone (PSZs) now lie with the Civil Aviation Authority (CAA)<sup>18</sup>.</p>
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<sup>17</sup> Peter Hind and RDC Aviation, March 2016, The Sustainability of UK Aviation: Trends in the mitigation of noise and emissions (Independent Transport Commission) Para 4.23. **OP-002**

<sup>18</sup> Department of Transport Circular 01/2010 (5 March 2010) Control of Development in Airport Public Safety Zones (**Separate attachment as secure document**)

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		<p>The CAA has responsibility for the implementation of the new PSZs and the review and update of existing PSZs, as instructed by DfT.</p> <p>M. PSZs are based on the landing threshold for each end of the runway and taper away from the runway.</p> <p>N. Applicant proposing to put larger PSZ where there is less risk to harm is illogical.</p> <p>O. Department for Transport Circular 01/2010 paragraph 6:</p> <p>"The Secretary of State wishes to see the emptying of all occupied residential properties and of all commercial and industrial properties occupied as normal all-day workplaces within the 5 in 54,444 individual risk contour. In cases where any part of the residential property falls within this contour he will expect the operator of an airport for which new Public Safety Zones have already been established to make an offer to purchase the property...In addition, he will expect such operators to make an offer to purchase, in whole or in part, a commercial or industrial property..."<sup>19</sup></p> <p>P. Department for Transport Circular 01/2010 paragraph 7 :</p> <p>"The Secretary of State will expect all such offers to be kept open indefinitely...The Secretary of State will be prepared to consider applications for compulsory purchase orders by airport operators with powers under section 59 of the Airports Act 1986"<sup>20</sup></p>
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<sup>19</sup> Department of Transport Circular 01/2010 (5 March 2010) Control of Development in Airport Public Safety Zones (**Separate attachment as secure document**)

<sup>20</sup> Department of Transport Circular 01/2010 (5 March 2010) Control of Development in Airport Public Safety Zones (**Separate attachment as secure document**)

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		<p><b>RESPECTFULLY REQUEST OF THE EXAMINING AUTHORITY</b></p> <ol style="list-style-type: none"> <li>1. Applicant should provide evidence from a governing body that confirms its stance on Public Safety Zones.</li> <li>2. Based on the number of flights and type of aircraft forecasted if a new runway is opened at Manston - Public Safety Zones will be required.</li> </ol>
OP.1.8	The Applicant	<p><b>Should PSZs be required, are the effects of such zones considered within the ES?</b></p> <p>Applicant's Response:</p> <p>The Applicant has not considered the effects of PSZs within the ES as it is a strategic planning issue that should be included as a constraint in any Local Plan. The Local Plan will be subject to a strategic environmental assessment which is the appropriate level at which to consider such issues. The dimensions of the PSZ would be subject to complex modelling by NATS using a risk model provided by DfT which takes into account up to date worldwide accident data and the latest operational data provided by the airport. The Applicant understands, from DfT Circular 01/2010 (Control of Development in</p>

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		<p>Airport Public Safety Zones) paragraph 22 (see Appendix OP.1.7 at TR020002/D3/FWQ/Appendices), that responsibility would lie jointly between the Local Planning Authority and the Airport operator:</p> <p>‘Regional Spatial Strategies and Local Development Frameworks should include a policy stating that Public Safety Zones have been established for a particular airport and that there is a general presumption against most kinds of new development and against certain changes of use and extensions to existing properties within the Zones...’</p>
		<p>Cogent Land LLP ( CL ) were granted planning permission for the site known as Manston Green (LPA ref: OL/TH/14/0050). In 2016, the airport was not operational. At that time there were hopes for an aspirational airport of passenger flights not cargo planes which were dashed by a number of reports which evidenced that an airport at Manston was not viable.</p> <p>And certainly not for anything like Applicant's forecasts about the numbers and types of aircraft movements fifteen years ahead. We evidenced this in our Submission G1.</p>
OP.1.9	The Applicant	<p><b>What would be the likely impact of safeguarding zones (for all obstacle limitation surfaces)?</b></p> <p>Applicant's Response:</p> <p>The Applicant recognises that, as part of its responsibilities under the Aerodrome Certificate issued by the CAA on behalf of EASA, it would be required to maintain the integrity of the aerodrome's operations, its Instrument Flight Procedures (IFPs) and its Obstacle Limitation Surfaces (OLS) by ensuring they are safeguarded against any development that may impact upon their operation. The effect within the safeguarded zones is to limit the vertical and lateral extent of physical (commercial, technical or domestic) development if it were to have an adverse impact on operations. The Applicant, as the operator / owner would lodge a safeguarding plan / scheme with the Local Planning Authorities (LPA) which would act as an initial filter for planning consents in respect of which the Applicant would submit objections as necessary.</p>



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OP.1.10	The Applicant	<b>i. What would be the impact, if any, of safeguarding zones on future developments near the airport in terms of blight and</b>
		<b>ii. Would the consented Manston Green proposal be affected?</b>
		Applicant's Response:

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		<p>i. The Applicant anticipates that the 'safeguarding process' would only have an impact on future developments insofar that such developments would interfere with the safeguarding of zones which aims to limit the vertical and lateral extent of physical development if it were to have an adverse impact on operations.</p> <p>ii. The Manston Green development was included in the cumulative assessment in Chapter 18 of the Environmental Statement (APP-035). The significant cumulative effects from the Proposed Development and the Manston Green development are summarised in Table 18.8 of APP-035 and relate to cumulative visual effects and operational noise.</p> <p>The Applicant anticipates that the Manston Green development would not be affected by any safeguarding zone, save that further surrounding planned development, following opening of the Airport, might be restricted in physical dimension. However, the current planning consent for Manston Green requires allowance to be made for the future operation of Manston Airport (see Appendix OP.1.10 at TR020002/D3/FWQ/Appendices). These zones would only apply to future developments that will be seeking planning consent through the normal planning process once the Local Planning Authority has set the safeguarding zone, in consultation with the then Airport owner / operator following the opening of the Airport.</p>
		<p>This will affect housing supply in Thanet.</p>

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OP.1.11	The Applicant	<p><b>Air Traffic Movements (ATMs)</b></p> <p>Table 3.1 of the Planning Statement [APP-080] provides a forecast passenger and freight movement numbers (2019 to 2039). This is derived from the Azimuth Report [APP-085].</p> <p>The dDCO[APP-006] states in Schedule 1:</p> <p>“Work No.9 — The construction and rehabilitation of pavements for the creation of 19 Code E aircraft parking stands and associated pavement and infrastructure.</p> <p>Work No.10 — The construction and rehabilitation of pavements for the creation of 3 Code C aircraft parking stands and associated pavement and infrastructure.</p>
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		<p>Work No.11 — The construction and rehabilitation of pavements for the creation of 4 Code C aircraft parking stands and associated pavement and infrastructure.”</p> <p><b>What is the “physical capability”<sup>15</sup> of Works Nos. 9,10 and 11 to handle freight and passenger ATMs/year?</b></p>
		<p>Applicant's Response:</p> <p>The physical capability of Work No. 9, the 19 cargo stands, is as mentioned in the application, <b>calculated as 83,220 ATMs a year.</b> The physical capability of Work No. 10, the three recycling stands is calculated as <b>36 ATMs a year</b> (each stand receiving one aircraft which takes a month to dismantle). The physical capability of Work No. 11, the four passenger stands, is calculated as <b>43,800 ATMs a year.</b> This is based on each stand managing 15 incoming and outgoing flights between 0700 and 2300 with an hour's dwell time and 10 minutes between a flight leaving and the next one arriving.</p> <p>Given the concern expressed about this issue in relevant representations and by the Examining Authority through its questions, and since the Applicant does not expect the number of ATMs assessed in the ES to be exceeded, it is now adding an annual limit of ATMs equivalent to the number assessed in the ES, namely 17,170 cargo plus 9,298 passenger movements, i.e. 26,468 movements in total. This cap has been included in the revised Noise Mitigation Plan being submitted at Deadline 3. <b>This total includes the movements generated by the 3 recycling stands but does not include general aviation movements.</b></p> <p>To put this into context, in 2017 Heathrow had 476,186 ATMs, 18 times as many, and the figure above would make Manston the 18th busiest airport in the UK, just above Jersey. It corresponds to an average of 73 ATMs a day.</p>

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		<p>The ES needs to be revised to identify Environmental Impact of above and what (if any) mitigation will be sufficient. An aspirational cap is meaningless. It is still unclear as to why Applicant needs to build all these works if they are not going to be used. Freighters sitting around all day and warehouses built and not operational - surely is a sustainability issue aside from being a "land grab"</p> <p>Please note in this answer Applicant identifies Jersey as being a less busy airport - Jersey has PSZs</p>
OP.1.13A (NUMBER	The Applicant	At the Open Floor Hearing held on 10 January 2019, an Interested Party suggested a range of options to consider, including a displaced threshold for Runway 28 and the use of steeper glideslopes for the same runway.

<sup>15</sup> Paragraph 1.31 of [APP-080]

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USED TWICE – 1.12 NOT USED)		<p>i. <b>With reference to likely aircraft types and weights consider whether a displaced threshold for runway 28 could be utilised.</b></p> <p>ii. <b>With reference to likely aircraft types and weights consider whether a steeper glideslope, such as used at London City Airport, could be utilised for runway 28.</b></p>
		<p>Applicant's Response:</p> <p>i. The Applicant did consider whether a displaced threshold for runway 28 could be utilised and commissioned a detailed study into their use. The study was not included in the DCO submission as it contains sensitive information, however, it concluded that for each 100 metres (m) of 'displacement' towards the runway midpoint, the glide slope is only raised by 17 feet (ft) above a ground location beyond the runway. A 500m inset threshold therefore only results in an 86ft difference in aircraft height; any distance greater than a 500 m inset threshold would have a significant operational impact on Manston, precluding the use of aircraft types that are universally used in the cargo fleet. Typically an aircraft on a normal 3° glide path at 2 nautical miles (nm) (3.2 kilometres km)) from the threshold is at around 600ft above the threshold level; a 500m inset threshold would only increase this to 686ft. As a result of the detrimental impact on the operational capabilities of the airport compared to the modest gain achieved, the option of a displaced threshold on runway 28 was discounted.</p> <p>ii. The Applicant did consider whether steeper glideslopes for runway 28 could be utilised and commissioned a detailed study into their use. Once again, the study was not included in the DCO submission as it contains highly sensitive information. However, it concluded that the International Civil Aviation Organisation (ICAO) PANS-OPS Doc 8168 is the guidance used for designing instrument approach procedures. The normal glide slope for civil aviation operations is between 3° and 3.5°, deviation from this guidance can only be authorised in the UK by the CAA. It further states:</p> <p>"Glide path angles above 3.5° should be used in approach procedure design only for obstacle clearance purposes and must not be used as a means to introduce noise abatement procedures. Such procedures are non-standard and require a special approval".</p>

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		<p>The study considered steeper approach flight trails that had been conducted at Heathrow airport. The Heathrow trial was based on a 3.2 ° approach which sees aircraft descend at 320 rather than 300 feet per mile; giving a difference of just 40 feet when 2 miles from touchdown.</p> <p>The study identified that the introduction of a steeper approach can affect how aircraft crews choose to fly the approach in terms of airspeed, flap and landing gear configuration and deceleration; these, in turn, could actually result in an increase in aircraft noise. These variations of aircraft configuration and flight profile can increase the frequency that missed approaches, or go-around procedures are flown and impact on the landing/departure rate for the runway as well as increasing fuel burn and CO<sub>2</sub> emissions.</p> <p>Not all operators, aircraft or captains, particularly of cargo types, will be capable of, or willing to, fly a steeper approach. There would therefore be a need to also retain a conventional 3° approach. This will result in some duplication of infrastructure as aerodrome lighting and markings will have to be provided for both approach angles. Finally, there would need to be a capability for mixed mode operations (both steeper and conventional approaches) which would reduce any benefits from having a steeper approach option. As a result of the need to duplicate airport infrastructure for potentially only a proportion of aircraft operating from the airport, compared to the modest gain achieved, the option of a steeper approaches to runway 28 was not pursued.</p>
OP.1.13B (NUMBER USED TWICE – 1.12 NOT USED)	The Applicant	<p>It is proposed to utilise Runway 10 for landing and take offs, for noise mitigation purposes.</p> <p><b>i. With reference to wind speeds and directions at the airport, how often could such an approach be taken?</b></p> <p><b>ii. Such an approach to the use of the runway would restrict usage of the airport. At what flight levels would such an approach have to be re-considered?</b></p>
		Applicant's Response:

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		<p>i. The Applicant has made a study into the use of a 'Preferential Runway Strategy'. The preferred runway option for Manston Airport would be for aircraft to land on Runway 10 and take off from Runway 28 (aircraft landing from, and taking off to, the west); the most significant factor influencing this strategy will be the prevailing wind and runway conditions. The study shows that, based solely on UK prevailing winds, around 70% of landings could be made to Runway 10 and that up to 80% of take offs could be made from Runway 28. However, it must be noted that there are a range of additional operational and safety factors that must be taken into consideration when applying this strategy.</p> <p>ii. At busy airports, switching from one runway direction to the reciprocal is discouraged as this causes delays and increases the risk of human error in either air traffic control or an aircraft; it can therefore only be used during periods of low traffic intensity. Consideration must also be given to aircraft taxing out to, and away from, the runway so as their movements are deconflicted. The study into use of the Preferential Runway Strategy indicated that an ATM rate of more than 5 per movements per hour would restrict use of a 'Preferential Runway Strategy'.</p>
		<p>We note the Applicant contradicts this answer above at OP.1.1 We note the Applicant answers with Assumptions and caveats.</p> <p><b>RESPECTFULLY REQUEST OF THE EXAMINING AUTHORITY</b></p> <ol style="list-style-type: none"> <li>1. Applicant should be asked to provide realistic noise data on historical use of the runways and with type of aircrafts Manston historically attracted (particularly as nothing has changed - it is in the same place with the same surface access infrastructure - as you will be aware the HS1 opened on 2007 whilst the former airport was a working airport) .</li> <li>2. Applicant should be asked to provide update Figures provide in <b>APP-042</b> and the Environmental Statement to reflect this realistic scenario.</li> <li>3. Applicant should be asked to provide the same as a worse case realistic basis.</li> <li>4. Applicant above at OP1.1 has stated that "current forecast Manston ATM, an average of less than 3 movements (a landing and a take-off) per hour will take place"</li> <li>5. Applicant should be asked to provide worse case realistic scenario Environmental Statement on its revised number of ATMs which are <b>127,056</b> ATMS (given above)</li> </ol>



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OP.1.14	The Applicant	<p><b>Provide a figure showing expected approximate heights of aircraft departing/arriving at the airport at set distances from the runway ends (0.5, 1, 1.5, 2, 2.5, 3, 3.5, 4, 4.5, 5 km).</b></p> <p>Applicant's Response:</p> <p>The Applicant has provided the information requested as a table rather than as a figure (drawing). This is because a figure could be open to misinterpretation and imply that final flightpaths have already been decided when this is the purpose of the CAA's Airspace Change Process. Equally, the ACP will identify the design principles on which Manston's specific flight profiles will be based. We have therefore provided information based on industry standard flight profiles.</p> <p>Table 1 shows the nominal height of aircraft, on a standard 3° glide path, to land at the Runway threshold at the prescribed distances. Table 2 shows the nominal height of aircraft, on a normal 6° (10%) climb away from the normal take off roll at the prescribed distances from the departure end threshold (the aircraft will be airborne before the departure threshold).</p>
		<p>These tables do not show the topography (cliffs, parks, landmarks, hills etc) , altitude and what these altitudes relate to with any real aspect. It dehumanises what we are talking about. These flight swathes are 400-600 feet above people's heads.</p>

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		<p>The threshold elevations are Runway 10 – 166ft and Runway 28</p> <p>-170ft: Table 1: The threshold elevations are Runway 10 – 166ft and</p> <p>Runway 28 -170ft: Table 1: Distance from Threshold Kilometres (km) 0</p> <p>0.5 1.0 1.5 2.0 2.5 3.0 3.5 4.0 4.5 5.0 Nautical Miles (nm) 0 0.31 0.63</p> <p>0.94 1.25 1.56 1.88 2.19 2.5 2.8 3.13 Indicative height above Threshold</p> <p>level (ft) 0 93 189 282 375 468 564 657 750 840 939 Table 2: Distance</p> <p>from Threshold Kilometres (km) 0 0.5 1.0 1.5 2.0 2.5 3.0 3.5 4.0 4.5 5.0</p> <p>Nautical Miles (nm) 0 0.31 0.63 0.94 1.25 1.56 1.88 2.19 2.5 2.8 3.13</p> <p>Indicative height above Threshold level (ft) 378 564 750 936 1128 1314</p> <p>1500 1680 1878 2058 2240</p>

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Ref No.	Respondent	Question
OP.1.15	The Applicant	<b>Has the proposal taken account of nearby wind turbines and potential effect on radar operation?</b>
		<p>Applicant's Response:</p> <p>The Applicant's proposal has taken into account both existing and planned wind turbine developments in the vicinity of the airport and their potential effect on radar operation. In addressing this issue the Applicant:</p> <ul style="list-style-type: none"> <li>• Has agreed a Statement of Common Ground (SoCG) with Vattenfall [TR020002/D3/SOCG/VWP] who operate both the Thanet Array and Kentish Flats offshore windfarms. The SoCG covers the potential interaction between aviation operations at Manston Airport, air traffic surveillance and wind turbines. It covers not only existing wind turbine operations but also Vattenfall's own DCO submission that would see an increase in the size of the Thanet Array.</li> <li>• Is closely monitoring developments in regard to air traffic surveillance (radar technology). The Applicant expects technology to be in a position to fully mitigate the historical detrimental effects of wind turbines on the safety of aviation air traffic management operations; allowing both current and planned windfarm developments to be accommodated without further mitigation. The Applicant will ensure that future Airport operational and surveillance infrastructure takes account of, and mitigates, the effects in the presence of wind turbines.</li> </ul>
OP.1.16	The Applicant	<b>Has the proposal taken account of any potential bird strike hazards to the safe operation of the airport?</b>
		<p>Applicant's Response:</p> <p>The ES has considered bird activity from a planning and environmental perspective but not an operational perspective.</p> <p>A number of engineering solutions will be implemented, such as locating the ponds away from the runway and using special grass seed mixes to avoid bird attractant species. Spike strips to stop birds perching on buildings and structures like approach lights will also be installed. Flags and humming wire may also be used to deter birds from foraging in seeded and</p>

MANSTON DCO: SUBMISSION FOR DEADLINE 4  
COMMENTS ON APPLICANT'S RESPONSE TO ExA's FIRST WRITTEN QUESTIONS (OPERATIONAL) SUBMITTED  
BY FIVE10TWELVE LTD

Ref No.	Respondent	Question
		<p>disturbed areas; the use of this temporal deterrent would be an airport operator decision based upon bird population densities and aerodrome operations at the time. A specialist will be employed to survey the area around the site to check for anything that might attract birds such as badly managed food waste or ponds. This will be done well in advance of initial operations and then continue on a regular basis. The frequency of the surveys will be determined by the assessed risk.</p> <p>From an operational perspective potential aerodrome bird strike hazard will be managed in accordance with CAP 772 (Wildlife hazard management at Aerodromes) and will be considered by the CAA as part of the Aerodrome Certification process in accordance with CAP 168 (Licensing of Aerodromes), Chapter 5 (Wildlife Strike Risk Hazard management for Aerodromes) of which para 5.2 states:</p> <p style="padding-left: 40px;">In accordance with rules proscribed by EASA, the aerodrome operator shall:</p> <ol style="list-style-type: none"><li>1. assess the wildlife hazard on and in the vicinity of the aerodrome;</li><li>2. establish means and procedures to minimise the risk of collision between wildlife and aircraft at the aerodrome; and</li><li>3. notify the appropriate authority if a wildlife assessment indicates conditions in the vicinity of the aerodrome are conducive to a wildlife hazard problem.</li></ol>

001

i (Information)

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## Noise preferential routes

What is an NPR and how do they fit into UK air travel?

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Aircraft taking off from some airports are required to follow specific flight paths called Noise Preferential Routes (NPRs), unless directed otherwise by air traffic control.

The NPRs at Heathrow, Gatwick and Stansted are designated and overseen by the Secretary of State for Transport (not the CAA), and were designed to avoid the overflight of built-up areas where possible. They set a path for the aircraft to take from the runway until they reach the main UK air traffic routes.

An aircraft's ability to follow an exact route is affected by factors such as:

- navigational equipment,
- the type and weight of aircraft,  
and
- weather conditions – particularly winds that may cause drifting when aircraft are turning

Each NPR is contained in a corridor extending 1.5 km either side of the NPR centre line. Aircraft flying inside this corridor are considered to be flying on-track.

Once an aircraft reaches the NPR release altitude (typically 4,000 feet), a controller can instruct it to turn onto a more direct heading to its destination, which may take the aircraft outside the NPR corridor - this is called vectoring. There may be occasions where it is necessary for safety reasons (e.g. to avoid severe weather conditions) to vector aircraft off NPRs below the release altitude.

Any change to the dimensions of NPRs would require the approval of the Secretary of State for Transport.

Complaints or comments about NPRs should be addressed to the Secretary of State for Transport for issues at Heathrow, Gatwick or Stansted and to the airport itself for other locations.

002



**2006 No. 2238**

**ENVIRONMENTAL PROTECTION, ENGLAND**

**The Environmental Noise (England) Regulations 2006**

*Made* - - - - *8th August 2006*

*Laid before Parliament* *7th September 2006*

*Coming into force* - - *1st October 2006*

The Secretary of State is a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to measures relating to the assessment, management and control of environmental noise. The Secretary of State makes these Regulations in exercise of the powers conferred by that section.

**PART 1**

**GENERAL**

**Citation, commencement, extent and application**

**1.**—(1) These Regulations may be cited as the Environmental Noise (England) Regulations 2006 and shall come into force on 1st October 2006.

(2) These Regulations apply in England.

(3) Nothing in paragraph (2) means that strategic noise maps made or revised under these Regulations must be limited to England.

(4) These Regulations apply to environmental noise to which humans are exposed in particular in built-up areas, in public parks or other quiet areas in an agglomeration, near schools, hospitals and other noise-sensitive buildings and areas.

(5) These Regulations do not apply to noise that is caused by the exposed person himself, noise from domestic activities, noise created by neighbours, noise at work places or noise inside means of transport or due to military activities in military areas.

**Interpretation**

**2.**—(1) Unless otherwise defined in these Regulations, words and terms used in these Regulations and in the Directive have the same meaning as in the Directive.

(2) In these Regulations—

“agglomeration” means an area identified as an agglomeration pursuant to regulation 3;

“airport operator” means the person for the time being having, in relation to a particular airport, the management of that airport;

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<sup>(a)</sup> S.I. 2004/706.

<sup>(b)</sup> 1972 c.68.

“calendar year” means a period of a year beginning on 1st January;

“consolidated noise map” means a noise map compiled pursuant to regulation 14(2);

“dB(A)” is a measure of sound pressure level (“A” weighted) in decibels as specified in British Standard BS EN 61672-2: 2003(a);

“DEFRA” means the Department for Environment Food and Rural Affairs;

“designated” when used in relation to any airport means designated under section 80 for the purposes of section 78 of the Civil Aviation Act 1982(b);

“Directive” means Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise(c);

“first round agglomeration” means an area identified as a first round agglomeration pursuant to regulation 3;

“first round major railway” means a railway which is identified as a first round major railway pursuant to regulation 3;

“first round major road” means a road which is identified as a first round major road pursuant to regulation 3;

“in the form of regulations” means in the form of regulations made under section 2(2) of the European Communities Act 1972;

“L<sub>day</sub>” covers the period 07:00 – 19:00 hours in any 24 hour period;

“L<sub>evening</sub>” covers the period 19:00 – 23:00 hours in any 24 hour period;

“L<sub>night</sub>” covers the period 23:00 – 07:00 hours in any 24 hour period;

“major airport” means an airport identified as a major airport pursuant to regulation 3;

“major railway” means a railway which is identified as a major railway pursuant to regulation 3;

“major road” means a road which is identified as a major road pursuant to regulation 3;

“motorway” means a special road which (save as otherwise provided by or under regulations made under section 17 of the Road Traffic Regulation Act 1984(d)) can be used by traffic only of Class I or II as specified in Schedule 4 to the Highways Act 1980(e);

“non-designated” when used in relation to an airport means not designated under section 80 for the purposes of section 78 of the Civil Aviation Act 1982;

“principal or classified road” means a road which is known as—

- (a) a principal road;
- (b) a classified road; or
- (c) both a principal road and a classified road,

by virtue of section 12 of the Highways Act 1980 (whether by falling within subsection (1), or being classified under subsection (3));

“quiet area in an agglomeration” means an area which is identified as a quiet area in an agglomeration in accordance with regulation 13;

“special road” has the same meaning as in section 329(1) of the Highways Act 1980;

“supplementary noise indicator” has the meaning given in regulation 4(6); and

“trunk road” means any highway for which the Secretary of State is the relevant highway authority.

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(a) ISBN 0-580-42224-0.  
(b) 1982 c.16.  
(c) O.J. No. L 189, 18.07.2002, p. 12.  
(d) 1984 c.27; section 17 was amended by the New Roads and Street Works Act 1991 (c.22), Schedule 8, paragraph 28 and Schedule 9, and by the Road Traffic Act 1991 (c.40), Schedule 7, paragraph 3 and Schedule 8.  
(e) Schedule 4 has been amended by the Road Traffic (Consequential Provisions) Act 1988 (c.54), Schedule 3, paragraph 21(3).

### Identification of noise sources

3.—(1) No later than 31st December 2006 the Secretary of State must, in the form of regulations, identify all—

- (a) first round agglomerations;
- (b) first round major roads;
- (c) first round major railways; and
- (d) major airports.

(2) No later than 31st December 2011 the Secretary of State must, in the form of regulations, identify all—

- (a) agglomerations;
- (b) major roads;
- (c) major railways; and
- (d) major airports.

(3) In any relevant year the Secretary of State must, in the form of regulations, identify—

- (a) agglomerations;
- (b) major roads;
- (c) major railways; or
- (d) major airports,

as necessary if he considers that the most recent regulations produced pursuant to paragraph (2) are no longer appropriate.

(4) In paragraph (3) “relevant year” means 2016 and every fifth year thereafter.

(5) When discharging his duty under paragraph (1)(a) to identify first round agglomerations the Secretary of State must identify areas—

- (a) having a population in excess of 250,000 persons and a population density equal to or greater than 500 people per km<sup>2</sup>; and
- (b) which he considers to be urbanised.

(6) When discharging his duty under paragraph (2)(a) or (3)(a) to identify agglomerations the Secretary of State must identify areas—

- (a) having a population in excess of 100,000 persons and a population density equal to or greater than 500 people per km<sup>2</sup>; and
- (b) which he considers to be urbanised.

(7) When discharging his duty under paragraph (1)(b) to identify first round major roads the Secretary of State must identify roads which—

- (a) are—
  - (i) trunk roads,
  - (ii) motorways that are not trunk roads, or
  - (iii) principal or classified roads;
- (b) have more than six million vehicle passages a year; and
- (c) he considers to be regional, national or international.

(8) When discharging his duty under paragraph (2)(b) or (3)(b) to identify major roads the Secretary of State must identify roads which—

- (a) are—
  - (i) trunk roads,
  - (ii) motorways that are not trunk roads, or
  - (iii) principal or classified roads;

(b) have more than three million vehicle passages a year; and

(c) he considers to be regional, national or international.

(9) When discharging his duty under paragraph (1)(c) to identify first round major railways the Secretary of State must identify railways which have more than 60,000 train passages per year.

(10) When discharging his duty under paragraph (2)(c) or (3)(c) to identify major railways the Secretary of State must identify railways which have more than 30,000 train passages per year.

(11) When discharging his duty under paragraph (1)(d), (2)(d) or (3)(d) to identify major airports the Secretary of State must identify civil airports which have more than 50,000 movements per year (a movement being a take-off or a landing), excluding those purely for training purposes on light aircraft.

## PART 2

### STRATEGIC NOISE MAPS

#### CHAPTER 1

##### GENERAL REQUIREMENTS FOR STRATEGIC NOISE MAPS

###### **Strategic noise maps: general requirements**

**4.**—(1) Any strategic noise map made or revised under this Part must satisfy the applicable requirements in Schedule 1.

(2) A competent authority under regulation 6 or 10 must apply—

(a) the noise indicators  $L_{den}$  and  $L_{night}$  as referred to in Annex I of the Directive; and

(b) the supplementary noise indicators in all cases listed as examples in paragraph 3 of Annex I of the Directive,

when making or revising strategic noise maps under this Part.

(3) The values of  $L_{den}$ ,  $L_{night}$  and the supplementary noise indicators must be determined by means of the assessment methods set out in Schedule 2.

(4) Subject to paragraph (5) existing noise indicators and related data may be converted into  $L_{den}$  and  $L_{night}$ .

(5) The data referred to in paragraph (4) must not be more than three years old.

(6) “Supplementary noise indicator” means a noise indicator as defined in Schedule 3.

#### CHAPTER 2

##### STRATEGIC NOISE MAPS – NOISE SOURCES OTHER THAN NON-DESIGNATED AIRPORTS

###### **Application**

**5.** This Chapter does not apply to noise from non-designated airports.

###### **Competent Authority**

**6.** The competent authority for this Chapter is the Secretary of State.

### **Duty to make, review and revise strategic noise maps**

7.—(1) No later than 30th June 2007 the competent authority must make and, in accordance with regulation 23, adopt strategic noise maps showing the situation in the preceding calendar year for all—

- (a) first round agglomerations;
- (b) first round major roads;
- (c) first round major railways; and
- (d) major airports.

(2) No later than 30th June 2012, and thereafter every five years, the competent authority must make and, in accordance with regulation 23, adopt strategic noise maps showing the situation in the preceding calendar year for all—

- (a) agglomerations;
- (b) major roads;
- (c) major railways; and
- (d) major airports.

(3) From time to time, and whenever a major development occurs affecting the existing noise situation, the competent authority must—

- (a) review; and
- (b) if necessary revise,

any strategic noise map made pursuant to paragraphs (1) or (2) and adopted pursuant to regulation 23.

## **CHAPTER 3**

### **STRATEGIC NOISE MAPS – NON-DESIGNATED AIRPORTS**

#### **Application**

8. This Chapter applies to noise from non-designated airports.

#### **Interpretation**

9.—(1) In this Chapter—

“input data” means all the data and related information used to produce the numerical data in electronic form required by paragraph 3(2)(b) or 4(2)(b) (as appropriate) of Schedule 1;

“metadata” means such elements of Section 2 of the “SPIRE Data Standard, Version 1.0” (DEFRA, 25th November 2004)(a) as are required to describe the—

- (a) input data; and
- (b) information and data required by paragraph 3(2) or 4(2) (as appropriate) of Schedule 1.

(2) Any requirement in this Chapter to submit input data to a competent authority is a requirement to submit that input data in a format that—

- (a) is electronic;
- (b) allows electronic manipulation; and
- (c) does not require manipulation in order to reproduce the numerical data in electronic form required by paragraph 3(2)(b) or 4(2)(b) (as appropriate) of Schedule 1.

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(a) SPIRE Programme, Product Reference: SIP – DP – 011.

## **Competent Authority**

10. The competent authority for this Chapter is the airport operator.

### **Duty to make, review and revise strategic noise maps: non-designated major airports**

11.—(1) This regulation applies to non-designated major airports.

(2) No later than 31st March 2007, and thereafter every five years, the competent authority must—

- (a) make a strategic noise map showing the situation in the preceding calendar year for the airport; and
- (b) submit that map with input data and metadata to the Secretary of State.

(3) From time to time, and whenever a major development occurs affecting the existing noise situation, the competent authority must—

- (a) review; and
- (b) if necessary revise,

any strategic noise map made pursuant to paragraph (2) and adopted pursuant to regulation 23.

(4) The competent authority must submit any strategic noise map revised pursuant to paragraph (3)(b), with input data and metadata, to the Secretary of State within three working days of its revision.

### **Duty to make, review and revise strategic noise maps: non-designated other airports**

12.—(1) This regulation applies to non-designated other airports.

(2) No later than 31st March 2007 the competent authority must—

- (a) make a strategic noise map showing the situation in the preceding calendar year for any relevant first round agglomeration; and
- (b) submit that map with input data and metadata to the Secretary of State.

(3) No later than 31st March 2012, and thereafter every five years, the competent authority must—

- (a) make a strategic noise map showing the situation in the preceding calendar year for any relevant agglomeration; and
- (b) submit that map with input data and metadata to the Secretary of State.

(4) From time to time, and whenever a major development occurs affecting the existing noise situation, the competent authority must—

- (a) review; and
- (b) if necessary revise,

any strategic noise map made pursuant to paragraphs (2) or (3) and adopted pursuant to regulation 23.

(5) The competent authority must submit any strategic noise map revised pursuant to paragraph (4)(b), with input data and metadata, to the Secretary of State within three working days of its revision.

(6) In this regulation—

“relevant first round agglomeration” means a first round agglomeration in which air traffic from the airport results in air traffic noise of—

- (a) an  $L_{den}$  value of 55 dB(A) or greater; or
  - (b) an  $L_{night}$  value of 50 dB(A) or greater,
- anywhere within the first round agglomeration;

“relevant agglomeration” means an agglomeration in which air traffic from the airport results in air traffic noise of—

- (a) an  $L_{den}$  value of 55 dB(A) or greater; or
  - (b) an  $L_{night}$  value of 50 dB(A) or greater,
- anywhere within the agglomeration.

## PART 3

### QUIET AREAS

#### **Identification of quiet areas**

**13.**—(1) No later than—

- (a) 30th September 2007 for first round agglomerations; and
- (b) 30th September 2012 for agglomerations,

the Secretary of State must, in the form of regulations, identify quiet areas in those agglomerations.

(2) Paragraph (3) applies if the Secretary of State considers that the most recent regulations produced pursuant to this regulation are no longer appropriate.

(3) No later than 30th September in any relevant year the Secretary of State must, if he considers it necessary, in the form of regulations identify quiet areas in agglomerations.

(4) In paragraph (3) “relevant year” means 2017 and every fifth year thereafter.

## PART 4

### ACTION PLANS

#### CHAPTER 1

#### GENERAL

#### **Duty to publish criteria or limit values and a consolidated noise map**

**14.**—(1) No later than 18th July 2007 the Secretary of State must publish guidance setting out limit values or other criteria for the identification of priorities for action plans.

(2) No later than 1st October 2007 the Secretary of State must compile and publish a consolidated noise map from all strategic noise maps that are made or revised pursuant to regulation 7, 11 or 12 and adopted pursuant to regulation 23.

#### **Action plans: general requirements**

**15.**—(1) Any action plan drawn up or revised under this Part must—

- (a) meet the objectives of Article 1(c) of the Directive;
- (b) be designed to manage noise issues and effects, including noise reduction if necessary;
- (c) aim to protect quiet areas in first round agglomerations and agglomerations against an increase in noise;
- (d) address priorities which must be identified by having regard to guidance published pursuant to regulation 14(1);
- (e) apply in particular to the most important areas as established by strategic noise maps adopted pursuant to regulation 23; and

- (f) meet the requirements in Schedule 4.
- (2) Paragraph (3) applies to—
  - (a) any action plan; and
  - (b) any revision of an action plan,
 drawn up under this Part for a first round agglomeration or an agglomeration.
- (3) An action plan and any revision of an action plan must be based upon and apply in particular to the most important areas as established by—
  - (a) all strategic noise maps that—
    - (i) are made or revised pursuant to regulation 7, 11 or 12 and adopted pursuant to regulation 23, and
    - (ii) concern any part of the area addressed by the action plan; and
  - (b) a consolidated noise map to the extent that it concerns any part of the area addressed by the action plan.

## CHAPTER 2

### ACTION PLANS – NOISE SOURCES OTHER THAN AIRPORTS

#### **Competent Authority**

**16.** The competent authority for this Chapter is the Secretary of State.

#### **Duty to draw up, review and revise action plans**

- 17.—**(1) No later than 18th July 2008 the competent authority must draw up action plans for—
- (a) places near first round major roads;
  - (b) places near first round major railways; and
  - (c) first round agglomerations.
- (2) No later than 18th July 2013 the competent authority must draw up action plans for—
- (a) places near major roads;
  - (b) places near major railways; and
  - (c) agglomerations.
- (3) Paragraph (4) applies—
- (a) whenever a major development occurs affecting the existing noise situation; and
  - (b) at least every five years after the date on which an action plan is adopted pursuant to regulation 24.
- (4) The competent authority must—
- (a) review; and
  - (b) if necessary revise,
- the action plan.

## CHAPTER 3

### ACTION PLANS – AIRPORTS

#### **Competent authority**

- 18.** This Chapter applies to—
- (a) major airports; and



- (b) non-designated other airports if aircraft noise results in an  $L_{den}$  value of 55 dB(A) or greater or an  $L_{night}$  value of 50 dB(A) or greater anywhere in first round agglomerations or agglomerations,

and the competent authority is the airport operator.

#### **Duty to draw up, review and revise action plans**

**19.**—(1) No later than 30th April 2008 the competent authority must—

- (a) draw up an action plan for places near the airport; and
- (b) submit that action plan to the Secretary of State.

(2) Paragraph (3) only applies if the competent authority was not required to draw up an action plan for the airport pursuant to paragraph (1) because it was not the competent authority on or before 30th April 2008.

(3) No later than 30th April 2013 the competent authority must—

- (a) draw up an action plan for places near the airport; and
- (b) submit that action plan to the Secretary of State.

(4) Paragraph (5) applies—

- (a) whenever a major development occurs affecting the existing noise situation; and
- (b) at least every five years after the date on which an action plan is adopted pursuant to regulation 24.

(5) The competent authority must—

- (a) review; and
- (b) if necessary revise,

the action plan.

(6) An action plan revised pursuant to paragraph (5)(b) must be submitted to the Secretary of State within three working days of its revision.

## **CHAPTER 4**

### **ACTION PLANS - PUBLIC PARTICIPATION**

#### **Public participation**

**20.**—(1) In preparing and revising action plans the competent authorities under regulations 16 and 18 must ensure that—

- (a) the public is consulted about proposals for action plans;
- (b) the public is given early and effective opportunities to participate in the preparation and review of the action plans;
- (c) the results of that public participation are taken into account;
- (d) the public is informed of the decisions taken; and
- (e) reasonable time frames are provided allowing sufficient time for each stage of public participation.

## **CHAPTER 5**

### **IMPLEMENTATION OF ACTION PLANS**

#### **Implementation of action plans**

**21.**—(1) Where an action plan or a revision of an action plan—

- (a) has been adopted pursuant to regulation 24; and
  - (b) identifies a public authority as responsible for a particular action,
- that public authority must treat the action plan as its policy insofar as it relates to that action.
- (2) A public authority may depart from any policy mentioned in paragraph (1) if—
- (a) it provides—
    - (i) the Secretary of State, and
    - (ii) the competent authority responsible for the preparation of the action plan or the revision (if not the Secretary of State),
- with written reasons for departing from that policy; and
- (b) it publishes those reasons.
- (3) In this regulation “public authority” includes any person who exercises functions of a public nature, but does not include—
- (a) either House of Parliament or a person exercising functions in connection with proceedings in Parliament;
  - (b) courts or tribunals; or
  - (c) the Secretary of State.

## PART 5

### COOPERATION WITH EXTERNAL COMPETENT AUTHORITIES

#### **Cooperation with external competent authorities**

**22.**—(1) When necessary in order to meet its obligations under these Regulations, a competent authority must use all reasonable endeavours to secure the cooperation of an external competent authority.

- (2) A competent authority—
- (a) when requested to do so by an external competent authority; and
  - (b) if necessary to meet that external competent authority’s obligations arising under the Directive,

must cooperate with that external competent authority.

(3) In this Part “external competent authority” means a competent authority in Northern Ireland, Scotland or Wales designated for the purposes of Article 4 of the Directive.

## PART 6

### ADOPTION OF STRATEGIC NOISE MAPS AND ACTION PLANS

#### **Adoption of strategic noise maps**

- 23.**—(1) If the Secretary of State considers that a strategic noise map—
- (a) submitted to him pursuant to regulation 11 or 12;
  - (b) submitted to him pursuant to paragraph (4); or
  - (c) made or revised by him,

meets the requirements of regulation 4, he must adopt the map.

(2) If the Secretary of State considers that a strategic noise map submitted to him pursuant to regulation 11 or 12 or paragraph (4) does not meet the requirements of regulation 4 he may—

- (a) amend and adopt the map; or
- (b) reject the map.

(3) If a strategic noise map is rejected pursuant to paragraph (2)(b) the Secretary of State must notify the competent authority that submitted it of—

- (a) the reasons why the map was not adopted; and
- (b) the date by which the map must be revised and resubmitted.

(4) The recipient of a notification under paragraph (3) must submit the revised strategic noise map to the Secretary of State by the date specified in the notification.

(5) Paragraphs (1) to (4) apply to a revised strategic noise map as they apply to a strategic noise map submitted pursuant to regulation 11 or 12.

(6) If the Secretary of State amends—

- (a) a strategic noise map; or
- (b) a revised strategic noise map,

he must take such steps as he considers appropriate for ensuring that the map complies with the requirements of regulation 4.

### **Adoption of action plans**

**24.**—(1) If the Secretary of State considers that an action plan—

- (a) submitted to him pursuant to regulation 19(1)(b), 19(3)(b) or 19(6);
- (b) submitted to him pursuant to paragraph (5); or
- (c) drawn up or revised by him,

meets the requirements of regulation 15, he may adopt the action plan.

(2) Paragraph (3) applies if—

- (a) the Secretary of State considers that an action plan submitted to him pursuant to regulation 19(1)(b), 19(3)(b) or 19(6) does not meet the requirements of regulation 15; or
- (b) an action plan is not adopted pursuant to paragraph (1).

(3) Where this paragraph applies the Secretary of State must—

- (a) amend and adopt the plan; or
- (b) reject the plan.

(4) If an action plan is rejected pursuant to paragraph (3)(b) the Secretary of State must notify the competent authority that submitted it of—

- (a) the reasons why the plan was not adopted; and
- (b) the date by which the plan must be revised and resubmitted.

(5) The recipient of a notification under paragraph (4) must submit the revised action plan to the Secretary of State by the date specified in the notification.

(6) Paragraphs (1) to (5) apply to a revised action plan as they apply to an action plan submitted pursuant to regulation 19(1)(b), 19(3)(b) or 19(6).

(7) If the Secretary of State amends—

- (a) an action plan; or
- (b) a revised action plan,

he must take such steps as he considers appropriate for ensuring that the action plan complies with the requirements of these Regulations.

## PART 7

### POWERS OF THE SECRETARY OF STATE IN RELATION TO THE FUNCTIONS OF OTHER COMPETENT AUTHORITIES

#### Application

25. This Part does not apply to any functions under these Regulations for which the Secretary of State is the competent authority.

#### Powers

26.—(1) The Secretary of State may at any time require a competent authority to provide information in relation to its functions under these Regulations.

(2) A request for information pursuant to paragraph (1)—

- (a) must be made in writing;
- (b) may specify the format in which information must be provided; and
- (c) may specify the period of time within which a response must be received.

(3) If an authority receives a request pursuant to paragraph (1) it must respond—

- (a) within the time period specified pursuant to paragraph (2)(c); or
- (b) if no such period is specified, within fourteen days of receipt of the request.

(4) Paragraph (5) applies where—

- (a) the Secretary of State has consulted the competent authority; and
- (b) he considers that by reason of any act or omission, or any likely act or omission, by the competent authority—
  - (i) a requirement of these Regulations; or
  - (ii) a requirement imposed on the United Kingdom by the Directive, is unlikely to be met.

(5) The Secretary of State may exercise such of the functions of the competent authority as he considers appropriate.

#### Recovery of expenses

27. Where the Secretary of State incurs expenses pursuant to—

- (a) regulation 23(2);
- (b) regulation 24(3); or
- (c) regulation 26(5),

he may recover those expenses from the relevant competent authority as a civil debt.

#### Relevant competent authority

28. In regulation 27 “relevant competent authority” means—

- (a) in relation to regulation 23(2), the competent authority that submitted the strategic noise map pursuant to regulation 11 or 12;
- (b) in relation to regulation 24(3), the competent authority that submitted the action plan pursuant to regulation 19; and
- (c) in relation to regulation 26(5), the competent authority whose functions the Secretary of State exercises pursuant to that regulation.

## PART 8

### INFORMATION TO THE PUBLIC AND GUIDANCE

#### **Availability of strategic noise maps, consolidated noise map and action plans**

**29.—(1) Any—**

- (a) strategic noise map that is made available to the public before it is adopted pursuant to regulation 23; or
- (b) action plan that is made available to the public before it is adopted pursuant to regulation 24,

must include prominently displayed wording identifying it as a draft subject to adoption by the Secretary of State.

**(2) Any—**

- (a) strategic noise map adopted pursuant to regulation 23;
- (b) consolidated noise map compiled pursuant to regulation 14(2); or
- (c) action plan adopted pursuant to regulation 24,

must be published by the Secretary of State and accompanied by a summary setting out the most important points.

#### **Guidance**

**30.** A competent authority, in exercising any of its functions under these Regulations, must have regard to any guidance issued by the Secretary of State under this regulation.

8th August 2006

*Ben Bradshaw*  
Parliamentary Under Secretary of State  
Department for Environment Food and Rural Affairs

## SCHEDULE 1

regulations 4 and 9

### MINIMUM REQUIREMENTS FOR STRATEGIC NOISE MAPPING

#### **Interpretation**

**1.** In this Schedule—

“editable” means in a format that allows (without the need for manipulation) the electronic production of—

- (a) numerical data in tables, and
- (b) graphical plots,

to display the information described in paragraphs 1.5, 1.6, 1.7, 2.5, 2.6 and 2.7 of Annex VI of the Directive;

“grid” means a grid of vector points which are—

- (c) at 10 metre by 10 metre intervals,
- (d) spatially referenced to the British National Grid reference system used by the Ordnance Survey as a pair of integers to show Eastings then Northings in metres from the origin, and
- (e) aligned with the 10 metre vertices of the British National Grid reference system used by the Ordnance Survey so that references finish with the number zero.

#### **General requirements for strategic noise maps**

2.—(1) Strategic noise maps and their revisions must—

- (a) satisfy the minimum requirements laid down in Annex IV of the Directive; and
- (b) be clear and comprehensible.

(2) In applying paragraph (1)(a) any reference in Annex IV of the Directive to—

- (a) Article 8 of the Directive shall be taken to be a reference to regulations 15, 17 and 19 of these Regulations;
- (b) Article 9 of the Directive shall be taken to be a reference to regulation 29 of these Regulations.

#### **Requirements for strategic noise maps for agglomerations**

3.—(1) This paragraph applies only to—

- (a) a strategic noise map made under regulation 7(1)(a), 7(2)(a), 12(1) or 12(3); or
- (b) a revision of such a strategic noise map.

(2) Strategic noise maps must—

- (a) include the information (in electronic format) described in paragraphs 1.1 to 1.4 inclusive of Annex VI of the Directive; and
- (b) include editable numerical data in electronic form containing the values of  $L_{den}$ ,  $L_{night}$  and the supplementary noise indicators on a grid.

#### **Requirements for strategic noise maps for major roads, major railways and major airports**

4.—(1) This paragraph applies only to—

- (a) any strategic noise map made under—
  - (i) regulation 7(1)(b) to (d),
  - (ii) regulation 7(2)(b) to (d),
  - (iii) regulation 11(2); or
- (b) any revision of such a map.

(2) Strategic noise maps must—

- (a) include the information (in electronic format) described in paragraphs 2.1 to 2.4 inclusive of Annex VI of the Directive; and
- (b) include editable numerical data in electronic form containing the values of  $L_{den}$ ,  $L_{night}$  and the supplementary noise indicators on a grid.

## ASSESSMENT METHODS FOR THE NOISE INDICATORS

**Introduction**

1.—(1) The values of  $L_{den}$ ,  $L_{night}$  and the supplementary noise indicators must be determined by computation (at the assessment position).

(2) In this Schedule—

“assessment position” means the assessment height in paragraph 7 of Annex IV of the Directive;

“Recommendation” means Commission Recommendation 2003/613/EC of 6 August 2003 concerning the guidelines on the revised interim computation methods for industrial noise, aircraft noise, road traffic noise and railway noise, and related emissions data(a).

**Assessment method for road traffic noise indicators**

2. For road traffic noise indicators the assessment method “Calculation of road traffic noise” (Department of Transport, 7th June 1988, HMSO)(b) must be used, adapted using the report “Method for converting the UK road traffic noise index  $LA_{10,18h}$  to the EU noise indices for road noise mapping” (DEFRA, 24th January 2006)(c).

**Assessment method for railway noise indicators**

3. For railway noise indicators the assessment methods—

- (a) “Calculation of railway noise” (Department of Transport, 13th July 1995, HMSO)(d); and
- (b) (in relation to railways to which it is expressed to apply) “Calculation of railway noise 1995 Supplement No. 1 Procedure for the calculation of noise from Eurostar trains class 373” (Department for Transport, 20th October 1996, Stationery Office)(e),

must be used, adapted as shown in Figure 6.5 of the report “Rail and wheel roughness – implications for noise mapping based on the Calculation of Railway Noise procedure” (DEFRA, March 2004)(f).

**Assessment methods for aircraft noise indicators**

4. For aircraft noise indicators the assessment method “Report on Standard Method of Computing Noise Contours around Civil Airports” (Second Edition, European Civil Aviation Conference, 2–3 July 1997)(g) must be used in accordance with paragraph 2.4 of the Annex in the Recommendation.

**Assessment methods for industrial noise indicators and port noise indicators**

5.—(1) For industrial noise indicators and port noise indicators the propagation assessment method described in “ISO 9613-2:1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation” (International Standards Organisation, 1996)(h) must be used in accordance with paragraph 2.5 of the Annex in the Recommendation.

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(a) O.J. No. L 212, 22.8.2003, p. 49.

(b) ISBN 0115508473.

(c) Prepared by TRL Limited and Casella Stanger, Document Reference st/05/91/AGG04442.

(d) ISBN 0115517545.

(e) ISBN 0115518738.

(f) Prepared by AEA Technology plc, Document Reference: AEATR-PC&E-2003-002.

(g) Adopted by the Twenty-First Plenary Session of ECAC, Document Reference: ECAC.CEAC Doc. 29.

(h) International Organisation for Standardization (<http://www.iso.ch>)

(2) Suitable noise emission data (input data) for “ISO 9613-2:1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation” can be obtained either from measurements carried out in accordance with one of the following methods:

- (a) “Acoustics. Determination of sound power levels of multisource industrial plants for evaluation of sound pressure levels in the environment. Engineering method” (BS ISO 8297:1994, British Standards Institute)(a);
- (b) “Acoustics. Determination of sound power levels of noise sources using sound pressure. Engineering method in an essentially free field over a reflecting plane” (BS EN ISO 3744:1995, British Standards Institute)(b);
- (c) “Acoustics. Determination of sound power levels of noise sources using sound pressure. Survey method using an enveloping measurement surface over a reflecting plane” (BS EN ISO 3746:1996, British Standards Institute)(c),

or by using Toolkit 10 of the “Good Practice Guide for Strategic Noise Mapping and the Production of Associated Data on Noise Exposure Version 2, Position Paper Final Draft” (European Commission Working Group Assessment of Exposure to Noise, 13 January 2006)(d).

## SCHEDULE 3

regulation 4

### SUPPLEMENTARY NOISE INDICATORS

#### Interpretation

**1. In this Schedule—**

“ $L_{A10,18h}$ ” is the arithmetic mean noise level in dB(A) exceeded for 10% of each hour over the period 06:00 - 24:00 hours;

“ $L_{Aeq,16h}$ ” is the equivalent continuous sound level in dB(A) that, over the period 07:00 – 23:00 hours, contains the same sound energy as the actual fluctuating sound that occurred in that period;

“ $L_{Aeq,18h}$ ” is the equivalent continuous sound level in dB(A) that, over the period 06:00 – 24:00 hours, contains the same sound energy as the actual fluctuating sound that occurred in that period;

“ $L_{Aeq,6h}$ ” is the equivalent continuous sound level in dB(A) that, over the period 24:00 – 06:00 hours, contains the same sound energy as the actual fluctuating sound that occurred in that period.

#### Road Traffic Noise

**2. The supplementary noise indicators in relation to road traffic noise are—**

- (a)  $L_{A10,18h}$ ;
- (b)  $L_{Aeq,16h}$ ;
- (c)  $L_{day}$ ; and
- (d)  $L_{evening}$ .

---

(a) British Standards Institute ([http://www.standardsdirect.org/standards/standards3/StandardsCatalogue24\\_view\\_23347.html](http://www.standardsdirect.org/standards/standards3/StandardsCatalogue24_view_23347.html))  
(b) British Standards Institute ([http://www.standardsdirect.org/standards/standards2/StandardsCatalogue24\\_view\\_19606.html](http://www.standardsdirect.org/standards/standards2/StandardsCatalogue24_view_19606.html))  
(c) British Standards Institute ([http://www.standardsdirect.org/standards/standards2/StandardsCatalogue24\\_view\\_19608.html](http://www.standardsdirect.org/standards/standards2/StandardsCatalogue24_view_19608.html))  
(d) European Commission Working Group Assessment of Exposure to Noise (<http://www.defra.gov.uk/environment/noise/mapping/exposure/pdf/exposedata-guide.pdf>)



### **Railway Noise**

3. The supplementary noise indicators in relation to railway noise are—

- (a)  $L_{Aeq,16h}$ ;
- (b)  $L_{Aeq,18h}$ ;
- (c)  $L_{Aeq,6h}$ ;
- (d)  $L_{day}$ ; and
- (e)  $L_{evening}$ .

### **Aircraft Noise**

4. The supplementary noise indicators in relation to aircraft noise are—

- (a)  $L_{Aeq,16h}$ ;
- (b)  $L_{day}$ ; and
- (c)  $L_{evening}$ .

### **Industrial Noise and Port Noise**

5. The supplementary noise indicators in relation to industrial noise and port noise are—

- (a)  $L_{Aeq,16h}$ ;
- (b)  $L_{day}$ ; and
- (c)  $L_{evening}$ .

## **SCHEDULE 4**

regulation 15

## **MINIMUM REQUIREMENTS FOR ACTION PLANS**

### **General**

1.—(1) An action plan must—

- (a) meet the minimum requirements of Annex V of the Directive; and
- (b) contain a summary covering all the important aspects referred to in Annex V of the Directive, not exceeding ten pages in length.

(2) In applying paragraph (1) any reference in Annex V of the Directive to—

- (a) Article 5 of the Directive shall be taken to be a reference to regulation 4 of these Regulations;
- (b) Article 8(7) of the Directive shall be taken to be a reference to regulation 20 of these Regulations.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (O.J. No. L 189, 18.07.2002, p. 12) (the ‘Directive’).

### **Strategic noise maps**

The making of strategic noise maps will occur in two rounds, the first in 2007 and the second in 2012. In the second round a larger number of the same type of noise sources will have to be mapped than in the first round. Subsequently strategic noise maps will have to be made every five years.

Regulation 3 requires the Secretary of State to identify the noise sources for which strategic noise maps must be made. Regulation 7 requires the Secretary of State to make strategic noise maps for agglomerations, major roads, major railways and major airports designated under section 80 for the purposes of section 78 of the Civil Aviation Act 1982 (1982 c.16). From time to time, and whenever a major development occurs, the Secretary of State must review (and if necessary, revise) strategic noise maps.

Regulations 11 and 12 require airport operators to make strategic noise maps for airports that are not designated under the Civil Aviation Act 1982. Strategic noise maps will need to be made for: (i) all non-designated major airports; and (ii) noise in agglomerations arising from any other airports (if aircraft noise results in a value of 55  $L_{den}$  or 50  $L_{night}$  anywhere in those agglomerations). Strategic noise maps will need to be reviewed (and revised if necessary) from time to time, and whenever a major development occurs. Once made, the airport operators must submit strategic noise maps (or their revisions) to the Secretary of State for adoption.

All strategic noise maps must meet the requirements set out in regulation 4.

Regulation 4 and Schedule 3 specify which noise indicators and supplementary noise indicators must be used in making the strategic noise maps. Schedule 2 sets out the assessment methods to be used in calculating the values of noise indicators. Different methods are specified for each noise source.

Regulation 13 requires the Secretary of State to identify quiet areas in first round agglomerations and in agglomerations.

### **Action plans**

Action plans must be drawn up in 2008 and in 2013. This is consequential on the dates by which strategic noise maps must be prepared..

Regulation 14 requires the Secretary of State to publish guidance on how the priorities in action plans should be identified. It also requires the Secretary of State to compile and publish a consolidated noise map.

Regulation 15 sets out the requirements for action plans.

Regulation 17 requires the Secretary of State to draw up action plans for places near to major roads and major railways, and for first round agglomerations and agglomerations. The Secretary of State must review (and revise, if necessary) the action plans every five years or sooner if a major development occurs.

Regulation 19 requires airport operators to draw up action plans in relation to major airports and other airports (if aircraft noise results in a value of 55  $L_{den}$  or 50  $L_{night}$  anywhere in those agglomerations). The airport operator must review (and revise, if necessary) the action plans every five years or sooner if a major development occurs. Once drawn up or revised, the airport operators must submit an action plan to the Secretary of State for adoption.

Regulation 20 specifies the public participation required during the preparation and revision of action plans.

Regulation 21 requires public authorities to treat action plans as policy insofar as the action plan identifies them as being responsible for a particular action. Public authorities may depart from such policies in specified circumstances.

### **Other provisions**

Regulation 22 requires competent authorities in England to cooperate with their counterparts in Northern Ireland, Scotland and Wales when necessary to do so in order to meet obligations under these Regulations or the Directive.

Regulations 23 and 24 set out the mechanism by which the Secretary of State adopts strategic noise maps and action plans respectively.

Regulation 26 provides the Secretary of State with the power to require competent authorities to provide information in relation to their obligations under the Regulations or to step in and carry out the functions of competent authorities under specified circumstances.

Regulation 27 gives the Secretary of State power to reclaim certain expenses from competent authorities.

Regulation 29 sets out requirements for the publication of strategic noise maps, a consolidated noise map and action plans prepared by airport operators and approved by the Secretary of State.

Regulation 30 requires competent authorities to have regard to any guidance published by the Secretary of State.

A Regulatory Impact Assessment has been prepared and placed in the libraries of both Houses of Parliament. It is available on <http://www.defra.gov.uk/environment/noise/ambient.htm>. A transposition note has been prepared and is available on <http://www.defra.gov.uk/environment/noise/ambient.htm>.

**£3.50**

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# The Guardian



## Top-flight venture or relic of the past. Thanet must decide on Manston airport

**A plan to reopen the site as an air cargo hub has split the community**

**Gwyn Topham**

Sun 7 Oct 2018 06.00 BST

On a sunny lunchtime, diners pack the outdoor tables of the cafe at the Spitfire Museum in Manston, Kent, where memories of Britain's finest hour are lovingly preserved. Settling down to a menu of Hurricane rolls and Merlin baps, one visitor asks her companion about the abandoned buildings in the distance, behind the wire fence. "I think that used to be an airport," he replies.

This is Manston - no second world war relic. It was hosting international passenger flights as recently as 2014, when residents would pop over on KLM to its Amsterdam hub - briefly linking the Isle of Thanet to the entire world. It was touted by Ukip - if no others - as an alternative to expanding Heathrow, as aviation demanded more flights in south-east England. Then it was suddenly, controversially, closed by Ann Gloag, the Stagecoach tycoon, who had handed over just £1 for the heavily indebted airport a few months earlier.

Four years on, Manston lies dormant, and a bitter row is simmering over its future. Interested parties must register before midnight on Monday to have a say in a planning decision that could see Manston reopen as a cargo hub, handling up to 83,000 (nearly 230 every day ) freight

aircraft a year. Consent would let RiverOak, an offshoot of a US private equity firm, buy the site through compulsory purchase from current owner Stone Hill Park, which plans to build thousands of homes and a business park on the site.

For some, including local MPs, a reopened airport spells more skilled jobs in an area where they have long been scarce. For others, particularly in Ramsgate (a mile from the runway) it means planes flying noisily and startlingly low over houses and the historic centre, straight across the revitalised harbour – possibly throughout the night. And suspicion is high on all sides about the motives of those involved.

Gloag is a controversial figure for airport backers. While Kent county council also decided that it was not a viable airport, reopening Manston became a key Ukip pledge, in its Brexit-backing heartland. Yet even the Ukip district council leader concluded, on scrutinising RiverOak plans, that it couldn't work – resigning in February and splitting the party. So why would this time be different for Manston?

Speaking from his Connecticut office, George Yerrall of RiverOak says they would change focus to ramp up freight operations, investing in 19 cargo stands. “Cargo is having a difficult time getting into the south-east of England, and the market would embrace this. Freighters either can't get a landing slot near London or have decided to land in Liège and truck it in.” He says there are no plans for night flights.

Opponents say Yerrall's promised boost to Kent's trade should be treated with suspicion. In the planning application, RiverOak has sought a noise quota which would allow an average eight flights a night – and a laden 747 makes significantly more noise than the passenger jets that recently flew. In a cafe on Ramsgate's harbourside, Ineke Longmore of the No Night Flights campaign, says: “The planes would come over so low that the house would shake.”

She is sceptical that the plans will come to fruition: “Before Ann Gloag bought it, nobody wanted it. It's a money pit, at the end of the country.” It only makes sense, she says, as a “land grab” by someone eyeing valuable housing development rather than a long-term airport. Susan Kennedy, a local Labour councillor, agrees: “People have been sold the story of jobs coming out of their airport for 20 years. There is no business case, or national need.”

But for many residents the jobs were real, and they believe they could come again. Ducking low-flying seagulls on the terrace of Ramsgate's resplendent seafront Wetherspoons pub is Marta Easton, who spent 25 years employed by Manston. In days when golfers might jet in and racehorses were flown to Dubai, she ran its car parks, duty-free and welcomed VIPs to the first-class lounge; she has not been able to find work since. Ramsgate's ferry services to Europe and a nearby pharmaceutical research plant both closed earlier in the decade, she points out: “We used to have a Sally Line, and Pfizers at Sandwich, but what is left here in terms of good, well-paid jobs?”

A common refrain from airport backers is that the area doesn't need more houses, but jobs. “I was born here – most of the people against this moved here for an easy life,” says Easton's husband, Gary, also a former Manston employee. “We had the RAF here – we didn't complain. And a lot of ex-Soviet aircraft – by God, they were noisy, but they've gone. If Manston was open and successful, people in our family might be able to work here. It's our great hope.”

## Topics

- Air transport
- Notebook
- UK Independence party (Ukip)
- Construction industry

- analysis



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## Airport Public Safety Zones

**8.181** While air travel is a very safe method of travel, incidents are most likely to occur during take off or landing. In order to minimise the number of people on the ground immediately within the zone used for landing and take off, individual risk contours have been developed for Jersey Airport using individual risk contour modelling and the principle of constrained cost-benefit analysis <sup>(18)</sup>. This provides estimates of the individual risk arising from aircraft crashes in the vicinity of Jersey Airport.

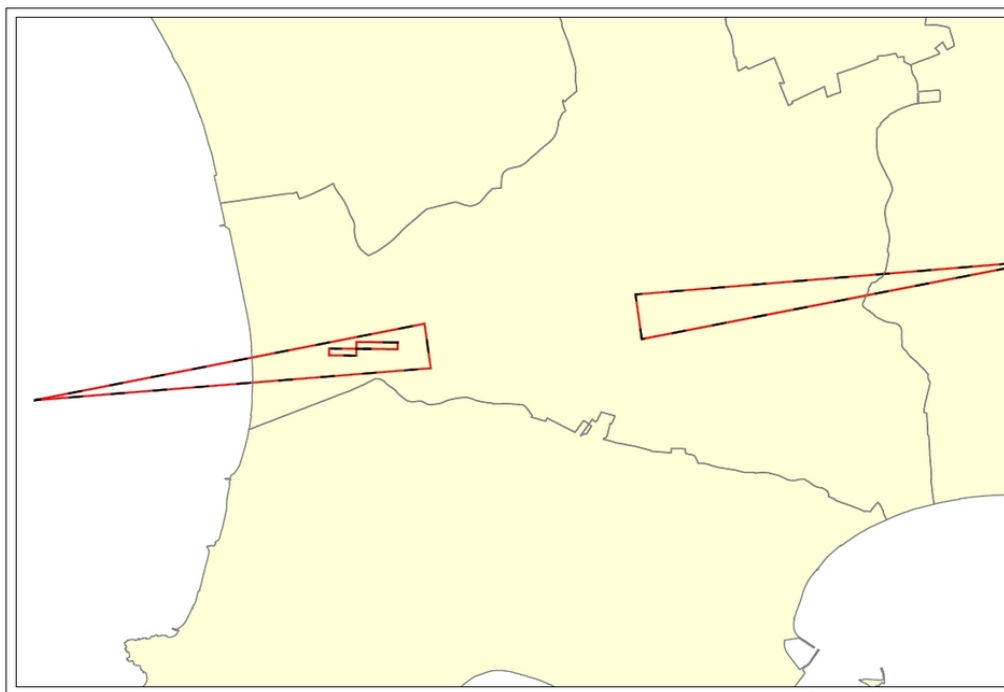
**8.182** This work determines the extent of individual risk of being killed as a result of an aircraft accident to which a person remaining in the same location for a period of a year would be exposed and has resulted in the delineation of two distinct zones of risk, as defined on the Island Map. Public Safety Zone 2, represented by the individual risk contour @ 10-5 defines the area within which it is estimated there is a 1 in 100,000 chance that an individual would be killed by a crashing aircraft if they spent a year continuously at that location. The areas for which the risk is greater than 1 in 10,000 i.e. 10-4, is represented by Public Safety Zone 1.

**8.183** The areas of the Public Safety Zones correspond to a simplified form of the risk contours, in order to make the Zones easier to understand and represent on maps, and also in recognition of the necessarily imprecise nature of the forecasting and modelling work. The resultant shape of the Public Safety Zone 2 is that of an elongated isosceles triangle. This differs from the 'funnel' shape of earlier PSZ's, first adopted in Jersey in 1963, which were based on the restrictions on the height of buildings within the funnels in order to safeguard approaching aircraft, and not on any assessment of the extent of risk of crashing aircraft.

**8.184** The calculations of the individual risk are based on data for the fixed wing traffic using Jersey Airport during 1998, unlike the UK, where PSZs are based on estimations of aircraft traffic levels to 2015. In view of a relatively stable and/or declining number of aircraft movements at Jersey Airport this is considered to remain valid, but the need to review its findings will be kept under review.

**8.185** Accordingly, there should be no increase in the number of people living, working or congregating within the Airport Public Safety Zones defined by these contours. This can be achieved by restricting new development, or changes of use of existing buildings and land in those areas exposed to such risk. In the areas of greatest risk (PSZ1), it is considered appropriate that the number of people living, working or congregating here should be reduced. The planning system can assist this by seeking to resist proposals for new and replacement buildings in PSZ1 as and when proposals for redevelopment come forward: there are two residential properties in PSZ1.

**8.186** For the existing properties and buildings within PSZ2 it is considered reasonable to permit some exceptions to the general presumption against any new development but only where it would not result in an increase in the number of people living, working or congregating within the zone.



Map 8.5 Aircraft Public Safety Zones (Popup full image)

**8.187** Although people travelling along a road are likely to be within the Public Safety Zone for a short period of time, the average density of occupation during the day may be quite high, and equivalent to fixed development. The location of infrastructure such as road junctions, traffic lights and roundabouts may lead to an increase in the number of stationary vehicles within the Zone and any such proposals for any of the main roads within the PSZ, including Grande Route des Mielles; Route de Beaumont and Vallée de St Pierre, will need to be carefully assessed in terms of the average density of people that might be exposed to risk.

**8.188** Where development not requiring planning permission is proposed or undertaken within the Public Safety Zones, which might include the temporary use of land for the holding of a market or sand racing on the beach, the Minister for Planning and Environment may consider whether to withdraw these permitted development rights where any such use or operation would attract significant numbers of people.

### Policy TT 17

#### Airport Public Safety Zones

Within the Airport Public Safety Zones, as identified on the Island Proposals Map, there is a general presumption against new development / or changes of use of land or existing buildings. In particular, no new dwellinghouses, other than residential buildings or non-residential development will be permitted. In Public Safety Zone 1, there is also a presumption against the replacement of existing development.

Within Public Safety Zone 2 the following types of development may, however, be permitted, where there is no increase in the number of people living, working or congregating in the Zone and where it is in accordance with other principles and policies of the Plan;

- 1. an extension or alteration to a dwellinghouse which is for the purpose of enlarging or improving the living accommodation for the benefit of the people living in it, such people forming a single household, or which is for the purpose of a 'granny annex';
- 2. an extension or alteration to a property (not being a single dwellinghouse or other residential building) which could not reasonably be expected to increase the number of people working or congregating in or at the property beyond the current level or, if greater, the number authorised by any extant planning permission; or
- 3. a change of use of a building or of land which could not reasonably be expected to increase the number of people living, working or congregating in or at the property or land beyond the current level or, if greater, the number authorised by any extant planning permission.
- 4. long-stay and employee car parking (where the minimum stay is expected to be in excess of six hours);
- 5. open storage and certain types of warehouse development. 'Traditional' warehousing and storage use, in which a very small number of people are likely to be present within a sizeable site, is acceptable. This does not include more intensive uses, such as distribution centres, sorting depots and retail warehouses, which would be likely to entail significant numbers of people being present on a site. In granting planning permission for a warehouse, conditions will be imposed to prevent the future intensification of the use of the site and limit the number of employees present;
- 6. development of a kind likely to introduce very few or no people on to a site on a regular basis. Examples might include unmanned structures, engineering operations, buildings housing plant or machinery, agricultural buildings and operations, buildings and structures in domestic curtilage incidental to dwellinghouse use, and buildings for storage purposes ancillary to existing industrial development;
- 7. public open space, in cases where there is a reasonable expectation of low intensity use. Facilities such as children's playgrounds, playing fields or sports grounds will not be permitted as these are likely to attract large numbers of people on a regular basis;
- 8. low density recreational uses, such as golf courses, but not clubhouses; and
- 9. allotments.

Within Public Safety Zone 1, where the level of risk is greater, the following types of development may be permitted, but only where it is likely to involve a very low density of people entering the Zone for limited time periods, and where it is in accordance with other principles and policies of the Plan;

- 1. long-stay and employee car parking (where the minimum stay is expected to be in excess of six hours);
- 2. built development for the purpose of housing plant or machinery, and which would entail no people on site on a regular basis such as boiler houses, electricity switching stations or installations associated with the supply or treatment of water; and
- 3. low density recreational uses such as golf courses, but not clubhouses.

18. Kent, D & Mason, S (1999) Third Party Risk in the Vicinity of Jersey Airport, R&D Report 9933, NATS

Sharing Tools

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005

**2006 No. 2238**

**ENVIRONMENTAL PROTECTION, ENGLAND**

**The Environmental Noise (England) Regulations 2006**

*Made* - - - - *8th August 2006*

*Laid before Parliament* *7th September 2006*

*Coming into force* - - *1st October 2006*

The Secretary of State is a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to measures relating to the assessment, management and control of environmental noise. The Secretary of State makes these Regulations in exercise of the powers conferred by that section.

**PART 1**

**GENERAL**

**Citation, commencement, extent and application**

**1.**—(1) These Regulations may be cited as the Environmental Noise (England) Regulations 2006 and shall come into force on 1st October 2006.

(2) These Regulations apply in England.

(3) Nothing in paragraph (2) means that strategic noise maps made or revised under these Regulations must be limited to England.

(4) These Regulations apply to environmental noise to which humans are exposed in particular in built-up areas, in public parks or other quiet areas in an agglomeration, near schools, hospitals and other noise-sensitive buildings and areas.

(5) These Regulations do not apply to noise that is caused by the exposed person himself, noise from domestic activities, noise created by neighbours, noise at work places or noise inside means of transport or due to military activities in military areas.

**Interpretation**

**2.**—(1) Unless otherwise defined in these Regulations, words and terms used in these Regulations and in the Directive have the same meaning as in the Directive.

(2) In these Regulations—

“agglomeration” means an area identified as an agglomeration pursuant to regulation 3;

“airport operator” means the person for the time being having, in relation to a particular airport, the management of that airport;

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<sup>(a)</sup> S.I. 2004/706.

<sup>(b)</sup> 1972 c.68.

“calendar year” means a period of a year beginning on 1st January;

“consolidated noise map” means a noise map compiled pursuant to regulation 14(2);

“dB(A)” is a measure of sound pressure level (“A” weighted) in decibels as specified in British Standard BS EN 61672-2: 2003(a);

“DEFRA” means the Department for Environment Food and Rural Affairs;

“designated” when used in relation to any airport means designated under section 80 for the purposes of section 78 of the Civil Aviation Act 1982(b);

“Directive” means Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise(c);

“first round agglomeration” means an area identified as a first round agglomeration pursuant to regulation 3;

“first round major railway” means a railway which is identified as a first round major railway pursuant to regulation 3;

“first round major road” means a road which is identified as a first round major road pursuant to regulation 3;

“in the form of regulations” means in the form of regulations made under section 2(2) of the European Communities Act 1972;

“L<sub>day</sub>” covers the period 07:00 – 19:00 hours in any 24 hour period;

“L<sub>evening</sub>” covers the period 19:00 – 23:00 hours in any 24 hour period;

“L<sub>night</sub>” covers the period 23:00 – 07:00 hours in any 24 hour period;

“major airport” means an airport identified as a major airport pursuant to regulation 3;

“major railway” means a railway which is identified as a major railway pursuant to regulation 3;

“major road” means a road which is identified as a major road pursuant to regulation 3;

“motorway” means a special road which (save as otherwise provided by or under regulations made under section 17 of the Road Traffic Regulation Act 1984(d)) can be used by traffic only of Class I or II as specified in Schedule 4 to the Highways Act 1980(e);

“non-designated” when used in relation to an airport means not designated under section 80 for the purposes of section 78 of the Civil Aviation Act 1982;

“principal or classified road” means a road which is known as—

- (a) a principal road;
- (b) a classified road; or
- (c) both a principal road and a classified road,

by virtue of section 12 of the Highways Act 1980 (whether by falling within subsection (1), or being classified under subsection (3));

“quiet area in an agglomeration” means an area which is identified as a quiet area in an agglomeration in accordance with regulation 13;

“special road” has the same meaning as in section 329(1) of the Highways Act 1980;

“supplementary noise indicator” has the meaning given in regulation 4(6); and

“trunk road” means any highway for which the Secretary of State is the relevant highway authority.

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(a) ISBN 0-580-42224-0.  
(b) 1982 c.16.  
(c) O.J. No. L 189, 18.07.2002, p. 12.  
(d) 1984 c.27; section 17 was amended by the New Roads and Street Works Act 1991 (c.22), Schedule 8, paragraph 28 and Schedule 9, and by the Road Traffic Act 1991 (c.40), Schedule 7, paragraph 3 and Schedule 8.  
(e) Schedule 4 has been amended by the Road Traffic (Consequential Provisions) Act 1988 (c.54), Schedule 3, paragraph 21(3).

### Identification of noise sources

3.—(1) No later than 31st December 2006 the Secretary of State must, in the form of regulations, identify all—

- (a) first round agglomerations;
- (b) first round major roads;
- (c) first round major railways; and
- (d) major airports.

(2) No later than 31st December 2011 the Secretary of State must, in the form of regulations, identify all—

- (a) agglomerations;
- (b) major roads;
- (c) major railways; and
- (d) major airports.

(3) In any relevant year the Secretary of State must, in the form of regulations, identify—

- (a) agglomerations;
- (b) major roads;
- (c) major railways; or
- (d) major airports,

as necessary if he considers that the most recent regulations produced pursuant to paragraph (2) are no longer appropriate.

(4) In paragraph (3) “relevant year” means 2016 and every fifth year thereafter.

(5) When discharging his duty under paragraph (1)(a) to identify first round agglomerations the Secretary of State must identify areas—

- (a) having a population in excess of 250,000 persons and a population density equal to or greater than 500 people per km<sup>2</sup>; and
- (b) which he considers to be urbanised.

(6) When discharging his duty under paragraph (2)(a) or (3)(a) to identify agglomerations the Secretary of State must identify areas—

- (a) having a population in excess of 100,000 persons and a population density equal to or greater than 500 people per km<sup>2</sup>; and
- (b) which he considers to be urbanised.

(7) When discharging his duty under paragraph (1)(b) to identify first round major roads the Secretary of State must identify roads which—

- (a) are—
  - (i) trunk roads,
  - (ii) motorways that are not trunk roads, or
  - (iii) principal or classified roads;
- (b) have more than six million vehicle passages a year; and
- (c) he considers to be regional, national or international.

(8) When discharging his duty under paragraph (2)(b) or (3)(b) to identify major roads the Secretary of State must identify roads which—

- (a) are—
  - (i) trunk roads,
  - (ii) motorways that are not trunk roads, or
  - (iii) principal or classified roads;

(b) have more than three million vehicle passages a year; and

(c) he considers to be regional, national or international.

(9) When discharging his duty under paragraph (1)(c) to identify first round major railways the Secretary of State must identify railways which have more than 60,000 train passages per year.

(10) When discharging his duty under paragraph (2)(c) or (3)(c) to identify major railways the Secretary of State must identify railways which have more than 30,000 train passages per year.

(11) When discharging his duty under paragraph (1)(d), (2)(d) or (3)(d) to identify major airports the Secretary of State must identify civil airports which have more than 50,000 movements per year (a movement being a take-off or a landing), excluding those purely for training purposes on light aircraft.

## PART 2

### STRATEGIC NOISE MAPS

#### CHAPTER 1

##### GENERAL REQUIREMENTS FOR STRATEGIC NOISE MAPS

###### **Strategic noise maps: general requirements**

**4.**—(1) Any strategic noise map made or revised under this Part must satisfy the applicable requirements in Schedule 1.

(2) A competent authority under regulation 6 or 10 must apply—

(a) the noise indicators  $L_{den}$  and  $L_{night}$  as referred to in Annex I of the Directive; and

(b) the supplementary noise indicators in all cases listed as examples in paragraph 3 of Annex I of the Directive,

when making or revising strategic noise maps under this Part.

(3) The values of  $L_{den}$ ,  $L_{night}$  and the supplementary noise indicators must be determined by means of the assessment methods set out in Schedule 2.

(4) Subject to paragraph (5) existing noise indicators and related data may be converted into  $L_{den}$  and  $L_{night}$ .

(5) The data referred to in paragraph (4) must not be more than three years old.

(6) “Supplementary noise indicator” means a noise indicator as defined in Schedule 3.

#### CHAPTER 2

##### STRATEGIC NOISE MAPS – NOISE SOURCES OTHER THAN NON-DESIGNATED AIRPORTS

###### **Application**

**5.** This Chapter does not apply to noise from non-designated airports.

###### **Competent Authority**

**6.** The competent authority for this Chapter is the Secretary of State.



### **Duty to make, review and revise strategic noise maps**

7.—(1) No later than 30th June 2007 the competent authority must make and, in accordance with regulation 23, adopt strategic noise maps showing the situation in the preceding calendar year for all—

- (a) first round agglomerations;
- (b) first round major roads;
- (c) first round major railways; and
- (d) major airports.

(2) No later than 30th June 2012, and thereafter every five years, the competent authority must make and, in accordance with regulation 23, adopt strategic noise maps showing the situation in the preceding calendar year for all—

- (a) agglomerations;
- (b) major roads;
- (c) major railways; and
- (d) major airports.

(3) From time to time, and whenever a major development occurs affecting the existing noise situation, the competent authority must—

- (a) review; and
- (b) if necessary revise,

any strategic noise map made pursuant to paragraphs (1) or (2) and adopted pursuant to regulation 23.

## **CHAPTER 3**

### **STRATEGIC NOISE MAPS – NON-DESIGNATED AIRPORTS**

#### **Application**

8. This Chapter applies to noise from non-designated airports.

#### **Interpretation**

9.—(1) In this Chapter—

“input data” means all the data and related information used to produce the numerical data in electronic form required by paragraph 3(2)(b) or 4(2)(b) (as appropriate) of Schedule 1;

“metadata” means such elements of Section 2 of the “SPIRE Data Standard, Version 1.0” (DEFRA, 25th November 2004)(a) as are required to describe the—

- (a) input data; and
- (b) information and data required by paragraph 3(2) or 4(2) (as appropriate) of Schedule 1.

(2) Any requirement in this Chapter to submit input data to a competent authority is a requirement to submit that input data in a format that—

- (a) is electronic;
- (b) allows electronic manipulation; and
- (c) does not require manipulation in order to reproduce the numerical data in electronic form required by paragraph 3(2)(b) or 4(2)(b) (as appropriate) of Schedule 1.

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(a) SPIRE Programme, Product Reference: SIP – DP – 011.

## **Competent Authority**

10. The competent authority for this Chapter is the airport operator.

### **Duty to make, review and revise strategic noise maps: non-designated major airports**

11.—(1) This regulation applies to non-designated major airports.

(2) No later than 31st March 2007, and thereafter every five years, the competent authority must—

- (a) make a strategic noise map showing the situation in the preceding calendar year for the airport; and
- (b) submit that map with input data and metadata to the Secretary of State.

(3) From time to time, and whenever a major development occurs affecting the existing noise situation, the competent authority must—

- (a) review; and
- (b) if necessary revise,

any strategic noise map made pursuant to paragraph (2) and adopted pursuant to regulation 23.

(4) The competent authority must submit any strategic noise map revised pursuant to paragraph (3)(b), with input data and metadata, to the Secretary of State within three working days of its revision.

### **Duty to make, review and revise strategic noise maps: non-designated other airports**

12.—(1) This regulation applies to non-designated other airports.

(2) No later than 31st March 2007 the competent authority must—

- (a) make a strategic noise map showing the situation in the preceding calendar year for any relevant first round agglomeration; and
- (b) submit that map with input data and metadata to the Secretary of State.

(3) No later than 31st March 2012, and thereafter every five years, the competent authority must—

- (a) make a strategic noise map showing the situation in the preceding calendar year for any relevant agglomeration; and
- (b) submit that map with input data and metadata to the Secretary of State.

(4) From time to time, and whenever a major development occurs affecting the existing noise situation, the competent authority must—

- (a) review; and
- (b) if necessary revise,

any strategic noise map made pursuant to paragraphs (2) or (3) and adopted pursuant to regulation 23.

(5) The competent authority must submit any strategic noise map revised pursuant to paragraph (4)(b), with input data and metadata, to the Secretary of State within three working days of its revision.

(6) In this regulation—

“relevant first round agglomeration” means a first round agglomeration in which air traffic from the airport results in air traffic noise of—

- (a) an  $L_{den}$  value of 55 dB(A) or greater; or
  - (b) an  $L_{night}$  value of 50 dB(A) or greater,
- anywhere within the first round agglomeration;

“relevant agglomeration” means an agglomeration in which air traffic from the airport results in air traffic noise of—

- (a) an  $L_{den}$  value of 55 dB(A) or greater; or
  - (b) an  $L_{night}$  value of 50 dB(A) or greater,
- anywhere within the agglomeration.

## PART 3

### QUIET AREAS

#### **Identification of quiet areas**

**13.**—(1) No later than—

- (a) 30th September 2007 for first round agglomerations; and
- (b) 30th September 2012 for agglomerations,

the Secretary of State must, in the form of regulations, identify quiet areas in those agglomerations.

(2) Paragraph (3) applies if the Secretary of State considers that the most recent regulations produced pursuant to this regulation are no longer appropriate.

(3) No later than 30th September in any relevant year the Secretary of State must, if he considers it necessary, in the form of regulations identify quiet areas in agglomerations.

(4) In paragraph (3) “relevant year” means 2017 and every fifth year thereafter.

## PART 4

### ACTION PLANS

#### CHAPTER 1

#### GENERAL

#### **Duty to publish criteria or limit values and a consolidated noise map**

**14.**—(1) No later than 18th July 2007 the Secretary of State must publish guidance setting out limit values or other criteria for the identification of priorities for action plans.

(2) No later than 1st October 2007 the Secretary of State must compile and publish a consolidated noise map from all strategic noise maps that are made or revised pursuant to regulation 7, 11 or 12 and adopted pursuant to regulation 23.

#### **Action plans: general requirements**

**15.**—(1) Any action plan drawn up or revised under this Part must—

- (a) meet the objectives of Article 1(c) of the Directive;
- (b) be designed to manage noise issues and effects, including noise reduction if necessary;
- (c) aim to protect quiet areas in first round agglomerations and agglomerations against an increase in noise;
- (d) address priorities which must be identified by having regard to guidance published pursuant to regulation 14(1);
- (e) apply in particular to the most important areas as established by strategic noise maps adopted pursuant to regulation 23; and

- (f) meet the requirements in Schedule 4.
- (2) Paragraph (3) applies to—
  - (a) any action plan; and
  - (b) any revision of an action plan,
 drawn up under this Part for a first round agglomeration or an agglomeration.
- (3) An action plan and any revision of an action plan must be based upon and apply in particular to the most important areas as established by—
  - (a) all strategic noise maps that—
    - (i) are made or revised pursuant to regulation 7, 11 or 12 and adopted pursuant to regulation 23, and
    - (ii) concern any part of the area addressed by the action plan; and
  - (b) a consolidated noise map to the extent that it concerns any part of the area addressed by the action plan.

## CHAPTER 2

### ACTION PLANS – NOISE SOURCES OTHER THAN AIRPORTS

#### **Competent Authority**

**16.** The competent authority for this Chapter is the Secretary of State.

#### **Duty to draw up, review and revise action plans**

- 17.—**(1) No later than 18th July 2008 the competent authority must draw up action plans for—
- (a) places near first round major roads;
  - (b) places near first round major railways; and
  - (c) first round agglomerations.
- (2) No later than 18th July 2013 the competent authority must draw up action plans for—
- (a) places near major roads;
  - (b) places near major railways; and
  - (c) agglomerations.
- (3) Paragraph (4) applies—
- (a) whenever a major development occurs affecting the existing noise situation; and
  - (b) at least every five years after the date on which an action plan is adopted pursuant to regulation 24.
- (4) The competent authority must—
- (a) review; and
  - (b) if necessary revise,
- the action plan.

## CHAPTER 3

### ACTION PLANS – AIRPORTS

#### **Competent authority**

- 18.** This Chapter applies to—
- (a) major airports; and

- (b) non-designated other airports if aircraft noise results in an  $L_{den}$  value of 55 dB(A) or greater or an  $L_{night}$  value of 50 dB(A) or greater anywhere in first round agglomerations or agglomerations,

and the competent authority is the airport operator.

#### **Duty to draw up, review and revise action plans**

**19.**—(1) No later than 30th April 2008 the competent authority must—

- (a) draw up an action plan for places near the airport; and
- (b) submit that action plan to the Secretary of State.

(2) Paragraph (3) only applies if the competent authority was not required to draw up an action plan for the airport pursuant to paragraph (1) because it was not the competent authority on or before 30th April 2008.

(3) No later than 30th April 2013 the competent authority must—

- (a) draw up an action plan for places near the airport; and
- (b) submit that action plan to the Secretary of State.

(4) Paragraph (5) applies—

- (a) whenever a major development occurs affecting the existing noise situation; and
- (b) at least every five years after the date on which an action plan is adopted pursuant to regulation 24.

(5) The competent authority must—

- (a) review; and
- (b) if necessary revise,

the action plan.

(6) An action plan revised pursuant to paragraph (5)(b) must be submitted to the Secretary of State within three working days of its revision.

### **CHAPTER 4**

#### **ACTION PLANS - PUBLIC PARTICIPATION**

##### **Public participation**

**20.**—(1) In preparing and revising action plans the competent authorities under regulations 16 and 18 must ensure that—

- (a) the public is consulted about proposals for action plans;
- (b) the public is given early and effective opportunities to participate in the preparation and review of the action plans;
- (c) the results of that public participation are taken into account;
- (d) the public is informed of the decisions taken; and
- (e) reasonable time frames are provided allowing sufficient time for each stage of public participation.

### **CHAPTER 5**

#### **IMPLEMENTATION OF ACTION PLANS**

##### **Implementation of action plans**

**21.**—(1) Where an action plan or a revision of an action plan—

- (a) has been adopted pursuant to regulation 24; and
  - (b) identifies a public authority as responsible for a particular action,
- that public authority must treat the action plan as its policy insofar as it relates to that action.
- (2) A public authority may depart from any policy mentioned in paragraph (1) if—
- (a) it provides—
    - (i) the Secretary of State, and
    - (ii) the competent authority responsible for the preparation of the action plan or the revision (if not the Secretary of State),
- with written reasons for departing from that policy; and
- (b) it publishes those reasons.
- (3) In this regulation “public authority” includes any person who exercises functions of a public nature, but does not include—
- (a) either House of Parliament or a person exercising functions in connection with proceedings in Parliament;
  - (b) courts or tribunals; or
  - (c) the Secretary of State.

## PART 5

### COOPERATION WITH EXTERNAL COMPETENT AUTHORITIES

#### **Cooperation with external competent authorities**

**22.**—(1) When necessary in order to meet its obligations under these Regulations, a competent authority must use all reasonable endeavours to secure the cooperation of an external competent authority.

- (2) A competent authority—
- (a) when requested to do so by an external competent authority; and
  - (b) if necessary to meet that external competent authority’s obligations arising under the Directive,

must cooperate with that external competent authority.

(3) In this Part “external competent authority” means a competent authority in Northern Ireland, Scotland or Wales designated for the purposes of Article 4 of the Directive.

## PART 6

### ADOPTION OF STRATEGIC NOISE MAPS AND ACTION PLANS

#### **Adoption of strategic noise maps**

- 23.**—(1) If the Secretary of State considers that a strategic noise map—
- (a) submitted to him pursuant to regulation 11 or 12;
  - (b) submitted to him pursuant to paragraph (4); or
  - (c) made or revised by him,

meets the requirements of regulation 4, he must adopt the map.

(2) If the Secretary of State considers that a strategic noise map submitted to him pursuant to regulation 11 or 12 or paragraph (4) does not meet the requirements of regulation 4 he may—

- (a) amend and adopt the map; or
- (b) reject the map.

(3) If a strategic noise map is rejected pursuant to paragraph (2)(b) the Secretary of State must notify the competent authority that submitted it of—

- (a) the reasons why the map was not adopted; and
- (b) the date by which the map must be revised and resubmitted.

(4) The recipient of a notification under paragraph (3) must submit the revised strategic noise map to the Secretary of State by the date specified in the notification.

(5) Paragraphs (1) to (4) apply to a revised strategic noise map as they apply to a strategic noise map submitted pursuant to regulation 11 or 12.

(6) If the Secretary of State amends—

- (a) a strategic noise map; or
- (b) a revised strategic noise map,

he must take such steps as he considers appropriate for ensuring that the map complies with the requirements of regulation 4.

### **Adoption of action plans**

**24.**—(1) If the Secretary of State considers that an action plan—

- (a) submitted to him pursuant to regulation 19(1)(b), 19(3)(b) or 19(6);
- (b) submitted to him pursuant to paragraph (5); or
- (c) drawn up or revised by him,

meets the requirements of regulation 15, he may adopt the action plan.

(2) Paragraph (3) applies if—

- (a) the Secretary of State considers that an action plan submitted to him pursuant to regulation 19(1)(b), 19(3)(b) or 19(6) does not meet the requirements of regulation 15; or
- (b) an action plan is not adopted pursuant to paragraph (1).

(3) Where this paragraph applies the Secretary of State must—

- (a) amend and adopt the plan; or
- (b) reject the plan.

(4) If an action plan is rejected pursuant to paragraph (3)(b) the Secretary of State must notify the competent authority that submitted it of—

- (a) the reasons why the plan was not adopted; and
- (b) the date by which the plan must be revised and resubmitted.

(5) The recipient of a notification under paragraph (4) must submit the revised action plan to the Secretary of State by the date specified in the notification.

(6) Paragraphs (1) to (5) apply to a revised action plan as they apply to an action plan submitted pursuant to regulation 19(1)(b), 19(3)(b) or 19(6).

(7) If the Secretary of State amends—

- (a) an action plan; or
- (b) a revised action plan,

he must take such steps as he considers appropriate for ensuring that the action plan complies with the requirements of these Regulations.

## PART 7

### POWERS OF THE SECRETARY OF STATE IN RELATION TO THE FUNCTIONS OF OTHER COMPETENT AUTHORITIES

#### Application

25. This Part does not apply to any functions under these Regulations for which the Secretary of State is the competent authority.

#### Powers

26.—(1) The Secretary of State may at any time require a competent authority to provide information in relation to its functions under these Regulations.

(2) A request for information pursuant to paragraph (1)—

- (a) must be made in writing;
- (b) may specify the format in which information must be provided; and
- (c) may specify the period of time within which a response must be received.

(3) If an authority receives a request pursuant to paragraph (1) it must respond—

- (a) within the time period specified pursuant to paragraph (2)(c); or
- (b) if no such period is specified, within fourteen days of receipt of the request.

(4) Paragraph (5) applies where—

- (a) the Secretary of State has consulted the competent authority; and
- (b) he considers that by reason of any act or omission, or any likely act or omission, by the competent authority—
  - (i) a requirement of these Regulations; or
  - (ii) a requirement imposed on the United Kingdom by the Directive, is unlikely to be met.

(5) The Secretary of State may exercise such of the functions of the competent authority as he considers appropriate.

#### Recovery of expenses

27. Where the Secretary of State incurs expenses pursuant to—

- (a) regulation 23(2);
- (b) regulation 24(3); or
- (c) regulation 26(5),

he may recover those expenses from the relevant competent authority as a civil debt.

#### Relevant competent authority

28. In regulation 27 “relevant competent authority” means—

- (a) in relation to regulation 23(2), the competent authority that submitted the strategic noise map pursuant to regulation 11 or 12;
- (b) in relation to regulation 24(3), the competent authority that submitted the action plan pursuant to regulation 19; and
- (c) in relation to regulation 26(5), the competent authority whose functions the Secretary of State exercises pursuant to that regulation.



## PART 8

### INFORMATION TO THE PUBLIC AND GUIDANCE

#### **Availability of strategic noise maps, consolidated noise map and action plans**

**29.**—(1) Any—

- (a) strategic noise map that is made available to the public before it is adopted pursuant to regulation 23; or
- (b) action plan that is made available to the public before it is adopted pursuant to regulation 24,

must include prominently displayed wording identifying it as a draft subject to adoption by the Secretary of State.

(2) Any—

- (a) strategic noise map adopted pursuant to regulation 23;
- (b) consolidated noise map compiled pursuant to regulation 14(2); or
- (c) action plan adopted pursuant to regulation 24,

must be published by the Secretary of State and accompanied by a summary setting out the most important points.

#### **Guidance**

**30.** A competent authority, in exercising any of its functions under these Regulations, must have regard to any guidance issued by the Secretary of State under this regulation.

8th August 2006

*Ben Bradshaw*  
Parliamentary Under Secretary of State  
Department for Environment Food and Rural Affairs

## SCHEDULE 1

regulations 4 and 9

### MINIMUM REQUIREMENTS FOR STRATEGIC NOISE MAPPING

#### **Interpretation**

**1.** In this Schedule—

“editable” means in a format that allows (without the need for manipulation) the electronic production of—

- (a) numerical data in tables, and
- (b) graphical plots,

to display the information described in paragraphs 1.5, 1.6, 1.7, 2.5, 2.6 and 2.7 of Annex VI of the Directive;

“grid” means a grid of vector points which are—

- (c) at 10 metre by 10 metre intervals,
- (d) spatially referenced to the British National Grid reference system used by the Ordnance Survey as a pair of integers to show Eastings then Northings in metres from the origin, and
- (e) aligned with the 10 metre vertices of the British National Grid reference system used by the Ordnance Survey so that references finish with the number zero.

#### **General requirements for strategic noise maps**

2.—(1) Strategic noise maps and their revisions must—

- (a) satisfy the minimum requirements laid down in Annex IV of the Directive; and
- (b) be clear and comprehensible.

(2) In applying paragraph (1)(a) any reference in Annex IV of the Directive to—

- (a) Article 8 of the Directive shall be taken to be a reference to regulations 15, 17 and 19 of these Regulations;
- (b) Article 9 of the Directive shall be taken to be a reference to regulation 29 of these Regulations.

#### **Requirements for strategic noise maps for agglomerations**

3.—(1) This paragraph applies only to—

- (a) a strategic noise map made under regulation 7(1)(a), 7(2)(a), 12(1) or 12(3); or
- (b) a revision of such a strategic noise map.

(2) Strategic noise maps must—

- (a) include the information (in electronic format) described in paragraphs 1.1 to 1.4 inclusive of Annex VI of the Directive; and
- (b) include editable numerical data in electronic form containing the values of  $L_{den}$ ,  $L_{night}$  and the supplementary noise indicators on a grid.

#### **Requirements for strategic noise maps for major roads, major railways and major airports**

4.—(1) This paragraph applies only to—

- (a) any strategic noise map made under—
  - (i) regulation 7(1)(b) to (d),
  - (ii) regulation 7(2)(b) to (d),
  - (iii) regulation 11(2); or
- (b) any revision of such a map.

(2) Strategic noise maps must—

- (a) include the information (in electronic format) described in paragraphs 2.1 to 2.4 inclusive of Annex VI of the Directive; and
- (b) include editable numerical data in electronic form containing the values of  $L_{den}$ ,  $L_{night}$  and the supplementary noise indicators on a grid.

## ASSESSMENT METHODS FOR THE NOISE INDICATORS

**Introduction**

1.—(1) The values of  $L_{den}$ ,  $L_{night}$  and the supplementary noise indicators must be determined by computation (at the assessment position).

(2) In this Schedule—

“assessment position” means the assessment height in paragraph 7 of Annex IV of the Directive;

“Recommendation” means Commission Recommendation 2003/613/EC of 6 August 2003 concerning the guidelines on the revised interim computation methods for industrial noise, aircraft noise, road traffic noise and railway noise, and related emissions data(a).

**Assessment method for road traffic noise indicators**

2. For road traffic noise indicators the assessment method “Calculation of road traffic noise” (Department of Transport, 7th June 1988, HMSO)(b) must be used, adapted using the report “Method for converting the UK road traffic noise index  $LA_{10,18h}$  to the EU noise indices for road noise mapping” (DEFRA, 24th January 2006)(c).

**Assessment method for railway noise indicators**

3. For railway noise indicators the assessment methods—

- (a) “Calculation of railway noise” (Department of Transport, 13th July 1995, HMSO)(d); and
- (b) (in relation to railways to which it is expressed to apply) “Calculation of railway noise 1995 Supplement No. 1 Procedure for the calculation of noise from Eurostar trains class 373” (Department for Transport, 20th October 1996, Stationery Office)(e),

must be used, adapted as shown in Figure 6.5 of the report “Rail and wheel roughness – implications for noise mapping based on the Calculation of Railway Noise procedure” (DEFRA, March 2004)(f).

**Assessment methods for aircraft noise indicators**

4. For aircraft noise indicators the assessment method “Report on Standard Method of Computing Noise Contours around Civil Airports” (Second Edition, European Civil Aviation Conference, 2–3 July 1997)(g) must be used in accordance with paragraph 2.4 of the Annex in the Recommendation.

**Assessment methods for industrial noise indicators and port noise indicators**

5.—(1) For industrial noise indicators and port noise indicators the propagation assessment method described in “ISO 9613-2:1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation” (International Standards Organisation, 1996)(h) must be used in accordance with paragraph 2.5 of the Annex in the Recommendation.

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(a) O.J. No. L 212, 22.8.2003, p. 49.

(b) ISBN 0115508473.

(c) Prepared by TRL Limited and Casella Stanger, Document Reference st/05/91/AGG04442.

(d) ISBN 0115517545.

(e) ISBN 0115518738.

(f) Prepared by AEA Technology plc, Document Reference: AEATR-PC&E-2003-002.

(g) Adopted by the Twenty-First Plenary Session of ECAC, Document Reference: ECAC.CEAC Doc. 29.

(h) International Organisation for Standardization (<http://www.iso.ch>)

(2) Suitable noise emission data (input data) for “ISO 9613-2:1996 Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation” can be obtained either from measurements carried out in accordance with one of the following methods:

- (a) “Acoustics. Determination of sound power levels of multisource industrial plants for evaluation of sound pressure levels in the environment. Engineering method” (BS ISO 8297:1994, British Standards Institute)(a);
- (b) “Acoustics. Determination of sound power levels of noise sources using sound pressure. Engineering method in an essentially free field over a reflecting plane” (BS EN ISO 3744:1995, British Standards Institute)(b);
- (c) “Acoustics. Determination of sound power levels of noise sources using sound pressure. Survey method using an enveloping measurement surface over a reflecting plane” (BS EN ISO 3746:1996, British Standards Institute)(c),

or by using Toolkit 10 of the “Good Practice Guide for Strategic Noise Mapping and the Production of Associated Data on Noise Exposure Version 2, Position Paper Final Draft” (European Commission Working Group Assessment of Exposure to Noise, 13 January 2006)(d).

## SCHEDULE 3

regulation 4

### SUPPLEMENTARY NOISE INDICATORS

#### Interpretation

**1. In this Schedule—**

“ $L_{A10,18h}$ ” is the arithmetic mean noise level in dB(A) exceeded for 10% of each hour over the period 06:00 - 24:00 hours;

“ $L_{Aeq,16h}$ ” is the equivalent continuous sound level in dB(A) that, over the period 07:00 – 23:00 hours, contains the same sound energy as the actual fluctuating sound that occurred in that period;

“ $L_{Aeq,18h}$ ” is the equivalent continuous sound level in dB(A) that, over the period 06:00 – 24:00 hours, contains the same sound energy as the actual fluctuating sound that occurred in that period;

“ $L_{Aeq,6h}$ ” is the equivalent continuous sound level in dB(A) that, over the period 24:00 – 06:00 hours, contains the same sound energy as the actual fluctuating sound that occurred in that period.

#### Road Traffic Noise

**2. The supplementary noise indicators in relation to road traffic noise are—**

- (a)  $L_{A10,18h}$ ;
- (b)  $L_{Aeq,16h}$ ;
- (c)  $L_{day}$ ; and
- (d)  $L_{evening}$ .

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(a) British Standards Institute ([http://www.standardsdirect.org/standards/standards3/StandardsCatalogue24\\_view\\_23347.html](http://www.standardsdirect.org/standards/standards3/StandardsCatalogue24_view_23347.html))  
(b) British Standards Institute ([http://www.standardsdirect.org/standards/standards2/StandardsCatalogue24\\_view\\_19606.html](http://www.standardsdirect.org/standards/standards2/StandardsCatalogue24_view_19606.html))  
(c) British Standards Institute ([http://www.standardsdirect.org/standards/standards2/StandardsCatalogue24\\_view\\_19608.html](http://www.standardsdirect.org/standards/standards2/StandardsCatalogue24_view_19608.html))  
(d) European Commission Working Group Assessment of Exposure to Noise (<http://www.defra.gov.uk/environment/noise/mapping/exposure/pdf/exposedata-guide.pdf>)

### **Railway Noise**

3. The supplementary noise indicators in relation to railway noise are—

- (a)  $L_{Aeq,16h}$ ;
- (b)  $L_{Aeq,18h}$ ;
- (c)  $L_{Aeq,6h}$ ;
- (d)  $L_{day}$ ; and
- (e)  $L_{evening}$ .

### **Aircraft Noise**

4. The supplementary noise indicators in relation to aircraft noise are—

- (a)  $L_{Aeq,16h}$ ;
- (b)  $L_{day}$ ; and
- (c)  $L_{evening}$ .

### **Industrial Noise and Port Noise**

5. The supplementary noise indicators in relation to industrial noise and port noise are—

- (a)  $L_{Aeq,16h}$ ;
- (b)  $L_{day}$ ; and
- (c)  $L_{evening}$ .

## **SCHEDULE 4**

regulation 15

## **MINIMUM REQUIREMENTS FOR ACTION PLANS**

### **General**

1.—(1) An action plan must—

- (a) meet the minimum requirements of Annex V of the Directive; and
- (b) contain a summary covering all the important aspects referred to in Annex V of the Directive, not exceeding ten pages in length.

(2) In applying paragraph (1) any reference in Annex V of the Directive to—

- (a) Article 5 of the Directive shall be taken to be a reference to regulation 4 of these Regulations;
- (b) Article 8(7) of the Directive shall be taken to be a reference to regulation 20 of these Regulations.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (O.J. No. L 189, 18.07.2002, p. 12) (the ‘Directive’).

### **Strategic noise maps**

The making of strategic noise maps will occur in two rounds, the first in 2007 and the second in 2012. In the second round a larger number of the same type of noise sources will have to be mapped than in the first round. Subsequently strategic noise maps will have to be made every five years.

Regulation 3 requires the Secretary of State to identify the noise sources for which strategic noise maps must be made. Regulation 7 requires the Secretary of State to make strategic noise maps for agglomerations, major roads, major railways and major airports designated under section 80 for the purposes of section 78 of the Civil Aviation Act 1982 (1982 c.16). From time to time, and whenever a major development occurs, the Secretary of State must review (and if necessary, revise) strategic noise maps.

Regulations 11 and 12 require airport operators to make strategic noise maps for airports that are not designated under the Civil Aviation Act 1982. Strategic noise maps will need to be made for: (i) all non-designated major airports; and (ii) noise in agglomerations arising from any other airports (if aircraft noise results in a value of 55  $L_{den}$  or 50  $L_{night}$  anywhere in those agglomerations). Strategic noise maps will need to be reviewed (and revised if necessary) from time to time, and whenever a major development occurs. Once made, the airport operators must submit strategic noise maps (or their revisions) to the Secretary of State for adoption.

All strategic noise maps must meet the requirements set out in regulation 4.

Regulation 4 and Schedule 3 specify which noise indicators and supplementary noise indicators must be used in making the strategic noise maps. Schedule 2 sets out the assessment methods to be used in calculating the values of noise indicators. Different methods are specified for each noise source.

Regulation 13 requires the Secretary of State to identify quiet areas in first round agglomerations and in agglomerations.

### **Action plans**

Action plans must be drawn up in 2008 and in 2013. This is consequential on the dates by which strategic noise maps must be prepared..

Regulation 14 requires the Secretary of State to publish guidance on how the priorities in action plans should be identified. It also requires the Secretary of State to compile and publish a consolidated noise map.

Regulation 15 sets out the requirements for action plans.

Regulation 17 requires the Secretary of State to draw up action plans for places near to major roads and major railways, and for first round agglomerations and agglomerations. The Secretary of State must review (and revise, if necessary) the action plans every five years or sooner if a major development occurs.

Regulation 19 requires airport operators to draw up action plans in relation to major airports and other airports (if aircraft noise results in a value of 55  $L_{den}$  or 50  $L_{night}$  anywhere in those agglomerations). The airport operator must review (and revise, if necessary) the action plans every five years or sooner if a major development occurs. Once drawn up or revised, the airport operators must submit an action plan to the Secretary of State for adoption.

Regulation 20 specifies the public participation required during the preparation and revision of action plans.

Regulation 21 requires public authorities to treat action plans as policy insofar as the action plan identifies them as being responsible for a particular action. Public authorities may depart from such policies in specified circumstances.

### **Other provisions**

Regulation 22 requires competent authorities in England to cooperate with their counterparts in Northern Ireland, Scotland and Wales when necessary to do so in order to meet obligations under these Regulations or the Directive.

Regulations 23 and 24 set out the mechanism by which the Secretary of State adopts strategic noise maps and action plans respectively.

Regulation 26 provides the Secretary of State with the power to require competent authorities to provide information in relation to their obligations under the Regulations or to step in and carry out the functions of competent authorities under specified circumstances.

Regulation 27 gives the Secretary of State power to reclaim certain expenses from competent authorities.

Regulation 29 sets out requirements for the publication of strategic noise maps, a consolidated noise map and action plans prepared by airport operators and approved by the Secretary of State.

Regulation 30 requires competent authorities to have regard to any guidance published by the Secretary of State.

A Regulatory Impact Assessment has been prepared and placed in the libraries of both Houses of Parliament. It is available on <http://www.defra.gov.uk/environment/noise/ambient.htm>. A transposition note has been prepared and is available on <http://www.defra.gov.uk/environment/noise/ambient.htm>.

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