Unanswered questions

Foreword

The 6 months allotted for the examination of Riveroak's DCO is almost complete and what has been glaringly obvious is Freudmann and his colleagues have treated the whole DCO process with distain.

The point of the process is to examine a DCO which has been front loaded and fully consulted on from the start and it is clear that Riveroak has completely failed to do this.

Those who have an interest in the consultation were already unhappy with Riveroak's failure to be honest and open at those consultations especially the first one when members of the Save Manston Association were running the event and collecting names and addresses of all attendees leading to many who were against the reopening refusing to fill in their data.

We now have the unedifying spectacle of a 4th set of questions detailing unresolved issues with only 2 weeks to go.

10 questions still unanswered

- Why have RSP denied the residents of Ramsgate the legitimate compensation they deserve?
- Why is the Ministry of Defence still in the dark over a significant Infrastructure facility?
- Why are the people most affected still in the dark about Night Flights?
- Why is there no verifiable evidence on the Beneficial Ownership of MIO (Belize) and HLX Nominees (Tortola)?
- Despite it being mandatory why are there no Public Safety Zones in RSP's plans?
- Why is this submission considering Compulsory Acquisition powers for the Northern Grass when it is unrelated to a Cargo Hub?
- Why is Cogent Land LLP being kept in the dark by RSP over their Manston Green planning permission?
- Why are the trustees of the Spitfire & Hurricane museum still in the dark about their historical museum?
- Why is it still unclear whether the application is an NSIP at all?
- Clearly this application does not meet the criteria to be considered as a "compelling case in the Public Interest"

Questions

1. **Noise blight has been consistently underrated by Riveroak from their use of limited noise contours and their failure to take the same stance of using the 60 Db LAeq 16hr noise contour as a starting point for offering noise mitigation.**

Many airports around the country (Heathrow, Bristol, and London City use the 57db contour as a starting point with Central Government wanting the standard to be the 60 Db level.

In the draft DCO document issued on the 14th June 2019 the ExA wrote:

New R9b "*Residential properties with habitable rooms within the 60dB LAeq (16 hour) day time contour will be eligible for noise insulation and ventilation detailed in Noise Mitigation Plan*."

The rationale as set out in the dDCO was as follows: "*The ExA is proposing this revised daytime threshold in order to align the daytime noise threshold with current and emerging policy including the Government's proposed changes currently the subject of consultation. The Aviation Policy*

Unanswered questions

Framework (2013) paragraph 3.17 states that: "We will continue to treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance." The Civil Aviation Authority's (CAA) recent findings on Aircraft Noise and Annoyance (February 2018) refers to UK policy in relation to an 'annoyance threshold' and highlights 57dB LAeq (16 hour) as marking the approximate onset of significant community annoyance. The third 3 paragraph page 6 states that: "The government published their Response to their Airspace Consultation in 2017 and acknowledged the evidence from the SoNA study, which showed that sensitivity to aircraft noise has increased, with the same percentage of people reporting to be highly annoyed at a level of 54 dB LAeq, 16hr as occurred at 57 dB LAeq, 16hr in the past." Paragraph 3.122 of Aviation 2050 "The future of UK Aviation (December 2018)" Cm 9714 states that: "The government therefore proposes the following noise insulation measures: • to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr."

According to the open session the QC for RSP Michael Humphries stated "***there is no more money***" and Wood, who did the noise assessment stated reducing the 63 dB to 60 dB would add a further 833 properties increasing the blight compensation **from £2.75M to £11M** added to that would be the relocation costs for Smugglers Leap as it would be nigh on impossible to insulate a static caravan.

Even the 833 additional properties is understating the numbers if the ERCD contours are used.

Editor's note: 5ten12 and "No to night flights" independently commissioned sets of noise contours which, although utilising the same information as Wood, come up with different contours.

It is also clear from the noise mitigation measures at London City offer a fixed £3000 for all properties caught in the 57dB contour and should be offered to all affected in Ramsgate "*We will continue to treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance*."

It is clear that RSP has sought to minimise their exposure to compensation for blight unlike the more enlightened airport operators and the ExA has failed to protect the people living under this threat.

2. **What is happening with the HRDF and crown land?**

From the latest set of questions

"*The Draft (not agreed) Statement of Common Ground between the Applicant and the Ministry of Defence (HRDF) [REP7a-005] states that the new location has to be on land within the freehold ownership of the MOD*."

i. Who would acquire and pay for that land?

ii. Is this provided for in your estimate of costs?

iii. Is provision for this contained within the sum contained in Article 9?

It does seem that the site shown to the DIO representative lies within the land already granted planning permission at Manston Green and with a phasing assessment that may take up to 2 years it is doubtful that this will be resolved anytime soon.

How does the ExA figure this will be resolved considering it is clear the DIO has called Anthony Freudmann a liar although he was more polite than I?

"*Also attached is a copy of the Cogent LLP indicative layout plan which shows the potential layout of the development. The Manston Green Development was granted outline planning consent on 16th*

Unanswered questions

July 2016 for 785 houses and associated development and neither at the time of the Osprey presentation (nearly two years after outline consent had been granted) nor at any time since have RSP made the MoD aware of the planned Manston Green Development, the presence of which is likely to have a considerable impact on the operational capability of the HRDF (even if it were to be located outside the development area). Neither, it seems, from comments made at the Hearing by Cogent's representative, have RSP made Cogent LLP aware of the proposals to relocate the HRDF. This is critical information for both parties that should have been disclosed to them by RSP.

In the Osprey presentation it should also be noted that it states that "Safeguarding of navigation aids and procedures also considered – Site one fully compliant". It cannot possibly be the case that Site 1 is fully compliant given its location within the Manston Green Development.

If, as suggested by Mr Freudmann, Site 1 is not now the site and an alternative site or sites are being considered (or site 1 is now in a different location) then the MoD has no knowledge of where these are.

The MoD has also consistently expressed concern about the fact that ***no written evidence has been provided by RSP from the landowner on whose site it is proposed to locate the HRDF*** *that such a proposal would be acceptable. In the Summary of the Applicant's Oral Submissions at the January 2019 Hearings dated 18th January 2019 on page 3 under item 2.8 it states the following:*

"TF [Tony Freudmann] explained that all sites for relocation of the HRDF were beyond the eastern boundary of the Order limits on land near to where the existing landing lights are located. The landowner of the sites in question had already consented to the HRDF being located on that land."

As far as Site 1 is concerned the landowner could not unilaterally have consented to the HRDF being placed there, and the necessary freehold land sold to achieve this, as this proposal would also have needed the consent of Cogent Land LLP who until 4th June were unaware of the proposal. Although Site 3 is owned by the Steed family (who it has been suggested verbally are supportive of the project), Site 2 is owned by an unconnected company, C J Montgomery Limited and there is no evidence (verbal or otherwise) of any discussions or consultation by RSP with that Company."

https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020002/TR020002-004288-Defence%20Infrastructure%20Organisation%20-%20Deadline%208.pdf

Clearly this issue will not be resolved by the 9th July 2019 and would therefore be an impediment to granting the DCO.

3. Night Flights

Despite the ExA thinking that banning all take offs and landings at Manston between the hours of 11pm and 6am except for HEMA (Humanitarian, Emergency, Military etc.) flights might have assuaged the many doubts around Night Flights it has made the situation more fraught simply because those against NF simply do not believe Riveroak's intentions are honest. Dissecting this from your question Ns 4.10

"*The Applicant has considered the night time quota count of 3028 that it is proposing in the light of night time flights now only consisting of late-arriving flights plus, emergency and humanitarian flights and departing flights between 0600 and 0700. It is unlikely that there would be more than five passenger flights departing during that hour, and unlikely that any aircraft with a quota count of*

Unanswered questions

*greater than 1 would be used. The applicant is therefore willing to reduce the quota count to 2000 (365*5 being 1825),* ***but this would be on the basis that late-arriving****, emergency and humanitarian flights would be excluded from that total. If they are to be included as at present, then the Applicant would wish to keep the original figure of 3028*."

In essence HEMA flights (in red) are normally excluded at all airport's QC that leaves just late-arriving the issue and having a QC only operating between 6-7am for those passenger flights planning to leave using up the 2000 QC then that leaves "late-arriving cargo flights" unfettered access to Manston because they would not incur a penalty and seeing as the airport operator determines late or otherwise the losers would be those trying to sleep. It is also clear that RSP has resisted having a cap limiting flights at night preferring the flexibility of a QC.

Fig 1

4. Ownership

In the ExA the Inspectors have made it clear that they require Verifiable Evidence so they can examine all aspects of the DCO. Now nearly 6 months from that point it is clear that despite being asked on a number of occasions for this evidence and nothing has been provided.

Who has beneficial ownership of MIO Investments in Belize?

Who or what has beneficial ownership of HLX nominees in Tortola?

Where are the invoices detailing expenditure of RSP so far?

With reference to the invoices which entity paid those bills?

Why was money diverted through Freudmann Tipple?

Why has Riveroak not had its own bank account?

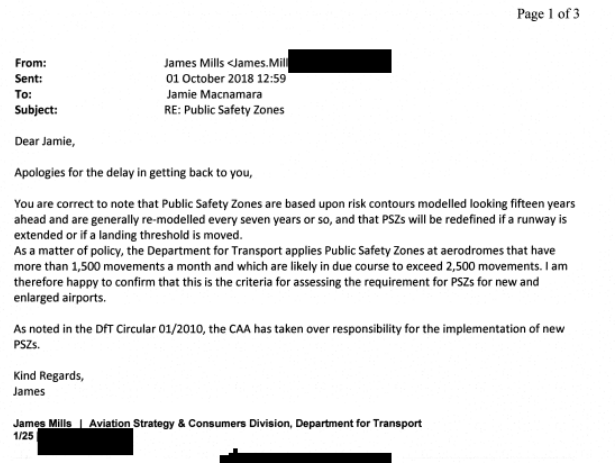
5. Public Safety Zones

Having submitted a further question to the ExA concerning PSZ's I will not be duplicating the work except to say that SHP has clearly felt that RSP are deliberately fudging this issue to avoid the additional expense adding one would entail. The ExA are clear it is important as they again question the lack

OP.4.6 The Applicant considers in their response to question OP.3.10 [REP7a-002] that PSZs would not need to be produced by year 4 of operation, stating that guidance does not set an Air Transport Movement (ATM) limit above which a PSZ should be introduced, but generally if ATMs exceed 1,500 per month (18,000 per year) and are expected to exceed 2,500 per month (30,000 per year), then

one is likely to need to be introduced, but noting that the guidance does not state how far ahead the 2,500 per month expectation should be. The answer goes on to state that it unlikely that a PSZ may need to be introduced before year 15, but it is possible by year 20.

In their Deadline 7 responses, York Aviation on behalf of SHP [REP7-014] append an email (fig 2) from the Department for Transport (DfT) which states that PSZs are based upon risk contours modelled looking fifteen years ahead and are generally re-modelled every seven years. The email goes on to state that, as a matter of policy, the DfT applies PSZs at aerodromes that have more than 1,500 movements a month and which are likely in due course to exceed 2.500 movements, and that this criteria applies to PSZs for new and enlarged airports.



Page 1 of 3

From: James Mills <James.Mill[redacted]
Sent: 01 October 2018 12:59
To: Jamie Macnamara
Subject: RE: Public Safety Zones

Dear Jamie,

Apologies for the delay in getting back to you,

You are correct to note that Public Safety Zones are based upon risk contours modelled looking fifteen years ahead and are generally re-modelled every seven years or so, and that PSZs will be redefined if a runway is extended or if a landing threshold is moved.
As a matter of policy, the Department for Transport applies Public Safety Zones at aerodromes that have more than 1,500 movements a month and which are likely in due course to exceed 2,500 movements. I am therefore happy to confirm that this is the criteria for assessing the requirement for PSZs for new and enlarged airports.

As noted in the DfT Circular 01/2010, the CAA has taken over responsibility for the implementation of new PSZs.

Kind Regards,
James

James Mills | Aviation Strategy & Consumers Division, Department for Transport
1/25 [redacted]

Fig 2

TDC [REP7a-045] consider that the designation of a 1 in 100,000 PSZ would have significant implications for planning policy, with potentially two housing sites in the draft local plan affected by the PSZ, as well as the potential to affect a significant number of windfall sites provided for in the plan.

- **Given the submitted evidence are you still of the view that a PSZ would not be needed until years 15-20 of operation?**
- **If yes, provide evidence to counter that provided by the DfT.**
- **If you accept that a PSZ would be needed as a matter of policy once the Airport has more than 1,500 movements a month, consider how this should be addressed within the application and ES, including any assessment of scale, geographical coverage of the PSZ based on the proposed fleet mix and effects on consented and future developments within the PSZs.**

6. Cargo DCO

This application is to increase by 10000 cargo Air Transport Movements and it is still, even at this late stage, how the development of PAX atms is being allowed to enable RSP to take more land than would be necessary to run a Cargo Hub.

Much of the development on the Northern Grass area is clearly designed to augment the airport for unrelated “Associated Development” however RSP has clearly NOT made the case for this development further adding to the feeling this is a “land grab”. Clearly the ExA are concerned:

Unanswered questions

CA.4.2 The 2013 DCLG Guidance on associated development applications for major infrastructure projects states that:

"*The definition of associated development … requires a direct relationship between associated development and the principal development*."

In its comments on the Applicant's response to CA.2.18 SHP argued that:

"Under the PA2008, only development that has the requisite effect referred to in section 23(5)(b) which is "to increase by at least 10,000 per year the number of air transport movements of air cargo movements for which the airport is capable of providing air cargo services", could be classified as the principal development. Any development that does not have this requisite effect is therefore not part of the principal development."

One reading of your movement of Work No.12 — the construction of a new passenger terminal facility into the list of Associated Development at Deadline 3 is that you do accept this premise.

CA.4.3 The examples given in the definition of "airport related" at Article 2 of the dDCO appears to be more limited in its scope than the indicative list of uses contained at paragraph 14 at Annex 4 in the Updated NSIP Justification document [REP1-005].

CA.4.4 The ExA notes that the definitions contained in the Fourth Schedule of the revised draft proposed s106 agreement state that: "Northern Grass Area" means the area shown [ ] on the Manston – Haine Link Road Plan falling within the limits of the Development Consent Order which shall include a business park for Manston Airport."

Clearly there are further construction phases indicated in the application that are not compatible to the construction of a cargo hub such as MRO, Teardown, and Offices and associated carparks and RSP have failed to make a case these are related to Cargo**. In fact it is clear that a cargo hub could be constructed only using land to the South of the Manston Road.**

7. Cogent Land LLP

Cogent Land LLP is listed in the updated Book of Reference as having a Category 2 interest in plots 060 to 067.

To the Applicant

Cogent Land does not appear to be named in the Compulsory Acquisition Status Report [REP8-008].

Explain this apparent omission.

In the Written Summary of Oral Representations put to the Examining Authority (ExA) at the Manston Airport Draft Development Consent Order ("DCO") Hearings held on 4th and 5th June 2019 [REP8-068], Iceni Projects on behalf of Cogent Land LLP states that:

"Access Road

"*Cogent has raised repeated concerns in relation to the CPO land, and its potential to jeopardise the delivery of Manston Green through the impact on the consented access road. The Applicant appear very dismissive of these concerns, and the responses we have received to date in relation to this matter have been unsatisfactory. The plans provided (Appendix F.2.9 of RSP's response to the ExA's Second Written Questions p301) is not adequate. The purpose of this drawing is unclear as there is no title, notes, drawing reference, key or annotations. In addition, there is no scale bar provided and the*

basemapping which has been used is unclear, with unnecessary additional drawing frames included, resulting in a poor-quality drawing that offers no reassurance that it is accurate."

Table 18.4 of the ES states that "*The Manston Green site overlaps with a small section of the Proposed Development red line boundary. In this location, the Proposed Development will be used for landing lights only, and the lights are unlikely to extend to the far eastern extent of the boundary. The area of overlap in the outline masterplan for Manston Green is shown as open space and a new link road*"

This paragraph also states that the Applicant will work with the developers to confirm the use of this overlapping land but that the DCO Scheme will not impact upon the deliverability of the Manston Green development. However, there has been little/no attempt by the Applicant to engage with Cogent to discuss this matter further to provide clarity.

Added to these apparent omissions is the issue of the HRDF indicated above again showing a lack of communication with affected parties. All things that should have been solved even before the application was submitted.

8. Manston Spitfire & Hurricane Historical museums

With only 2 weeks to go the historical Museums (who were gifted the freehold to their land by Stone Hill Park) are having to write (fig 3) to the ExA to ask what is going on

From: [redacted]
To: Manston Airport
Cc: [redacted]
Subject: Spitfire Museum submission 13.06.2019
Date: 13 June 2019 17:11:01

Dear Sirs,

Hope you're well. I would like to raise a concern about the issue specific hearing of 3 June concerning heritage.

Whilst attending the meeting we were alarmed to realise that the Museums received very little mention even though it could be argued that they are the key heritage elements of DCO. Furthermore, we have yet to receive any confirmation or indication of the applicant's plans with regards to the Museum's current and future status as a freehold and wider plans for the Museums area in general.

Though we have received oral offers of our freehold being "re-granted" as soon as the DCO is complete (if successful), the trustees are becoming deeply concerned with the comparative paucity of time given to examine how secure the Spitfire Museum will be in the event of a successful DCO.

With this in mind, and if permissible, we would like to ask if the examining authority would ask the applicants to clarify what exactly they intend for the Spitfire Museum in particular and both Museums in general.
The Trustees of the Spitfire Museum would be happy to assist the examiners in whatever way is deemed appropriate to achieve such clarification.

I very much look forward to hearing from you.

Sincerely,
Matt Demedts
Museum Manager
RAF Manston Spitfire & Hurricane Memorial Museum

Fig 3

Unanswered questions

Clearly owning the freehold it seems contradictory to Compulsory Purchase the land from the trustees only to re-donate the land back to them again. There is also the issue that the Traffic Management plan intends that the road junction will need widening which will also put the museums at risk.

CA.4.11 Whether the purposes for which an order authorises the Compulsory Acquisition of land and/ or rights over land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected: the RAF Manston Museum and the Spitfire and Hurricane Museum

In its Response to CA.3.17 [REP7a-002], the Applicant states in relation to the RAF Manston Museum and the Spitfire and Hurricane Museum that:

"i. The commitments are not secured in the draft DCO or in any of the documents to be certified. This is because the museums do not need to move as part of the project, and will only do so if their owners choose for that to happen.

ii. The Applicant does not expect the ExA to have regard to this commitment, it is not part of the application."

In a submission dated 13 June 2019 [AS-192] RAF Manston Spitfire and Hurricane Memorial Museum states that:

"We have yet to receive any confirmation or indication of the applicant's plans with regards to the Museum's current and future status as a freehold and wider plans for the Museums area in general."

And that

"*Though we have received oral offers of our freehold being "re-granted" as soon as the DCO is complete (if successful), the trustees are becoming deeply concerned with the comparative paucity of time given to examine how secure the Spitfire Museum will be in the event of a successful DCO*."

i. If the museums do not need to move as part of the project justify the need for Compulsory Acquisition in this case.

ii. If the Applicant's purpose in seeking Compulsory Acquisition is to re-grant the freehold, justify the need for Compulsory Acquisition in this case.

iii. If commitments to the RAF Manston Museum and the Spitfire and Hurricane Museum are not part of the application, justify the need for Compulsory Acquisition in this case.

iv. State why the Applicant has not confirmed or indicated its plans with regards to the RAF Manston Spitfire and Hurricane Memorial Museum's current and future status as a freehold and wider plans for the museums' area in general.

9. Is this an NSIP?

"Under the PA2008, only development that has the requisite effect referred to in section 23(5)(b) which is "**to increase by at least 10,000 per year the number of air transport movements of air cargo movements for which the airport is capable of providing air cargo services**", could be classified as the principal development. Any development that does not have this requisite effect is therefore not part of the principal development."

Unanswered questions

To secure the status of a Nationally Significant Infrastructure Project Riveroak have to show that they can generate 10000 air transport movements and this figure appears in the discredited (because Dr Dixon was unable to show her wish list was even viable) Azimuth Report.

This report shows that the figure would be achieved within the 6th year of operation however to reach the 10000 she has utilised a load per ATM of less than 22 tonnes (fig 5) whereas historically cargo planes at Manston (fig 4) have achieved an average figure of 56 tonnes.

MANSTON	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Passengers (headcount)	18,608	4,414	6,459	7,810	3,382	2,523	941	2,936	2,269	1,511	7,594	5,761	52	3,256	100,592	206,875	9,845	15,556	11,625	5,335	25,692	37,169	8,262	40,143	12,385	-	-
Freight (tonnes)	2,068	2,925	1,938	2,204	5,326	5,073	1,918	2,206	5,655	22,785	32,239	35,521	32,240	43,026	26,626	7,612	20,841	28,371	25,673	30,038	28,103	27,495	31,078	29,306	12,696	-	-
Passenger ATMs	342	86	91	130	53	49	13	62	46	46	64	26	5	25	2,603	4,454	139	164	128	98	660	1,083	255	1,129	392	-	-
Freight ATMs	105	187	155	152	203	227	92	68	223	700	920	911	800	1,081	730	177	322	444	412	485	491	389	432	511	229	-	-
Total ATMs	447	273	246	282	256	276	105	130	269	746	984	937	805	1,106	3,333	4,631	461	608	540	583	1,151	1,472	687	1,640	621	-	-

Fig 4

	Cargo ATM's								
	Azimuth			Infratil					
	ATM	Cargo tonnes	average	ATM	Cargo Tonnes	Average	ATM's if historical average is used		
year 2	5252	96553	18.38	444	28371	63.90	**1511**		
year 5	9936	173741	17.49	389	27495	70.68	**2458**		
year 10 (7)	11600	212351	18.31	511	29306	57.35	**3703**		
Year 10 is year 7 under Infratil as the airport closed in 2014									

Fig 5

There are two issues with her figures firstly looking at the total annual tonnage for year 20 divided by the historical average of 56 tonnes Manston would fail to achieve 10000 even after the 20 years and secondly the point of cargo freighters is to lessen the air pollution and an air cargo travelling to its destination carrying just 22 tonnes would be better served with an HGV doing the same trip albeit in a slower time.

Fig 6

Clearly with the Government committed to zero carbon by 2050 it would be counterproductive to replace one HGV with a cargo ATM.

Finally on this point of a cargo hub it should be that this NSIP should increase the UK capacity for Cargo ATMs however as there is still capacity at East Midlands, Stanstead, Luton and Manchester, who are all better placed to serve the motorway network, this is doubtful.

Unanswered questions

Even if it could be considered a Cargo "Hub" every job created at Manston would simply be a transfer from another airport as Cargo ATM's have flatlined over the last 10 years (fig 7) showing no sign of a recovery

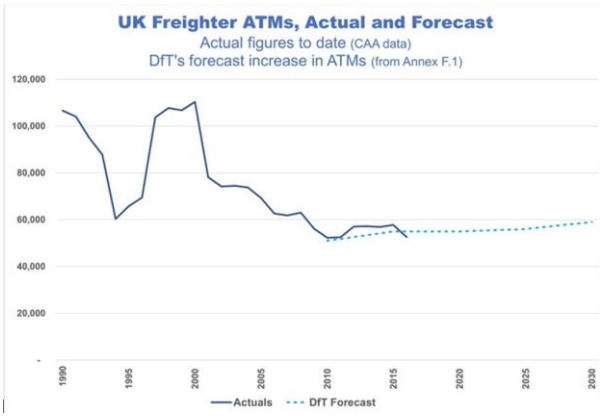


Fig 7

Clearly the DfT believe there is little need for a freighter only cargo hub

10. A compelling case in the Public Interest

Justification for seeking authorisation for compulsory acquisition

5. Applicants seeking authorisation for the compulsory acquisition of land should make appropriate provision for this in their draft development consent order.

6. Section 122 of the Planning Act provides that a development consent order may only authorise compulsory acquisition if the Secretary of State is satisfied that:

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

7. Applicants must therefore be prepared to justify their proposals for the compulsory acquisition of any land to the satisfaction of the Secretary of State. They will also need to be ready to defend such proposals throughout the examination of the application. Paragraphs 8-19 below set out some of the factors which the Secretary of State will have regard to in deciding whether or not to include a provision authorising the compulsory acquisition of land in a development consent order.

Unanswered questions

General considerations

8. The applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored. The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate.

9. The applicant must have a clear idea of how they intend to use the land which it is proposed to acquire. They should also be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available. Otherwise, it will be difficult to show conclusively that the compulsory acquisition of land meets the two conditions in section 122 (see paragraphs 11-13 below).

10. The Secretary of State must ultimately be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention.

The purpose for which compulsory acquisition is sought

11. Section 122 of the Planning Act sets out two conditions which must be met to the satisfaction of the Secretary of State before compulsory acquisition can be authorised. The first of these is related to the purpose for which compulsory acquisition is sought. These three purposes are set out in section 122(2):

(i) the land is required for the development to which the development consent relates

For this to be met, the applicant should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed for the development for which consent is sought. The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.

(ii) the land is required to facilitate or is incidental to the proposed development.

An example might be the acquisition of land for the purposes of landscaping the project. In such a case the Secretary of State will need to be satisfied that the development could only be landscaped to a satisfactory standard if the land in question were to be compulsorily acquired, and that the land to be taken is no more than is reasonably necessary for that purpose, and that is proportionate.

(iii) the land is replacement land which is to be given in exchange under section 131 or 132 of the Planning Act.

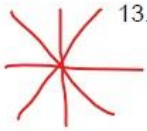
This may arise, for example, where land which forms part of an open space or common is to be lost to the scheme, but the applicant does not hold other land in the area which may be suitable to offer in exchange. Again, the Secretary of State will need to be satisfied that the compulsory acquisition is needed for replacement land, that no more land is being taken than is reasonably necessary for that purpose, and that what is proposed is proportionate.

Unanswered questions

W

Compelling case in the public interest

12. In addition to establishing the purpose for which compulsory acquisition is sought, section 122 requires the Secretary of State to be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily.



13. For this condition to be met, the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss.

With the UK government signing up to a zero carbon mandate it is hard to understand how any increase in airfreight movements is justified considering the 3rd runway at Heathrow would make achieving zero carbon more problematic and is their preferred option. There would be little point in opening Manston just to close it when the 3rd runway opens especially as there is airfreight capacity at other airports.

Balancing public interest against private loss

14. In determining where the balance of public interest lies, the Secretary of State will weigh up the public benefits that a scheme will bring against any private loss to those affected by compulsory acquisition.

15. In practice, there is likely to be some overlap between the factors that the Secretary of State must have regard to when considering whether to grant development consent, and the factors that must be taken into account when considering whether to authorise any proposed compulsory acquisition of land.

16. There may be circumstances where the Secretary of State could reasonably justify granting development consent for a project, but decide against including in an order the provisions authorising the compulsory acquisition of the land. For example, this could arise where the Secretary of State is not persuaded that all of the land which the applicant wishes to acquire compulsorily has been shown to be necessary for the purposes of the scheme. Alternatively, the Secretary of State may consider that the scheme itself should be modified in a way that affects the requirement for land which would otherwise be subject to compulsory acquisition. Such scenarios could lead to a decision to remove all or some of the proposed compulsory acquisition provisions from a development consent order.

Unanswered questions

Resource implications of the proposed scheme

17. Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required. It may be that the project is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the applicant should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.

18. The timing of the availability of the funding is also likely to be a relevant factor. Regulation 3(2) of the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 allows for five years within which any notice to treat must be served, beginning on the date on which the order granting development consent is made, though the Secretary of State does have the discretion to make a different provision in an order granting development consent. Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of.

Conclusion

With just two weeks to the end of the examination it is difficult to see just how these unanswered questions can be answered with “Verifiable Evidence” and even if there are some answers it would be impossible to see how the answers can be examined and responded to by any interested parties.

It has been clear from the start of this process that Riveroak has treated the people of Ramsgate with distain preferring to make disingenuous statements, giving contradictory answers and have delayed and obscured from the outset.

The point of a DCO is to provide an application properly researched by known methods of a viable project that would benefit the United Kingdom which is adequately funded.

It seems what you get with Riveroak is a land grab using the Planning Act 2008.

- Why have RSP denied the residents of Ramsgate the legitimate compensation they deserve?
- Why is the Ministry of Defence still in the dark over a significant Infrastructure facility?
- Why are the people most affected still in the dark about Night Flights?
- Why is there no verifiable evidence on the Beneficial Ownership of MIO (Belize) and HLX Nominees (Tortola)?
- Despite it being mandatory why are there no Public Safety Zones in RSP’s plans?
- Why is this submission considering Compulsory Acquisition powers for the Northern Grass when it is unrelated to a Cargo Hub?
- Why is Cogent Land LLP being kept in the dark by RSP over their Manston Green planning permission?
- Why are the trustees of the Spitfire & Hurricane museum still in the dark about their historical museum?
- Why is it still unclear whether the application is an NSIP at all?
- Clearly this application does not meet the criteria to be considered as a “compelling case in the Public Interest”