

Appeal Decisions

Inquiry held on 14-17 March 2017

Site visit made on 17 March 2017

by M C J Nunn BA BPL LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th July 2017

Appeal A Ref: APP/Z2260/W/15/3140995 Building 1, Former Manston Airport, Kent, CT12 5BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Lothian Shelf (718) Ltd against Thanet District Council.
 - The application Ref: F/TH/15/0460 is dated 15 May 2015.
 - The development proposed is described as 'change of use of Building 1 from sui generis to flexible B1(b-c), B2 and B8 for a temporary period of 3 years'.
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Appeal B Ref: APP/Z2260/W/15/3140990 Building 2, Former Manston Airport, Kent, CT12 5BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lothian Shelf (718) Ltd against the decision of Thanet District Council.
 - The application Ref: F/TH/15/0457, dated 15 May 2015, was refused by notice dated 22 October 2015.
 - The development proposed is described as 'change of use of Building 2 from sui generis to flexible B1(b-c), B2 and B8, small extension, marking out of car parking, and associated works'.
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Appeal C Ref: APP/Z2260/W/15/3140992 Building 3, Former Manston Airport, Kent, CT12 5BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Lothian Shelf (718) Ltd against Thanet District Council.
 - The application Ref: F/TH/15/0459 is dated 15 May 2015.
 - The development proposed is described as 'change of use of Building 3 from sui generis to flexible B1(b-c), B2 and B8'.
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Appeal D Ref: APP/Z2260/W/15/3140994 Building 4, Former Manston Airport, Kent, CT12 5BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for
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planning permission.

- The appeal is made by Lothian Shelf (718) Ltd against Thanet District Council.
 - The application Ref: F/TH/0458 is dated 15 May 2015.
 - The development proposed is described as 'change of use of Building 4 from sui generis to flexible B1(b-c), B2 and B8'.
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Decisions

1. Appeals A, B, C and D are all dismissed.

Procedural Matters

2. The single reason for refusal in respect of Appeal B was: "the proposed development, by virtue of the loss of a building for airport use, would create the potential need for additional buildings within the countryside and would not constitute essential airside development, contrary to Thanet Local Plan Policies CC1 and EC4 of the Thanet Local Plan, and Paragraphs 14 and 17 and guidance within the National Planning Policy Framework". With regards to Appeals A, C and D, the Council failed to determine the applications within the prescribed period. On 17 February 2016, the Council's Planning Committee resolved that, had it determined the applications, it would have refused permission for these applications for essentially the same reason as for Appeal B.
3. The Council initially resisted these appeals, and produced Statements of Case urging their dismissal. Subsequently, the Council indicated¹ that it no longer raised any objections to the four appeals, subject to the imposition of appropriate conditions. This followed the publication of a Report by AviaSolutions² into the commercial viability of the airport.
4. The Council's representative did not present any formal evidence to resist the schemes, apart from providing an opening statement³ setting out the new position, but attended throughout to provide support to the Inquiry and to participate in the discussion about conditions.
5. The Council, during the processing of the planning applications, revised the descriptions of the schemes, removing the 'flexible' nature of the uses sought. For the avoidance of doubt, I have dealt with the appeals as originally submitted on the basis of the 'flexible use'. Appeal A, concerning Building 1, relates to a change of use for a temporary period for three years, whereas in Appeals B, C and D, relating to Buildings 2, 3 and 4 respectively, the development is sought on a permanent basis.
6. RiverOak Strategic Partners Ltd ('RSP') appeared at the Inquiry as a Rule 6 Party, and gave detailed evidence inviting me to dismiss the appeals. RSP are promoting a project to reopen the airport. Although RSP currently have no legal ownership interest in the land, they are preparing to make an application for a Development Consent Order (DCO) to re-establish a predominantly cargo based aviation use at the site and are currently engaged in discussions with the Planning Inspectorate on this matter.

¹ Letter dated 15 December 2016

² Report on the Commercial Viability of Manston Airport, AviaSolutions (September 2016) [CD 14.2]

³ Inquiry Document 2

7. A DCO is the means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects. Such consents are assessed under a separate regime to these appeals and it is not my role to express a view on the matter of any forthcoming DCO, or to prejudge its findings. I also note that, given that the site is not currently in the ownership of RSP, and because acquisition through negotiation with the owners has been unsuccessful, the DCO process is likely to entail the acquisition of the appeal site under compulsory purchase powers, for which a compelling case in the public interest will have to be shown. Again, this is not a matter for this inquiry.

Main Issue

8. The main issue in all four appeals is the acceptability of the proposals having regard to the adopted development plan and national policy, and whether there are material considerations to justify a determination other than in accordance with the development plan.

Reasons

Background

9. Manston was first used as an airfield from around 1915-16. The runway was built in the 1940s and civilian use began in the 1950s and 1960s. The Ministry of Defence sold RAF Manston in 1998, and Manston Airport has been in various ownerships since. The four buildings subject of these appeals fall within the confines of Manston Airport, itself located outside the urban area. Airport activities ceased in 2014 and much of the necessary operational aviation infrastructure and equipment has now been removed. The airport is now closed and has no aerodrome licence.
10. Building 1 is located close to the main terminal building, whereas Buildings 2, 3 and 4 are all clustered along the northern boundary of the Airport adjacent to, and accessed from, Spitfire Way. Building 1 is a substantial aircraft hangar, with large opening doors to allow aircraft access. Building 2 is of a more modern design and construction than the other three buildings, with openings to the front and rear. Building 3 has front and back sliding doors. Building 4 is significantly smaller than the other appeal buildings. They were previously used respectively for aircraft maintenance; cargo handling, storage and produce inspection; and to quarantine and inspect animals. Building 4 is now occupied by a business. The buildings vary in condition, with Buildings 1 and 3 appearing to be in a relatively poor condition, and 2 and 4 in a fair condition.

National and Local Policy Context

11. The relevant legislation⁴ requires that the appeals be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory development plan comprises the Thanet Local Plan ('the Local Plan'), adopted in June 2006.
12. The Local Plan, in its chapter on Economic Development and Regeneration⁵, recognises Manston Airport as an important regional hub and business location,

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004

⁵ Chapter 2

and notes that its proximity to business parks ensures a key role in the economic regeneration of the area⁶. The Local Plan also records that the airport should play an important part in the economic regeneration not just of Thanet, but of the whole of East Kent⁷.

13. Policy EC4 of the Local Plan is of most relevance to these appeals. The Proposals Map identifies the appeal site as falling within the 'Airside Development Area'. Policy EC4 reserves such land for airside development, and states that development proposals will require specific justification to demonstrate that an airside location is essential. Paragraph 2.74 of the Local Plan defines 'airside development' as uses with an operational requirement for direct access to aircraft and therefore dependent on a location immediately adjacent to the runway or capable of direct access to it via taxiways. All four appeal schemes are for flexible business uses, rather than uses for which an airside location is essential. As such, they are in conflict with Policy EC4 of the Local Plan. This conflict with the Local Plan is not disputed by the main parties.
14. The National Planning Policy Framework ('the Framework') sets out the Government's up-to-date planning policies and is a material consideration in planning decisions. Importantly, the Framework does not change the statutory status of the development plan for decision making. However, the Framework advises at Paragraph 215 that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Paragraph 14 of the Framework is clear that where the development plan is absent, silent or out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
15. It is the case that the Local Plan predates the Framework. Nonetheless, the Framework states that policies should not be considered out of date simply because they were adopted prior to the Framework's publication⁸. The Local Plan, as the appellant notes, is formally 'time expired', being designed to provide policy guidance up to 2011⁹. However, the mere age of a plan does not mean that it loses its statutory standing as the development plan. Furthermore, I find the overall approach of Policy EC4 to be consistent with the Framework. This recognises that plans should take account of the growth and role of airports and airfields in serving business, leisure, training, and emergency service needs¹⁰.
16. Policy EC4's approach is also consistent with the Government's Aviation Policy Framework (APF)¹¹. This recognises, amongst other things, that the aviation sector is a major contributor to the economy, facilitating trade and investment. The APF supports growth within a framework that maintains a balance between the benefits of aviation and its costs, particularly its contribution to climate change and noise. The APF also states in the short to medium term, a key

⁶ Paragraph 2.4

⁷ Paragraph 2.51

⁸ Paragraph 211

⁹ Local Plan, Page 5 [CD12.1]

¹⁰ Paragraph 33

¹¹ Aviation Policy Framework, March 2013 [CD 11.2]

- priority is to work with the aviation industry and other stakeholders to make better use of existing runway capacity at all UK airports¹².
17. It is certainly the case that the Local Plan was written and came into force at a time when the airport was operational. For this reason, the appellant contends that the Local Plan policies in relation to the airport are couched in terms that are plainly out-of-date, and that whilst some weight attaches to them, it must be limited because of changed circumstances at the site, namely the closure of the airport¹³. Indeed, the Local Plan states that the Council 'should plan for 1 million passengers, and 250,000 tonnes of freight per annum by the end of the Plan period'¹⁴ which given subsequent events, was clearly optimistic.
18. Whilst the fact that the airport is not currently operational is an important material consideration in these appeals, it does not necessarily follow that the closure of the airport in 2014 means that the policies of the Local Plan should automatically be accorded less weight, or that they are necessarily out of date. It can often be the case that a landowner's aspirations for the use of a particular site may differ from those purposes identified in a statutory development plan. That fact does not, of itself, reduce the weight of the plan or its policies. If that were so, there would be little purpose to the statutory planning system, or identifying and allocating land for specific purposes. There is nothing before me to suggest that Policy EC4 only applies to an operational airport.
19. To sum up, I find the overall approach of Policy EC4 to be consistent with the Framework, and national aviation policy, notwithstanding its age and the fact it was drafted prior to the publication of the Framework. To that extent, I consider Policy EC4 continues to carry significant weight in the overall planning balance and that Paragraph 14 of the Framework does not apply in this case. However, it is relevant to consider whether there are other material considerations that warrant determining the appeals other than in accordance with the development plan. These considerations include the possibility of airport activities resuming in the future. I deal with this below.

Emerging Policy

20. A new Draft Local Plan is currently under preparation. The January 2015 Preferred Options Consultation sought, under Policy SP05, to designate Manston Airport as an 'Opportunity Area' for the purpose of preparing an 'Area Action Plan' (AAP) for the site. The AAP was to consider the 'retention, development and expansion of the airport and aviation operations', while 'exploring alternative options for the future development of the area for mixed-use development'.
21. Proposed revisions to the Draft Local Plan were published for consultation which took place between January 2017 and March 2017. The 2017 version of Policy SP05 takes a different approach in respect of the airport in that it is allocated as a 'mixed use settlement' with the capacity to deliver at least 2,500 homes and up to 85,000 sqm of employment and leisure floorspace. The

¹² Paragraph 10

¹³ Inquiry Document 1, Paragraph 10

¹⁴ Paragraph 2.65

Council acknowledged that the Draft Plan is in 'its comparatively early stages'¹⁵ and that the latest version is still subject to various outstanding objections, including in respect of Policy SP05.

22. The future of the airport will no doubt be considered in a future Examination of the Local Plan. As a strategic matter, it is also, as the Council notes, an issue that is likely to be relevant to the Duty to Co-operate¹⁶. The current stage of the Draft Local Plan means its policies may be subject to change. In these circumstances, and in accordance with Paragraph 216 of the Framework, little weight can be given to the Draft Local Plan at this time.

Relevance of Paragraph 22 of the Framework

23. This states that planning policies should avoid the long term protection of sites allocated for employment use where there is *no reasonable prospect* of a site being used for that purpose. The paragraph continues that where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses should be treated on their merits, having regard to market signals and the relative need for different land uses to support sustainable local communities.
24. Applying Paragraph 22, RSP argue that the land is reserved for a specific employment use, namely aviation use, by virtue of Policy EC4, and any change to a general B1 (b) and (c) B2 and B8 would constitute an alternative use in terms of Paragraph 22, for the purposes of Policy EC4. The appellant, by contrast, takes a broader interpretation of Paragraph 22 contending that since the proposed uses are also employment uses, there is no conflict with the underlying purposes of Paragraph 22. In other words, there is nothing in the Paragraph implying that it applies narrowly only to aviation use, and that it should be applied as written without imputing other meanings. On this basis, the appellant says that application of the test in Paragraph 22 does not assist much in assessing these appeals, if at all.
25. It seems to me that the precise meaning of Paragraph 22 is somewhat ambiguous and open to interpretation. I accept that the third sentence of Paragraph 22, unlike the first, refers to 'the allocated employment use' rather than 'employment uses' more generally. This lends weight to RSP's notion that, if applying Paragraph 22, it should be treated as referring to the specific airport employment use, by virtue of Policy EC4 of the Local Plan. However, there is a danger of an overly narrow or legalistic approach. Moreover the precise meaning of '*no reasonable prospect*' in this context is far from clear.
26. In my view, the test set out in Paragraph 22 is of limited assistance in determining the weight to the development plan. In any event, it cannot displace the approach set by statute, namely whether the appeals should be determined in accordance with the adopted development plan, or whether material considerations suggest otherwise. It is that latter approach that I prefer in assessing these appeals.

¹⁵ Inquiry Document 2, Paragraph 9

¹⁶ Inquiry Document 9, Paragraph 1.2

Possibility of airport use resuming

27. The appellant is of the view that there is not a realistic prospect of the airport use recommencing¹⁷. Reliance is placed on the AviaSolutions Report commissioned by the Council and published in September 2016 which concludes there is little prospect of a financially viable airport on the site¹⁸. However, and importantly, the AviaSolutions Report makes clear that it does not offer any opinion about the reasonableness or otherwise of RSP's plans for the airport¹⁹.
28. I heard evidence that three successive owners of the airport had been unable to run it viably. Submissions were made that RiverOak Investment Corporation, based in the United States, and experienced in major projects and financially well-resourced, is an entirely separate legal entity from RSP. On this basis, RSP's financial resources and expertise, as well as their ability to re-open the airport was questioned. The appellant also highlighted that there is no information in the public domain about the likely sources of funding for the project, which will be substantial. Nor has any detailed business plan been revealed. This, it is said, calls into question the entire delivery of RSP's project for Manston.
29. Furthermore, the appellant highlights the significant environmental aspects of the RiverOak's project which have yet to be assessed or impacts mitigated. An Environmental Impact Assessment would be required, as well as a Habitats Regulations Assessment. A cargo based operation is likely to have significant transport impacts, again requiring proper assessment. Because the land is in the ownership of another party, the DCO application will require the compulsory purchase of the land, and the relevant tests will need to be satisfied.
30. On the other hand, RSP have adduced detailed aviation evidence that, contrary to the conclusions of the AviaSolutions Report, the airport could be reopened and operated viably, with appropriate levels of investment²⁰. Detailed evidence was presented that the AviaSolutions Report was based on flawed assumptions and that the airport could be successfully developed as a mixed use airport, underpinned by a cargo operation, which could become an important infrastructure asset within the wider South East, and contribute to the local, regional and national economy. RSP were of the firm view that, subject to appropriate levels of investment, Manston would be capable of handling considerable air freight movements. The appellant did not call any aviation witnesses to directly rebut RSP's technical evidence, nor was RSP's key aviation evidence challenged²¹. However, the appellant made it clear that RSP's submissions on aviation were not accepted as correct.
31. Given this contradictory evidence, it is difficult to predict conclusively whether the airport will reopen or not. Indeed, no concluded view can be taken on RSP's proposals without all the information that will required for inclusion in any DCO application. It must be stressed it is not the purpose of this inquiry to

¹⁷ Planning Statement, May 2015, Paragraph 1.3 [CD 5.1]

¹⁸ This Report informed the latest iteration of the 2017 Draft Local Plan in respect of Policy SP05, which allows for a range of non-aviation uses.

¹⁹ Page 14, Footnote 2

²⁰ Evidence of Mr George Yerrall, Dr Sally Dixon, and Mr Chris Cain

²¹ Neither Dr Dixon or Mr Cain were cross-examined by Mr King

judge the merits or otherwise of RSP's project, which would be a matter for any forthcoming DCO. However, in considering whether the proposals should be determined in accordance with Policy EC4 or not, it is relevant to consider, in the light of the evidence presented, and as matter of planning judgement, if there is some possibility of the airport use resuming.

32. There are clearly a number of very significant hurdles and myriad important matters to be resolved if RSP's ambitious plans are to proceed to fruition. It relies, amongst other things, on the necessary investment and ownership matters being resolved. RSP's plans would also be dependent on the environmental impacts being satisfactorily addressed and mitigated. These matters are for a future DCO application, the success or otherwise of which cannot be known at this time.
33. The appellant accepts that the possible resumption of airport use at the airport cannot be ruled out, because of RSP's emerging proposals²². I have found that Policy EC4 is consistent with the Framework, as well as national aviation policy, and should therefore continue to carry significant weight in these appeals. In these circumstances, and until a new policy framework exists at the airport, I find that the evidence at the Inquiry did not demonstrate that the likelihood of the airport reopening was so slim that the conflict with Policy EC4 should be disregarded.

Whether the proposals would compromise the future aviation use of the airport

34. Given there is no active aviation use at the airport, the proposals could be seen as making efficient use of existing under-used buildings, and as a pragmatic response following the airport's closure. That said, granting permission would undermine the current policy protection afforded to airport land and be seen as setting a precedent for non-airport related use. This is more likely to lead to a situation where other floorspace could become used for activities that have little or no relationship with an airport function. All the appeal buildings are specifically designed for airport related uses, and their use for non aviation uses would undermine, rather than assist, any future operation of an airport.
35. In the case of Building 1, a temporary permission is sought that would enable control over future use. This could be seen as a flexible response without prejudicing future options given that there is no presumption that a temporary grant of planning permission should be granted permanently. However, a situation could develop where significant areas could be used for temporary non aviation related purposes, undermining the underlying policy objective of the adopted Local Plan.
36. I acknowledge that Buildings 2, 3 and 4 are located towards the periphery of the site, with vehicular access from Spitfire Way. It may be the case that these buildings could be capable of use as discrete units within the airport. But this does not alter the fact that non aviation uses would compromise the objective of Policy EC4. Building 1 is not located peripherally but close to the main terminal building and its use for non airport related activity so close to the terminal building would be likely to give rise to operational difficulties were the airport use to resume.

²² Inquiry Document 20, Paragraph 18

37. It may well be the case that any successful DCO would include provision for a compulsory purchase order that would enable full vacant possession of the entire site to be secured, and that the proposed appeal schemes would not affect this process. In other words, were the site to be compulsorily acquired for the purposes of reopening the airport as part of a DCO, any existing occupiers could be given appropriate notice to leave their premises. However, I see no good reason to grant permission for non-aviation uses contrary to adopted development plan policy on the basis that non-conforming uses could be reversed in the future through a DCO. This would amount to granting permission under one regime only to override it under another.
38. Prior to withdrawing opposition to these appeals, the Council's actual and putative refusal grounds referred to the loss of buildings for aviation use potentially creating the need for additional buildings within the countryside, where under Policy CC1, there is a presumption against such development. The appeal buildings are all designed for specific aviation related uses and, as a consequence, new buildings could be required to replace those 'lost' to other non-aviation uses. That said, until any future airport operator is known, the exact operational requirements cannot be certain and it cannot be accurately predicted whether any future scheme would give rise to the need for additional buildings. This matter cannot be determinative in these appeals.
39. To sum up, even allowing for any DCO, it seems clear to me that granting permission for these schemes, contrary to Policy EC4, would be likely to compromise any future aviation use of the airport. It might set a precedent which would be difficult to resist. Consistent application of Policy EC4 is required to prevent the site becoming anything other than an airport, and speculative non-conforming commercial uses would undermine its designated aviation use. Indeed, the cumulative effect of such developments would mean that the airport, although currently closed, would begin to exhibit the characteristics more redolent of a business park, undermining the concept of an airport.

The availability of employment land

40. The Council, when it originally assessed the proposals, expressed the view that the appeal proposals were largely speculative and that alternative employment land existed within the district, including at Manston Business Park, adjacent to the airport²³. The Council's review of employment sites to inform the new Draft Local Plan has revealed a significant over-supply of employment land within the district. I understand the Council is proposing to re-allocate some 30 hectares of older, less suitable, employment land for alternative uses such as housing²⁴.
41. However, in terms of premises, the appellant contends that there is a comparatively low amount of existing floorspace available in the district, that existing industrial floorspace has consistently low vacancy rates, and that much of the existing employment accommodation is of poor quality. As part of the consultation process on the original planning applications, the Council's Head of Economic Development noted that there were very few existing units of this size within the District.

²³ Council's Statement [CD 19.7]

²⁴ Report to the Overview and Scrutiny Committee, 21st November 2016 [CD13.5]

42. I accept that, with the necessary remediation and adaptation works, the appeal buildings may fill a gap in the supply of employment floorspace of this type and kind. This would bring some benefits in terms of job creation and economic activity, to which I accord some weight, but as the appellant acknowledges, such benefits would be relatively modest²⁵.
43. Notwithstanding submissions about the paucity of existing premises of comparable size to the appeal buildings, there is plenty of land for industrial and business development in the district²⁶. It seems to me that, were there significant demand for employment premises, they would be built out on the land already identified for that purpose. The evidence before me suggests that premises are also available in the wider East Kent area since the tenant that was originally envisaged for Building 2 has found alternative accommodation. Overall, I am not persuaded that a lack of alternative employment land or premises is a reason to allow these appeals at this airport location, or that it justifies departure from Policy EC4 of the Local Plan.

Other matters

44. The appellant's submissions make it clear that there is no intention to re-open the site as an airport, since it was acquired with the aspiration to promote a comprehensive redevelopment for mixed uses²⁷. Indeed, it is promoting a comprehensive mixed use scheme, comprising amongst other things some 2,500 new dwellings and up to 85,000 sqm of employment and leisure floorspace, retail, education, sport and recreation uses as well as open space, and associated infrastructure²⁸. It is argued that this site-wide scheme would bring significant social, economic and environmental benefits. However, this scheme is not before me, and so I make no judgement on its merits.
45. Reference has been made to 'Operation Stack'²⁹ which allows part of the runway to be used for non-aviation uses, namely the stationing of goods and vehicles, the use of the control tower as a co-ordination centre and the erection of temporary structures. To date, it has not been used for that purpose. Drawing parallels with the appeal proposals, the appellant argues that 'Operation Stack' indicates the acceptability of a non-aviation use on a temporary basis at the site, which would not prejudice the potential longer term use of the airport.
46. However, I do not consider that this temporary Order lends any support for the appeal proposals. It seems to me that 'Operation Stack' is a short term temporary measure of expediency to alleviate acute and specific problems of traffic congestion on the M20 and surrounding roads, until a longer term solution is found. It does not grant permanent planning permission at the airport for non aviation uses, in the way that three of the four appeal proposals would. The circumstances are markedly different, and I consider that 'Operation Stack' cannot provide justification for these appeals.

²⁵ Inquiry Document 20, Paragraph 59

²⁶ Ibid, Paragraph 56

²⁷ Proof of Evidence of Nicholas Alston, Paragraph 6.29

²⁸ Stonehill Park Planning Application Summary Document [CD 18.2]

²⁹ Town and Country Planning (Operation Stack) Special Development Order 2015 & Town and Country Planning (Operation Stack) Special Development Order 2016

Overall Conclusions and Planning Balance

47. The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The Framework states that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by the economic, social, and environmental dimensions and the interrelated roles they perform.
48. I have carefully considered the various arguments made by the appellant in support of these appeals. The re-use of the buildings would generate certain economic benefits, although as the appellant notes, they would be relatively modest. The proposals could be seen as making efficient use of existing under-used buildings, and as a pragmatic response to the fact that the airport has not been operational since 2014. I have also weighed in the balance that the Council has changed its original stance, and is no longer resisting these appeals.
49. Balanced against these factors is the conflict with the adopted development plan, which recognises the economic importance of the airport and safeguards the appeal site for aviation uses. Such an approach is in accordance with the Framework and with national aviation policy. In these respects, I consider Policy EC4 continues to carry significant weight in the overall planning balance. I make no judgement on the merits or otherwise of RSP's plans, or their future success. However, given a DCO application is currently being prepared, the possibility of the site being used as an airport in the future cannot be ruled out. This being so, and until a new policy framework exists at the airport, I see little justification for departing from adopted development plan policy which identifies the appeal site as falling within the 'Airside Development Area' where aviation uses are appropriate.
50. I have taken account of the appellant's contention that the resumption of airport use by RSP would not be prejudiced or compromised if these appeals were allowed because any future DCO would likely include compulsory purchase powers to secure vacant possession of the airport. However, I am not persuaded that granting permission for development that does not accord with the development plan can be justified on the basis that compulsory purchase powers can be used to reverse it in the future.
51. I have taken into consideration the latest emerging local planning policy which proposes to re-designate the airport for mixed use development. However, the consultation process has only recently occurred and the emerging Plan is subject to various outstanding objections and its policies may change. In accordance with Paragraph 216 of the Framework, I find little weight can be given to the emerging policy.
52. Overall, I conclude that the appeal schemes would conflict with Policy EC4 of the Local Plan, as well as its wider economic development and regeneration objectives. The proposals would conflict with the Council's current approach to the location of new development within the airport, which is consistent with national policy. The benefits of the scheme put forward by the appellants do not justify departure from Policy EC4 of the Local Plan. Hence I find there are no material considerations of sufficient weight that would warrant a decision

other than in accordance with the development plan. Accordingly, I conclude that the appeals should be dismissed.

Matthew C J Nunn

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Neil King QC of Counsel, Instructed by Herbert Smith
Freehills LLP

He called

Mr Nicholas Alston Director, Bilfinger GVA

FOR RIVEROAK STRATEGIC PARTNERS:

Miss Suzanne Ornsby QC and

Miss Melissa Murphy of Counsel, Instructed by Bircham Dyson Bell

They called

Mr Christopher Cain Director, Northpoint Aviation Services Ltd

Dr Sally Dixon Business and Aviation Consultant, Azimuth
Associates

Mr George Yerrall Director, RiverOak Strategic Partners Ltd

Ms Angela Schembri Planning Director, RPS Group

FOR THE COUNCIL

Mr Iain Livingstone Planning Applications Manager, Thanet District
Council

INTERESTED PERSONS

Ros McIntyre No Night Flights

Dr Beau Webber Save Manston Airport Association

Mr Simon Crow

Mr Rex Goodban

Sir Roger Gale MP

Sue Girdler

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening Statement on behalf of the Appellants
2. Opening Statement by the Council
3. Opening Statement by RiverOak Strategic Partners Ltd
4. Statement of Dr Beau Webber
5. Statement of Ms R McIntyre
6. Statement of Mr Simon Crow
7. List of draft conditions, annotated by RiverOak Strategic Partners
8. "Caxtons" bundle comprising particulars of employment land and property in East Kent
9. Report for Council Cabinet on 20th March 2017 on Proposed Revisions to Thanet District Council's Local Plan (Preferred Options)
10. Local Plan Proposals Map
11. Statement of Mr Rex Goodban
12. Statement of Ms Sue Girdler
13. Extract of House of Commons Transport Committee Report- 'Smaller Airports', Ninth Report of Session 2014-2015, dated 9th March 2015
14. Updated Draft Schedule of Conditions
15. Submissions of Sir Roger Gale MP
16. Schedule of employment land & premises, dated 17th March 2017-04-28
17. Further details of employment land & premises
18. Updated Statement of Common Ground, dated 17th March 2017
19. Closing Submissions of RiverOak Strategic Partners
20. Closing Submissions of the Appellant