

Ms Madeline Homer
Chief Executive
Thanet District Council
Cecil St
Margate
CT9 1XZ

Your Ref

Our Ref
ADW/165443.0001
Date
28 October 2016

By Post and Email: Madeline.Homer@thanet.gov.uk

Dear Ms Homer

AviaSolutions report and Local Plan process

As you will know from our previous correspondence, we act for RiverOak Investment Corporation who intend to seek development consent for a primarily cargo airport at Manston.

I am writing because I am concerned that the Council may be about to take significant decisions about the future of the airport site in a clandestine manner and on the basis of a report that is not robust, has not been tested or consulted upon, and indeed is wholly inaccurate, inadequate and misleading.

The report in question was written by AviaSolutions and published by the Council on 4 October. On that same morning, prior to the report itself being published, a press statement was made by the Leader of the Council, Chris Wells, in which he stated "it is with regret that I must accept the solid evidence-based report that tells me what I do not want to hear but must listen to. Manston has a glorious history but a different future".

Next, I understand that there was a private briefing of members about the report on 17 October at which AviaSolutions presented the report to the members. Neither minutes nor agenda were published by the Council of that meeting, and no mention is made of it on the Council website. Additionally we understand that on 31 October there is to be a meeting of the Local Plan Working Group where the proposed wording of the draft Local Plan may be altered in light of the report. Again there is no mention of this meeting on the Council website, no published agenda or report, and presumably the public are excluded if they should find out about it.

This evidence of pre-determination by the Council and its individual members and lack of regard for proper due process, scrutiny and public consultation, is of great concern.

Given that the members of the majority party in the district were elected on a manifesto of reopening the airport, it is a matter of considerable significance that the leader appears to be unilaterally attempting to reverse that policy without any opportunity for proper consideration of the report or for stakeholders to comment upon it.

14860222.1

50 Broadway London T +44 (0)20 7227 7000
SW1H 0BL United Kingdom F +44 (0)20 7222 3480
DX 2317 Victoria W www.bdb-law.co.uk



If the AviaSolutions report is to form the basis, or indeed is to be the sole trigger, for a fundamental change in the policy of the Council, then at the very least the Council should invite comments to be made on it before deciding how much weight to give the report in light of the consultation undertaken. Equally, any preferred alternative use to which the site might be put should also be subject to an equivalent examination of its viability before it is referred to in the Local Plan.

In the short space of time that RiverOak has had to consider the report it already has serious concerns over it. RiverOak will, and reserves its right to, set out a detailed examination of the report in due course, once it has had the appropriate time to consider the report in detail. Clearly a proper, full, fair and transparent opportunity for all interested parties to make comments upon this report should be provided in the near future.

RiverOak will provide detailed rebuttal evidence when this exercise is undertaken. If the report is exposed as fundamentally flawed at this stage (as we are sure it will be) then this will avoid the Council wasting time and resources by relying on a report that is not sound in progressing its Local Plan.

Our initial assessment is that the report is flawed in certain key respects:

- It relies upon interviews with anonymous contributors which prevents an open and fair assessment of their contributions
- It is authored by an organisation which is heavily involved in advising on Heathrow Airport and gives rise to a serious concern over a conflict of interest
- It deliberately ignores all the information provided to it by RiverOak
- It does not divulge the data or modelling on which it heavily relies, instead it asserts its conclusions without setting out its evidence, rendering it impossible for a reader to assess its conclusions
- On cargo demand it is in direct conflict with the conclusions of (and does not even acknowledge) at least six respected studies showing considerable unmet demand/future forecasts for dedicated air freight, although it does seek to dismiss the findings of York Aviation (page 27)
- It assumes that all demand for air freight will be met by existing flights having greater loads until 2050 and that there is therefore no demand for air cargo to or from new destinations for 34 years, which is incorrect (page 31)
- It assumes that Manston would reopen in the same configuration as before given the underestimate of the considerable investment RiverOak will make, when in fact its capacity will be expanded considerably (pages 30 and 37)
- Insofar as its passenger analysis is comprehensible it assumes that very little of 5m rising to 44m unallocated demand for passenger services in the south east would use Manston if it reopened (page 24)



BIRCHAM DYSON BELL

- It assumes a turnover of 2.2m passengers would be unviable, but at least ten airports within the UK currently operate viably with fewer than 2m passengers and no significant freight component, and passenger flights are only a minor component of RiverOak's plans

Most significantly, to use this report to conclude that aviation is not viable when it specifically excludes consideration of RiverOak's proposals, RiverOak having the only active interest in reopening the airport (page 14 footnote), would be irrational.

No reliance can be placed on this report until there has been proper scrutiny of the issues in an open and democratic manner. In light of the above no amendments should be made to the draft Local Plan until the viability of aviation at Manston, including appropriate scrutiny of this report as well as alternative uses, is fully tested through an open and fair consultation exercise which should take place in the near future.

Yours sincerely

Angus Walker
Partner

For and on behalf of Bircham Dyson Bell LLP

E anguswalker@bdb-law.co.uk

cc TDC councillors