

NNF12 - Getting It Wrong Locally: Misrepresentation Of The Applicant's Proposals

Introduction

1. It is not the role of the ExA to consider RSP's consultation process. NNF understands that. However, the proposal now before the ExA is not the proposal that RSP consulted on (we deal with this in our submission NNF01 Section B). In addition, RSP's habit of systematic misinformation during all of its consultations casts doubt on the extent to which the developer is fit and proper to own and operate an infrastructure project of national significance. In our view, this **is** an issue that should be considered by the ExA.
2. The evidence of systematic misinformation at the local level can and should be weighed carefully by the ExA. There are two reasons for this, in addition to those above:
 - It is relevant to the requirement – enlarged in the newly transposed Directive governing consideration of the application – that the general public should be enabled to participate fully and meaningfully in the consideration of the application.
 - The ExA has asked about public support for the proposal. Public support may be swayed by inaccurate or misleading descriptions of the application.
3. The ExA is asked to take into account evidence available locally showing plainly that the applicant failed to present an accurate picture of its proposals to the community, for example:
 - misleading statements consistently made on key issues by the applicant's team
 - no public consultation on an airport that has the capacity for over 83,000 cargo flights plus thousands of additional non-cargo flights – consultation was on a figure around one quarter of that
 - a meaningless impact assessment shared with the public for consultation with very significant sections (e.g. on health, transport, disasters etc) almost completely missing
 - no consultation on the proposal to have no ATM cap on the use of the airport's capacity, by day or by night.

Three key issues

4. The following review focuses on three key issues for residents - **night flights**, **job creation** and **noise**. As the ExA will know from the correspondence, these topics are of great local interest. They go to the very essence of the balance that must be struck when deciding airport schemes. What residents are told about these issues plainly influences their judgement about the acceptability of the development and the need for mitigation.

5. The evidence shows that, for each key issue, the applicant's presentation fell below an acceptable standard of accuracy. Either the position was confused as a result of inconsistent and contradictory statements, or the picture presented was exaggerated beyond what had been notified to PINS as the basis for the consultation. Though the formal documentation can be criticised as well as the local presentations by RSP Directors, the latter were much less accurate. That is especially important due to the publicity given locally to local statements by the Directors and by RSP's agents and in view of the locally well-documented¹ technical difficulties that members of the public experienced in accessing the formal written descriptions of the scheme on the RSP website.

Night flights

6. The basic problem all through the various consultations is the clash between the following two versions of the applicant's thinking on night flights:
 7. A: the documents lodged with PINS by RSP say that night flights are desirable² and asks to be allowed to operate lots of them^{3 4}
 8. B: in stark contrast, RSP's Directors repeatedly told the public that RSP neither wanted nor needed night flights. Indeed, the Directors blamed PINS for the references to night flights in the RSP consultation documents and subsequent DCO application.
9. Version B is false and is seriously misleading on a topic which the Government has repeatedly acknowledged is of major importance to the public. Version B, firmly lodged in the minds of many local people, has been supported time and again by oral assurances from RSP's principal directors, then disseminated onward. As a result local people have not received an accurate picture of the likely impact of the scheme on their environment and on their lives, nor grasped the extent of mitigation required.

¹ Mr Michael Childs has published on social media his extensive documentation on this point as well as related correspondence with PINS on this topic – see e.g. <http://thanetonline.blogspot.co.uk/2017/07/rsp-manston-dco-consultation-website.html>

² See RSP's April 2018 report on community consultation, where RSP repeatedly say that they “welcome support for night flights” in their replies to individual responses to the consultation. See also Table 9.1 of the April 2018 application (“Reasons why other South East airports are not suitable for freight expansion”) where RSP hold out free night flights as the first reason why freight operators would be likely to choose Manston above East Midlands Airport.

³ The April 2018 application proposes a Quota Count budget of “3028 for flights between 2300 and 0700” (see repeated response to statutory consultees on this point and TR020002/APP/2.4). This would permit many more night flights than the “up to 8” which was said to be the basis for the PEIR calculations - for example Luton's budget of 2,645 QC points produces 7,450-night flights a year (well over double the so-called “worst realistic case” canvassed for Rochdale envelope purposes in the RSP public consultation.

⁴ RSP's response to the public consultation clarified that RSP renounced its earlier promise to be bound by a cap on night flights imposed pursuant to a s106 agreement. Instead RSP proposes to rely entirely on its paradoxically named “noise mitigation” scheme which would permit an unlimited number of planes at night and would also allow into Manston aircraft categorised QC4, which are banned altogether from other airports on the grounds of excessive noise. We deal with this more fully in our submission NNF09.

10. The problem is compounded because, as evidenced below, supporters of the scheme and the local MPs promoted Version B, often sitting alongside RSP's Directors at events during the public consultation.
11. The two principal active Directors of RSP assured the public they need not fear the inclusion of night flights in the final consultation:
 - *"We have to show that we have studied the impact of night flights because the rules require that. We have no plans for night flights and if we had 8 flights a night we would lose money".⁵*
 - *Also this: "We have told everybody consistently since I had a lovely chat with you this time last year in Ramsgate and you haven't changed at all. Let me be very clear. We don't NEED night flights. [shouting] WE DON'T NEED NIGHT FLIGHTS. I said that last year. I also told that lovely gentleman [name quoted] who was with you that we didn't need night flights then and it's the same message now. I don't give a shit about night flights. Let me be very clear. It costs us more money. So what all that really cares to me is money. OK I don't give a fuck about night flights."⁶*
 - *"This is the other fantasy that somehow out there there's a huge demand for night flights and the answer to some of the operators is we can't. Find somewhere else but you'll be lucky. But what we can do is accommodate you between 9 and 11 in the evening and 7 or even 6 in the morning with some exceptions. Come in late we'll unload you and you can fly out in the morning. Take it or leave it. Night time shifts on airports are very, very expensive. There's a myth that you can make a lot of money on flights at night but you can't. We've analysed that up and down. Honestly we have. It's not an economically commercially viable proposition. The standard labour rates are huge so it doesn't matter if you're bringing in highly valued cargo It's still not going to make the money to justify it."⁷*
12. Further confusion was added by a "Statement on Noise", issued by RSP right at the end of the public consultation on 19 February 2018, which Director Mr Freudmann promised would clarify the position regarding night flights. In fact, this added to the confusion because it added a major loophole to a bland assurance that cargo flights won't be scheduled to fly into Manston at night. In the same breath as a reference to emergency and humanitarian flights (which would be allowed) RSP referred to "*flights carrying time-sensitive cargo with a very specific delivery window*". The formulation "*flights carrying time-sensitive cargo with a very specific delivery window*" describes almost the entire commercial Charter sector of the night-time cargo market. These

⁵ Tony Freudmann, 24 June 2017, at 25.50 of tape made at Ramsgate consultation event (available on request).

⁶ Niall Lawlor, 22 June 2017: verbatim transcript from private recording made at Canterbury consultation (available on request)

⁷ Tony Freudmann, 22 June 2017, from verbatim transcript of recording made at Canterbury consultation event (available on request)

weasel words are apt to mislead the public – and evidently did so to judge by the influence this had on the local MPs.⁸

13. This so-called clarification makes no reference at all to the figure of 8 flights per night, which RSP assured the public in the second statutory consultation remained the basis for all the calculations of impact in the PEIR and upon on which RSP invited comments from the public and statutory consultees.⁹
14. In fact, as the April 2018 application clarified, RSP is absolutely not talking just about emergency and humanitarian flights.¹⁰ Indeed, the applicant has gone beyond even the proposals hidden deep in the formal documentation issued for the public consultation – which it seems its own principal Directors were too ashamed to describe in public. The application makes it clear that RSP is seeking no cap on the number of night flights and a quota count for night noise that could allow the applicant to handle significant numbers of night flights a year – well in excess of any number given to the public as part of its consultation. Why has the applicant done this? RSP cannot claim to be responding to public concern by adding night flights, quite the opposite. All the evidence shows that RSP has sought to mask its proposals whilst actually making them even worse behind the public’s back.
15. Finally, RSP is seeking to have its cake and eat it. Directors have told the public that night flights are not profitable and that RSP does not want them. RSP has then applied to the ExA (and the CAA) for night flights as an integral part of its business case, implying that they are essential. Which is it? We say more about this in our submission NNF09.

Job creation

16. RSP’s formal consultation documents said:
17. *“In the first full year of operation it is expected that employment on and around the Manston Airport site will be around 850 people directly employed, with a further 5,000 people employed within the region in the supply chain, in associated industries or businesses, and as a result of the airport’s presence in the economy. By year 20, these figures will rise to over 4,200 people employed directly at the airport site and a further 26,000 in the wider economy. In addition, each construction phase will produce 600-700 jobs at their peak, plus additional employment in the region associated with the construction periods.”¹¹*
18. As the ExA will know, experts have questioned the basis for these figures. The issue for this submission is what the public were told, which was “Creating almost 30,000

⁸ For example, on 12 June 2018 at 10:52, <GALERJ@parliament.uk> wrote: “I am assured that scheduled night flights are not part of RSP’s business plan.” On 13 June 2018 at 11:17, GALERJ@parliament.uk wrote: “No. Mr Pulford. Scheduled flights are what they say they are – and charters are scheduled. There has always been, and will remain, the provision to take occasional delayed flights, diversions , emergency and mercy flights.”

⁹ Email from RSP to the author, available on request

¹⁰ For example, see paragraph 1.7 of TR020002/APP/2.4.

¹¹ Overview report, Frequently Asked Questions, p43 (Q8)

jobs within East Kent".¹² This dishonest figure – which is not supported in any way by even RSP's optimistic job forecasts – was picked up by the Press, as was presumably intended by RSP's publicity machine: "*Jobs bonanza for Dover if Manston Airport reopens, development boss Tony Freudmann says*".¹³ Another example: "*More than 30,000 jobs would ultimately be created in Thanet and East Kent through the airport's return*".¹⁴ RSP went even further than this absurd conflation, suggesting that transferring existing cross-channel freight to Manston (assuming, very improbably, that Manston would win this business) would count as an absolute gain for the region¹⁵ and repeatedly dangled unsubstantiated and exaggerated claims of skilled job creation.¹⁶

19. RSP accepted at the very first consultation event at which this banner appeared that it was not in any way correct to say that almost 30,000 jobs would be created in East Kent as a result of its proposal. RSP undertook to remove the misleading banner or to correct it. However, RSP did not do this, choosing instead to display it prominently at further consultation events.
20. In addition, RSP failed to tell the public what the implications would be locally for additional housing, and for transport, health and educational infrastructure, of the 30,000 jobs that it said that it would create in East Kent. This is particularly important in Thanet where, as RSP knows, there is great resistance to the prospect of more housing and an increased population, and where a good percentage of support for an airport at Manston exists in the hope of avoiding new housing on the site.
21. The air of hard-sell and pseudo-science is notable: "*The gist of it is airports globally are known job generators, not just locally but throughout the supply chain. So there's a relatively settled-upon methodology for trying to figure out what those numbers are. So, we didn't invent anything. That is calculated and applied it to our forecasts, and got to a number and applied it to our forecasts and go to a number. And so that's how that's calculated. It's direct, indirect and then there's catalytic. And the catalytic is what*

¹² Large banner displayed prominently at the principal consultation events at Herne Bay, Broadstairs and Chislet (14, 15 and 16 June 2017). Phil Rose has separately documented for PINS how this falsehood was drawn to the attention of the Directors at the first such event. However the banner continued to be displayed prominently at subsequent events. His recordings of exchanges with Mr George Yerrall on the subject are also available on request.

¹³ News article 25 July 2017: <http://www.kentonline.co.uk/dover/news/jobs-boost-hope-if-airport-129401/>

¹⁴ See local press article further reproduced in airport supporters' Facebook site - https://www.facebook.com/groups/savemanstonairport/?multi_permalinks=1641505985923457¬if_t=group_activity¬if_id=1504733284412097

¹⁵ "*That's why two million tons a year are being shipped in and out on the European ferries to the UK that's the loss of business [Sally] talked about and that's a sad reflection of how our country has run its affairs for the last 20 years. There's been no planning. Freight is trade and trade means success and prosperity for our country and if you lose that you burn your economy. The other thing that Sally didn't mention is the profile of Thanet and its jobs and the lack of opportunities which is really quite scary because this is not an area where there are attractive jobs and the airport is a major employer and there is no prospect of another major employer in this area.*" Tony Freudmann, 6 July 2017 Chislet consultation event from 1:04.40 (private recording, available on request)

¹⁶ "*It's one of the last remaining labour-intensive industries there are. You cannot avoid hiring lots and lots of people [...] we know that that in the airport business you will be creating decent jobs for people who will also need to be trained and brought through which potentially creates a whole lot of new opportunities for the area. So that's where we are.*" Tony Freudmann, 6 July 2017, Chislet consultation event from 23.40 (private recording, available on request)

*drives the bigger numbers as all the services, cargo movements are fully developed.*¹⁷ When challenged with obvious rejoinders and demands for evidence the Directors fell back on flannel especially regarding the resumption of passenger flights.¹⁸

22. In sum, RSP Directors misled the public by repeatedly advertising – despite recorded requests for correction – that the 26,000 indirect/catalytic jobs that Dr Dixon predicts Manston will create somewhere in the global economy would all be created in East Kent; by claiming that the road freight Dr Dixon says Manston will win from the cross channel hauliers will impact the Tunnel rather than the ferries and therefore the town of Dover will not be affected (RSP cannot know this),^{19 20} by saying that jobs generated by the proposed business model do not require to be offset against jobs lost by the competition or adjusted for other “double-counting” risks; by suggesting that the airport will create only or mainly “decent” jobs; and by asserting that the plans by the current owners of the site cannot alleviate the “scary” prospects for employment in Thanet as there is no chance of another major employer coming to the area.

Noise

23. RSP’s published consultation documents were very cautious about the precise environmental impact of their scheme: *“The airport will be operational during the day and may be operational to some extent at night. The noise generated due to this activity may give rise to potentially significant effects.”*²¹ The PEIR admitted that, pending further work on routes, aircraft type and specification²² *“[RSP’s current calculations cannot] be precise about the magnitude and geography of all likely*

¹⁷ George Yerrall, 17 June 2017, from verbatim transcript of recording made at the Margate consultation (available on request)

¹⁸ *“On the passenger side there will be a reinstated KLM service to Schiphol and there will be a couple – maybe more - of Ryanair planes based here. – That’s the expectation and that’s not just airy-fairy stuff that’s it’s based on real conversations with real airlines which is why we are giving you the names. In addition to that on the passenger side the other change that’s taking place since we started work on this is the appearance of low cost, long haul passenger airlines like Norwegian – there’s also a new BA-owned, low cost carrier currently only operating out of Spain called Level and there’s yet another Spanish-based low cost carrier called Europa and these are all exploiting the opportunity to fly low cost primarily to the United States but also to south America. They struggle to get slots in Heathrow and Gatwick and until the third runway appears that’s likely to be the case. So we are expecting that there will be an opportunity for Manston because of course we have the runway and there isn’t anywhere else that can take them that has space – there’s space at Southend but the runway’s too [short] there’s space at Bournemouth but the runway’s too [short] Manston’s the only place with the right length and we are now beginning to think as we get to 2020 that could well be a reality too. So that’s the passenger side.”* Tony Freudmann, 6 July 2017 Chislet consultation event from 1830 (private recording, available on request)

¹⁹ Q: *“Do you think that there will be a market conflict with Dover?”* [from 33.43] A: *“Um, err, um, if you are talking about cargo, err, our view is that air cargo is by definition urgent. Our view and our understanding of what happens at the moment is that cargo destined for the UK from the whole of Europe um comes through the Channel Tunnel and goes through the Channel Tunnel and doesn’t come through the Port of Dover. So if there is an impact and if we are going to be handling cargo at Manston which is currently crossing the channel [...] the likelihood is that the impact will be felt in the Channel Tunnel rather than in the Port of Dover.”* Tony Freudmann, 1 August 2017 QA session RSP presentation to Dover District Council from 33.05 – see <https://www.youtube.com/watch?v=RcKPbHZIPJI>)

²⁰ See quoted remarks by Mr Freudmann to Dover District Council – and compare this with what he told the Chislet consultation (quoted above) – he contradicts his earlier assertion that RSP is looking to take business from Dover by stealing their road freight

²¹ Applicant’s Scoping Report, paragraph 11.6.10

²² c.f. Overview report, Frequently Asked Questions, p43 (Q1)

*significant effects of aircraft noise [or] be sufficiently confident about any restrictions in the form of noise contours size or population exposure requirements”.*²³

24. RSP Directors seemed much less cautious – and much less accurate. The following evidences this:

25. Q: *“What type of cargo aircraft would the cargo aircraft be?”*

26. A: *“They’d be typically 747 – 8Fs”*

27. Q: *“Flying 600 feet over Ramsgate?”*

28. A: *“747-800s [sic] are a quarter of the noise of 747-400s or 200s that you had. ²⁴ A quarter, I assure you. But yes, there are very few old aircraft types left any more in the cargo world. The old bangers, the old Russian cargo aircraft, the MD11s, all those, they’ve all gone, they can’t get into Europe.” ²⁵*

29. Q: *“What is going to happen in terms of the approach and take-off of aircraft from Manston if you do get the go ahead and what is the impact of potential aircraft noise on the area of Deal and Walmer?”*

30. A: *“One key thing that we have already done – one decision that has been made – and this one will almost certainly be a condition – is to have a category 3 landing system at both ends of the runway. Under the old system there was not a cat 3 system that allowed landings in difficult weather conditions from the west [...] it brought them all in over Ramsgate [...] in the old days it was 70:30 I think it was nearer 80:20 personally. We think the new one can redress the balance to nearer 50:50. [...] Boeing 747-800s make half the noise of 747-400s and half the noise again of 747-200s.” ²⁶ “I should say one major point on that is that we are introducing a modern level technology into the airfield which will allow an equality of planes landing and taking off in both directions which was not the case before; we think that is important, um, to play fair to the population of central Ramsgate where as you know the height of the aircraft is about 600 feet whereas this way - there are some populated areas, we accept that – but the aircraft turn and rise to a greater height.” ²⁷*

²³ RSP published intended presentation to tripartite RSP, CAA, PINS meeting on 12 June 2017

²⁴ To put that in context, the latest version of Boeing’s 747 (the 747-8, introduced in 2005) claims a 30% noise performance improvement over that of its predecessor the 747-400, originally introduced in 1989. CAA: Managing Aviation Noise at P29 - <https://publicapps.caa.co.uk/docs/33/CAP%201165%20Managing%20Aviation%20Noise%202.pdf> The 747-8 is the largest air freighter in the world with a maximum take-off load of 1 million pounds. The difference between the noise it makes and that made by the 747-400 (according to London airports official noise level measurement for quota count purposes) is only 3 EPNdB. Due to the logarithmic nature of human aural perception, this 3dB change is perceived by human receptors as only a small change in the noise level. In any event the noise categorisation of the 747-8 (Quota category 2) is the *de facto* maximum UK aircraft noise standard as noisier aircraft are banned from Heathrow at night.

²⁵ Tony Freudmann, 6 July 2017 Chislet consultation event from 21.10 (private recording, available on request). NB RSP are actually proposing that QC4-rated planes (the noisy old bangers banned elsewhere) should be welcomed at Manston.

²⁶ Tony Freudmann, 6 July 2017 Chislet consultation event from 23.70 (private recording available on request)

²⁷ Tony Freudmann, 6 July 2017 Chislet consultation event from 13.30 (private recording available on request)

31. Q: “You were told by TDC to extend the noise area [along the flight path] as a result of your initial, preliminary Statement of Community Consultation, and you ignored TDC. Why?”
32. A: “Because we are not aware that TDC actually is in possession of aviation knowledge. [...] So my own experience with the Council is that they’re not particularly savvy. So because they put it into their response to the consultation paper, it isn’t a command to me and it isn’t a non-command. It’s something I looked at and I decided it wasn’t needed.” ²⁸
33. It can be seen that the public is relying on the presentations made by the Directors and not the formal documentation when we look at the leaflets sent out to local residents by airport supporters. One reads: “Modern aircraft are neither noisy nor dirty. Such aircraft are prohibited within the EU and Brexit is unlikely to change this” ²⁹
34. It can be seen that the Directors in their presentations to the public went much further than their official documents – or the facts – support. The description of the likely aircraft and their noisiness compared to planes heard at the site in the past is both seriously inaccurate and highly misleading. It is contradicted by the liberal regime in their proposed Noise Mitigation Plan which supports the use of planes rated as loud as QC4 at night. In any event RSP cannot say at this stage that only new and (slightly) less noisy aircraft will use Manston as RSP does not have airlines signed up to use the potential new airport. In addition, none of the comparisons between newer and older aircraft is correct. The official noise evaluations of the newer aircraft acknowledge that these differences (of around 3 decibels impact) are not significant when heard by the human ear. It is inaccurate and highly misleading for RSP to tell the public in a consultation that the noise made by a 747-800F is a quarter of that made by the 747-400F aircraft that regularly used the airport when it was operational.
35. The Noise Reduction plan promoted in February 2018, at the close of the consultation makes a false promise to residents to the East of the runway that they will experience a reduced exposure to flyovers of 30% (in favour of the West). It is sharp practice not to mention this “condition” to Herne Bay residents, who would inevitably suffer from any take-offs or landings that were displaced from the east to the west. Similarly, RSP’s talk about aeroplanes no longer needing to land in straight lines (i.e. over Ramsgate) and instead overflying areas of “sparse population” lacks substance. RSP does not clarify whether this has been agreed with CAA or if it is thought to have any material effect on the calculations of environmental impact that RSP put forward on a statutory basis. Nor does RSP say where we can find these areas of “sparse population”? Towards Sandwich and Dover? Towards Herne Bay? Or does RSP intend to obliterate the protected wildlife of Pegwell Bay? Of greater relevance would have been the admission (not made by the Directors, even under questioning) that RSP is proposing that day time penalties for excessively noisy flights would apply only to noise above 90dBA (max) and only if heard beyond 6.4km from the runway and that

²⁸ George Yerrall 17 June 2017 Margate consultation event (from verbatim transcript of private recording available on request)

²⁹ Locally distributed leaflet by the Save Manston Airport Association (copy available on request)

night time penalties would apply to noise that exceeds 82dB LASmax at the noise monitoring terminal 6.5km away from the start of roll.

36. The confidence evinced locally regarding noise contours, operational decisions, population exposed to significant noise, specification of aircraft and mitigation measures is seriously at odds with the descriptions given by the developer in the official documents. We do not know how many people or Councils responding to the consultation were wrongly reassured by RSP's oral statements and presentations locally. However, it is both misleading and irresponsible of RSP to suggest that the local population will suffer very little noise because modern aircraft are less noisy. If this were the case, the Government would not be seeking such major mitigation measures for the local population around Heathrow in relation to plans for an additional runway there. It is also misleading and irresponsible to claim that the airport will be able to have fewer flights over Ramsgate whilst, at the same time, not setting out to residents at the western end of the runway that they could expect to experience many more flights were this plan capable of ever being delivered.
37. It's worth noting that when in 2010 the last operator, Infratil, applied for permission to introduce scheduled night flights with an annual QC budget of 1,995 (less than the budget that RSP is now proposing) TDC's independent noise experts said that, for night time planes taking off over Ramsgate: *"the populations predicted to be within the 85 dB(A) contour by such departures ranges from 14,722 [people] for MD11 departures, up to 30,903 [people] for the Boeing 747-400."* RSP's PEIR admits nothing like this at all – yet RSP says that it envisages that most of its future cargo flights will be of the 747-400 type and RSP then asks for a QC budget which is at least one third higher than that put forward by Infratil. It would have been useful to have been able to discuss this with RSP at the consultation events, but RSP's Directors and consultants appeared to be too busy denying that they planned any commercial night flights whatsoever and that it was all PINS's fault that any mention was made of night flights at all.
38. In sum, there is compelling local evidence that the application was misrepresented locally. RSP's position on night flights was (and is) typified by confusion and serious inconsistencies. RSP has not presented to the public an accurate worst-case scenario, as is required, nor does it appear to have made its environmental impact calculations on the basis of its business plan expectations. RSP knowingly misled the local population about job creation. RSP has also made significant claims about the noise impact of its project on the local population that it cannot substantiate. The local public were not enabled to participate fully and meaningfully in the consultation about this proposal, and were thus prevented from reaching an informed view as to the likely impact of the project on their lives and on the local area.

Consistency of misinformation across the three consultations

39. We conclude by setting out the narrative received by the public on the topic of night flights over its three consultation processes. The consistency of the message speaks for itself:

The 2016 consultation

40. *“The RiverOak reps were telling people that they only put night flights in their document because the Planning Inspectorate made them do it.”*
41. And this:
42. *“He said that he wasn’t saying that RiverOak needed night flights but that the Planning Inspectorate had asked RiverOak what they were going to say in their consultation about night flights. He said that they had to include night flights because the Planning Inspectorate said that they were mandating Heathrow, Gatwick, Stanstead, Luton and every other major airport in the South East to come up with a policy for potential night flight traffic. The Inspectorate had said: “We cannot have you involved in the DCO when we are seeking to potentially do a DCO on Heathrow and we have not asked you to do a review on night flights.”*
43. *“It is not up to RiverOak or TDC – it turns out that it is the National Planning Inspectors (PINS) who decide if there should be night flights.”*
44. *“RiverOak have no 24-hour operations plans.”*
45. Resident: *“The internationally agreed night time is 11pm to 7am. Why not have that as a curfew?”* RSP’s Dr Dixon: *“And that’s what we would do, 11pm to 7am.”*
46. *“They [RSP] spoke on night flights and they confirm they do not need night flights to make their plan work and they do not plan to have night flights.”*

The 2017 consultation

47. In February 2017, despite at the same time consistently telling its supporters at private barbecues and in presentations that RSP does not want night flights at Manston, RSP began the CAA process to obtain an aerodrome licence for Manston (despite neither owning the site nor having permission from the site’s owners to apply for a licence). RSP confirmed to the CAA in February 2017 that it would require a licence for night flights. When the document that is RSP’s application for a licence came to light in January 2018, airport supporters said it was a fake – such is the level of local conviction that there will not be any night flights into or out of a reopened Manston airport.
48. RSP continued to deny the need for night flights as part of the 2017 consultation.
49. In its documentation to support the 2017 consultation, RSP said that there might be a maximum of eight flights a night. However, RSP and RSP’s agents, SMAa and Sir

Roger Gale, at the same time repeatedly told the public that there would be no night flights; that RSP did not want night flights; and that it was PINS that had made RSP include this possibility of 8 night flights a night in RSP's consultation material.

50. In our response to RSP's 2017 consultation, we mentioned the continued lack of clarity about night flights and shared some quotes from residents who had attended the 2017 consultation events. RSP gave inconsistent answers to questions from the public about night flights at that consultation too, saying variously:
- *"PINS made us put in a number for night flights"*
 - *"The CAA made us put in a number for night flights"*
 - *"It's a guess to keep the Planning Inspectorate happy because they're using us as the pilot case for the London Heathrow DCO, and they said we had to put in night flights."*
 - There will not be any night flights
 - RSP does not *"give a shit"* about night flights and RSP does not *"give a fuck"* about night flights. This was said by one of RSP's Directors
 - There will only be some unscheduled night flights as, inevitably, planes will arrive late
 - RSP does not want night flights and all cargo customers will have a preference for day slots
 - The cargo will be perishables and so the planes will be *"in and out quickly with no need for night flights"*
 - The cargo will be coming in from areas of Africa in the same time zone so night flights would not be needed
 - Dr Sally Dixon said to one questioner, *"There will be no night flights. Flights will not be scheduled until after 6am."*
51. Repeatedly, to various participants, RSP representatives said that night flights would not be needed and that operations would be like *"Frankfurt, where there is a curfew on night flights"*.
52. Even when RSP admitted as part of its 2017 consultation that it was considering having up to 8 night flights on average a night, RSP's supporters in SMAa did not believe this admission.
53. *"Definitely scaremongering! [...] Any NSIP airport applying for a DCO has to have the capacity for 10,000 movements and up to 8 night flights, which Manston already does! It does NOT mean it has to do that many! It means only that Manston is capable of those figures!"*
54. Having admitted in its documentation for the 2017 consultation that there might be an average of eight flights a night, RSP then backtracked on this completely at the 2017 consultation events themselves. RSP's Directors told members of the public:

55. *“Let me be very clear. We don’t NEED night flights. We DON’T NEED NIGHT FLIGHTS, I said that last year.”*
56. *“There are no air freighter operators that fly at night because they want to.”*
57. *“I mean this is the other fantasy that somehow out there there’s a huge demand for night flights and the answer to some of the operators is we can’t. Find somewhere else but you’ll be lucky. But what we can do is accommodate you between 9 and 11 in the evening and 7 or even 6 in the morning with some exceptions.”*
58. SMAA then picked up this theme and loyally followed suit:
59. *“... quite a few people were getting concerned about night flights and becoming against the airport and RSP’s plans. I told him it was all propaganda and stirring and not to believe it. [...] Maybe SMAA needs to intensify information and counter-propaganda to ensure this malicious misinformation does not gain ground.”*
60. In short, RSP said in its consultation documents that there might be up to eight flights a night. It then set about consistently denying this in public, saying that PINS had insisted that night flights be included but that in fact there would be none.

The 2018 consultation

61. RSP continued to confuse the public about night flights as part of the 2018 consultation.
62. In the January 2018 version of its proposal RSP admitted that it would want night flights, including scheduled night flights. However, RSP’s years of consistent misdirection on this topic has paid off – many of the most vociferous people in the local community simply cannot and do not believe that night flights now form a part of RSP’s plans. Again, despite setting out a night noise regime that would clearly support thousands of scheduled night flights a year, RSP consistently denied the reality of this when face-to-face with residents in the 2018 consultation events:
63. *“I know people don’t believe this, but there are no secret plans. There are no night-time operators of aeroplanes queuing up to come in at night and disturb everyone’s sleep.”*
64. *“It makes no economic sense for us to keep that airport open for 4 flights in and 4 flights out, at night time.”*
65. *“But you would allow a QC4, which isn’t allowed at Heathrow?” Niall Lawlor: “But that would be on an annual basis, not like we’d be having that every night.”*
66. *“We’re pretty confident we’ll get the DCO [...] We’ve modelled the impact of 8 [flights] a night to show a worst-case scenario - that’s the duty we have. The next question that I know is “Well what flights will there be?” The answer which I’ve given at every meeting is we’ve had no demand for night flights but there are*

situations where cargo operators arrive late, run late then you need some flexibility to accommodate them.”

67. *“RSP is not forecasting night flights. Stansted delays freight unloading by up to 9 hours – costing them. They therefore come in at night to get handled. There’s no need to come in at night – do not expect it. Can’t say there never will be night flights as there may be operational reasons – exceptions may include weather or aid flights.”*
68. *“We have to model the worst case, a maximum of 8 movements per night. The Inspectorate needs to see you are modelling the worst case – doesn’t mean it will happen. [It’s] already agreed with the Secretary of State that when the [night noise] quota is met then there will be no more flights.”*
69. *“Well our stance on night flights is that speaking to carriers as we’ve done we haven’t found there’s an, you know, there’s not a need for night flights. [...] so by us focusing in on building 19 cargo stands and being able to accommodate those during the day, is effectively why we’re saying there’s not a need for night flights.”*
70. *“We’re not planning night flights now, but we can’t handcuff ourselves. Night flights will be decided by the CAA.”*
71. *“We needed to use a number of night flights for modelling and eight is what we used.”*
72. *“We’ve no intention to land anything at night”*
73. *“We modelled eight flights a night and that’s the basis on which the DCO would be granted. We couldn’t have any more.”*
74. *“I asked Oliver Bewes why RSP has as many cargo staff working at night as there are in the day if there’ll be a maximum of eight-night flights but dozens more during the day. He said ‘flights will have come in during the day and they’ll still be being unloaded at night’.”*
75. *“Tony Freudmann told me ‘if we have ten cargo stands we won’t need night flights’.”*
76. *“I asked Tony Freudmann why we should suffer QC4 when this can’t be scheduled at LHRW or other airports. He said ‘that would be a 747-400’. I said yes. He said they needed the flexibility. I said ‘so it’s OK for us to suffer it but not people near Heathrow?’ He said ‘yes, in exceptional circumstances’.”*
77. *“I asked Tony Freudmann why, if RSP is really saying there will be hardly any night flights, RSP isn’t giving us a clear ATM limit and he said that RSP ‘can’t make promises’.”*
78. *“We are not contemplating night flights for the seven millionth time. A number of people in Ramsgate, especially arseholes, distribute a lot of lies and conjecture. We are not considering... we’re by instruction from the Inspectorate to outline a night flight policy. We have put a worst-case scenario in [...]. The reason the PI*

is mandating [that we put night flights] in our application is because it's going to come up for Heathrow, for Gatwick, Stansted, using us as a guinea pig before larger applications come down the line. It doesn't make commercial sense for night flights. Not our decision, all done by Government Agencies. It's not us. I'm blue in the face saying this to people, blue in the face about people lying."

Sir Roger Gale MP

79. RSP's agent, local MP Sir Roger Gale, also consistently says that there will be no night flights. We appreciate that Sir Roger is not a Director of RSP. However, he stands shoulder to shoulder with RSP's Directors at public presentations to residents, to Councillors, to MPs and to investors. He presents alongside RSP at the airport supporters' events and at fundraisers. He writes about Manston in the local Press. He talks about Manston on the local television and radio news. He is on record as saying that he is "*proud to be called the MP for RiverOak*". He flies a Manston flag from the flagpole in his garden at home in the village of Preston (far from the flightpath, by the way). He reports to airport supporters his lobbying of two Secretaries of State (Transport and Housing, Communities and Local Government) about the need for their Department to support RSP and its proposals. He seeks to influence Thanet District Council (TDC) to support RSP's proposals and to ensure that the site is zoned for aviation purposes only. He has refused to meet Manston's legal owners, SHP. He criticises any other entity that suggests it would like to develop an airport at Manston. It is not a reopened airport at Manston that Sir Roger campaigns for tirelessly – his sole interest is a reopened airport at Manston operated by ROIC/RSP and Tony Freudmann.
80. Sir Roger is inextricably linked with RSP and this proposal. To local people he is a part of the RSP team. His many public utterances about RSP, Manston, RSP's plans for Manston, and topics such as night flights therefore carry significant weight in the local community and have been treated as part of RSP's consultation communications.
81. As a few examples of Sir Roger's role in misleading the public about night flights, we offer these:
 82. *"To set the record straight RiverOak has confirmed that they have no plans to operate scheduled night flights..."*
 83. *"...I for one would not countenance, and would not expect the Conservative Group on Thanet District Council to support, any proposal that involved scheduled night flying."*
 84. *"No, there is no proposal and no need to fly freight in at night."*
 85. *"The RiverOak Strategic Partnership has made it absolutely plain that they have no desire to fly planes in in anti-social hours, I am content with that."*
 86. *"RiverOak...has no plan or requirement to engage in night flights."*

87. *“This, as you know, is disingenuous rubbish. There are no plans for night flights to or from Manston and a new Section 106 agreement would preclude such movements.”*
88. *“This means there will be no need for night flights, which no one wants, except in cases of emergency. Regarding the 106 Agreement, RSP will insist that this is included in their operating terms and SRG [Sir Roger Gale] would oppose the plans were it not.”*
89. *“The environmental impact assessment has to include the potential impact of night flights, but that’s not part of RSP’s business plan. There are no plans to have scheduled night flights. It’s pure scaremongering.”*
90. During the 2018 consultation, Sir Roger Gale issued these statements:
91. *“The position in relation to night flights has been made absolutely clear. It is not part of RiverOak’s business plan to have night flights. Never has been and, so far as I am aware, never will be”.*
92. *“All significant airports in fact make provision for occasional delayed long-haul flights, emergency landings and mercy missions to disaster zones but the company has publicly declared - and this of course will also be open to examination - that it neither needs nor wants scheduled night flights that do not fit in with its business plan.”*
93. In contrast to RSP’s continued insistence that PINS “made” RSP include night flights in the RSP proposal, PINS told a member of public as recently as 29th January 2018:
94. *“The Planning Inspectorate has not advised the Applicant to include provision for night flights in its application.”*

Conclusion

95. In conclusion, the ExA cannot put weight on claims that there is significant local support for RSP’s proposal. There is scant evidence that all those who support the idea of an airport at Manston support **this** proposal for a 24/7 cargo airport with a potential for many more than 83,000 ATMs every year.
96. In addition, RSP’s approach to the various consultations casts doubt on the extent to which the developer and its principals are fit and proper to own and operate a nationally significant piece of UK infrastructure. It is not acceptable for the developer to misinform the public so consistently on the critical issues of noise, night flights and jobs.