



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

**The Planning Act 2008 (as amended)**  
**Section 53: Rights of entry**

Request by RiverOak Investment Corporation  
for authorisation under Section 53 in  
connection with the proposed Manston Airport

**Project Reference: TR020002**

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Authorisation in relation to 'the Land' at  
Freehold Title Numbers K803975, K837264,  
K891199 and K806190 ('the Land')

**16 December 2016**

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**AUTHORISATION UNDER SECTION 53 OF THE PLANNING ACT 2008**

1. This authorisation is pursuant to an application for authorisation made by RiverOak Investment Corporation ('the Applicant') under Section 53 (s53) of the Planning Act 2008 (PA2008), in connection with the proposed Manston Airport in its letter dated 1 July 2016. The terms used in this authorisation are defined in Annex 1.
2. In exercise of the power conferred on the Secretary of State for Communities and Local Government ('the Secretary of State') by section 53(1) of the Act, the Secretary of State authorises the Applicant and any Authorised Persons to enter onto 'the Land' as defined in Annex 1 and identified in the plan(s) at Annex 2 for the following purposes:
  - (a) *Surveying and taking levels of the Land; and*
  - (b) *In order to facilitate compliance with the provisions mentioned in section 53(1A) of the Act.*
3. This authorisation is granted for the authorisation period.
4. This authorisation is given subject to compliance with the conditions set out in Annex 3, which are necessary to ensure the Landowner's and Occupiers' legitimate interests are protected.
5. This authorisation is given in relation to the Land for the purpose of undertaking the surveys set out in the Schedule of Surveys in Annex 4.
6. The power to search and bore is not authorised.

*Simone Wilding*

Simone Wilding

**Head of Major Casework**

**For and on behalf of the Secretary of State for Communities and Local Government**

16 December 2016

## ANNEX 1: TERMS AND DEFINITIONS

1. In this authorisation the following words and expressions shall, unless otherwise stated, have the following meanings:

TERM	DEFINITION
"Applicant"	means RiverOak Investment Corporation (Delaware Company No. 3028870) whose registered office is at 1209 Orange Street, Wilmington, Delaware DE 19802, USA.
"Application"	means the application pursuant to section 53 of the Planning Act 2008 (as amended) made by the Applicant in respect of the land in a letter dated 1 July 2016 to the Planning Inspectorate.
"Authorisation"	means the authorisation granted by the SoS pursuant to the Application.
"Authorisation date"	the date of this Authorisation.
"Authorisation period"	A period of 12 months from the Authorisation date to the Expiry date (both dates inclusive).
The "authorisation request"	The authorisation request comprises the documents supplied by the Applicant in its letter dated 1 July 2016 [ <b>APL-001</b> ], amended by the following further information: <ul style="list-style-type: none"><li>• APL-002</li><li>• APL-003</li><li>• APL-006</li><li>• APL-011</li><li>• APL-013</li></ul>
"Authorised persons"	means the Applicant and any persons authorised by the Applicant to carry out the Survey(s) as notified to the Landowner in accordance with the conditions in Annex 3.
"Authorised surveys"	the non-intrusive surveys as described in Annex 4.
"Conditions"	means the conditions set out in Annex 3.
"Expiry date"	16 December 2017 (inclusive) or the date of submission of an application for development

consent for the "proposed development" pursuant to s37 of the Act (if earlier).

"the Land"	means the land and buildings identified in green on the Plan included in Annex 2 comprising four freehold titles, K803975, K837264, K891199, and K806190; but excluding the leasehold title numbers K716128, K803975 and K894125 and shown and labelled on the plan in Annex 2 as excluded areas.
"Landowner"	means Stone Hill Park Limited (previously known as Lothian Shelf (718) Limited, whose name is still on the Official Copy of register of Title as freehold owner) (Company No. 09223403) whose registered office is Innovation House, Innovation Way, Discovery Park, Sandwich, Kent, CT13 9FF, their successors in title, and any such person as may be notified to the Applicant as being in ownership of the land or any part thereof.
"MOD safeguarding zone"	80m zone extending around the area of land under leasehold title number KS976945, which falls under freehold title number K803975 and is identified as the "80m Radius - safeguarding MoD area" in black in the Plan at Annex 2 of this authorisation.
"Non-intrusive surveys"	means walkover surveys including the taking of measurements and levels by means of non-intrusive equipment and methods and the taking of photographic records but excluding any intrusive works to search and bore.
"Notice"	Not less than 14 days written notice of any intended entry to carry out an Authorised survey or any lesser period that may from time to time be agreed in writing by the person on whom the Notice is to be served.
"Occupier"	means: <ul style="list-style-type: none"><li>• Avman Engineering Ltd, Hangar 1, Kent International Airport, Manston, CT12 5BL;</li><li>• Polar Helicopters Ltd, Hanger 10, Kent International Airport, Spitfire Way, Manston, CT12 5FF;</li><li>• Taft International Transport (Head Office address: Weatherfield Lodge, Each End,</li></ul>

S53 Authorisation

Section 53 in connection with the proposed Manston Airport

Ash, Canterbury, CT3 2BZ);

- Powermain Ltd, Unit 4, Spitfire Way, Manston, CT12 5BU; and
- Hunglish Limited, Building 521, Spitfire Way, Manston Airport, CT12 5FF.

The 'Occupiers' land'	The buildings and land occupied by 'the Occupiers' identified by name and outlined in black on the plan in Annex 2.
"Operation Stack"	the provision of parking facilities on the Property as agreed between the Licensor and the Department for Transport to facilitate 'Operation Stack' when declared by Kent Police.
The "proposed development"	The proposed Nationally Significant Infrastructure Project (NSIP) Manston Airport.
"PA2008"	The Planning Act 2008 (as amended).
"Working day"	means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday.
"Working hours"	means the period 8am to 6pm.

**ANNEX 2: PLAN IDENTIFYING 'THE LAND' [comprising the 5 sheets set out in the table below]**

<b>Sheet</b>	<b>Drawing Number</b>
Section 53 Key Plan (Sheet 1 of 5)	NK018417-RPS-MSE-X-DR-C-0121
Section 53 Access Plan (Sheet 2 of 5)	NK018417-RPS-MSE-X-DR-C-0122
Section 53 Access Plan (Sheet 3 of 5)	NK018417-RPS-MSE-X-DR-C-0123
Section 53 Access Plan (Sheet 4 of 5)	NK018417-RPS-MSE-X-DR-C-0124
Section 53 Access Plan (Sheet 5 of 5)	NK018417-RPS-MSE-X-DR-C-0125

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### **ANNEX 3: SCHEDULE OF CONDITIONS**

1. In these conditions unless the context otherwise requires:
  - (a) *any gender includes any other gender*
  - (b) *the singular includes the plural and vice versa*
  - (c) *references to persons include natural persons, firms, companies, corporations*
  - (d) *the headings are for convenience only and do not affect interpretation*
  - (e) *any reference to a statutory provision includes any modifications, re-enactment or extension to it and any subordinate legislation from time to time*

#### **(1) General**

2. Entry onto the Land is authorised only:
  - a) *for the Authorised surveys;*
  - b) *for the purposes of surveying and taking levels of the Land and to facilitate compliance with the Environmental Impact Assessment Directive<sup>1</sup>, the Habitats Directive<sup>2</sup> or any European Union instrument which replaces all or any part of these Directives;*
  - c) *on Working days;*
  - d) *during Working hours (unless for the purpose of carrying out surveys for bats, reptiles or birds); and*
  - e) *for a period of twelve months from and including the Authorisation date 16 December 2016.*
1. No entry to land is authorised for the following areas:
  - a) *The Occupiers' land; and*
  - b) *The MoD safeguarding zone.*
2. No Authorised person shall enter the Land otherwise than in accordance with the authorisation and conditions.
3. The Applicant's right of entry onto the Land pursuant to the authorisation shall immediately cease if the Applicant is in breach of the authorisation or any of these conditions.

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<sup>1</sup> Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended from time to time.

<sup>2</sup> Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time.

4. The conditions subject to which the authorisation is given are in addition to the provisions of section 53 of the PA2008 (as amended) and if there is any conflict between the conditions and the section 53 provisions the latter shall prevail.
5. The Landowner retains control, possession and management of the Land and the Applicant has no right to exclude the Landowner from the Land.
6. Entry onto the Land is authorised only:

*a) provided the activities undertaken in connection with the Authorised survey(s) will not constitute an offence in themselves including an offence under Regulation 41 of the Conservation of Habitats and Species Regulations 2010 (as amended); and*

*b) subject to all necessary consents (if any) in relation to carrying out the Authorised survey(s) having first been obtained.*

**(2) Notice of entry**

7. Before any person may enter the Land to carry out an Authorised survey the Authorised persons must give Notice to the Landowner, such Notice is to include the following:

*a) details of the areas, type, purpose and timing of Authorised surveys together with details of access routes to the survey site and survey risk assessments;*

*b) details of the type and nature of any equipment and apparatus to be used;*

*c) the name and contact details of any Authorised person who is authorised by the Applicant to enter the Land to carry out the Authorised survey and contact details (including telephone number) of the Authorised person who will have management responsibilities for undertaking the Authorised survey(s);*

*d) the date or dates when access is required to carry out the Authorised survey(s) and the period of time for which access is required; and*

*e) a copy of Annex 4 to these conditions entitled "Schedule of surveys".*

8. Such notice should be given to the Landowner at least 14 days prior to the survey(s) and may be given by email by sending it to Paul Barber (paul.barber@stonehillpark.co.uk) or to any other person as the Landowner may inform the Applicant of from time to time.

**(3) Carrying out the Authorised Survey(s)**

9. In undertaking the Survey(s) the Authorised Person shall:

- (a) *cause as little damage as is possible and upon completion of the final Survey or if earlier on the date of termination of the authorisation pursuant to condition 3 shall make good any damage caused to the reasonable satisfaction of the Landowner and remove any apparatus or equipment taken on to the Land by the Authorised Person in connection with the Survey(s) on completion of the same;*
- (b) *Not do any act, matter or thing which would or might constitute a breach of any law (including without limitation common law) statute, regulation, rule, order, byelaw or notice which would or might vitiate in whole or in part any insurance effected by or on behalf of the Landowner in respect of the land from time to time;*
- (c) *At all times take all measures as are reasonably necessary to maintain the same level of security in respect of the Land which would exist but for the undertaking of the Survey(s) including leaving all gates as found;*
- (d) *Not cause for example by way of lighting or noise any nuisance, disturbance, annoyance, inconvenience or unreasonable interference to the occupier or to adjoining and/or neighbouring property and/or to the owners occupiers or users of such adjoining or neighbouring property;*
- (e) *Prepare a pre-entry photographic record of condition and provide a copy to the Landowner;*
- (f) *not display any signs or notices at the Land other than those required pursuant to statute;*
- (g) *not interfere with the existing use of the Land other than to the extent reasonably necessary to carry out the Survey(s);*
- (h) *contact the Landowner when leaving the property; and*
- (i) *observe the Landowner's reasonable health and safety policies and site rules.*

#### **(4) Operation Stack**

10. The right to access the Land pursuant to this Authorisation shall be suspended temporarily (but with immediate effect) and the Authorised Persons shall remove all apparatus and equipment on the Land within 2 hours, in the event that the Landowner notifies the Applicant that the site is about to be used for lorry parking by Operation Stack, and in the Landowner's reasonable opinion, Operation Stack would be obstructed by the carrying out of the Authorised surveys OR the carrying out of Authorised surveys concurrently with the lorry parking would give rise to health, safety or security risks.
11. The Authorised Persons may remain on the Land after this period at the request and direction of the Landowner to the extent required to carry out remediation works to make good the Land for Operation Stack.

12. The Landowner shall notify the Applicant as soon as practicable, or within 48 hours of the date on which use of the Land for Operation Stack has ceased, and the temporary suspension of the right to access shall cease forthwith upon vacation of the Land by Operation Stack as notified by the Landowner.

**(5) Insurance**

13. The Applicant shall:
- (a) *subject to provision of written evidence of such requirements, pay on demand the reasonable and proper cost of any additional insurance premiums payable by the Landowner which may have become payable as a result of the authorisation; and*
  - (b) *ensure that those who work on its behalf hold suitable and adequate insurance in respect of public and third party liability and provide proof of said insurance to the Landowner prior to carrying out the Survey(s).*

**ANNEX 4: SCHEDULE OF SURVEYS**

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