
OVERVIEW & SCRUTINY PANEL CALL-IN OF A CABINET DECISION ON MANSTON AIRPORT

To: **Extraordinary Overview & Scrutiny Panel – 17 November 2015**

Main Portfolio Area: **Leader of Cabinet**

By: **Senior Democratic Services Officer**

Classification: **Unrestricted**

Ward: **Thanet Wide**

Summary: **The purpose of the report of to introduce for debate the Cabinet decision on Manston Airport that was called-in by the Overview &Scrutiny Panel.**

For Decision

1.0 Introduction and Background

- 1.1 Cabinet considered a report on Manston Airport at an extraordinary meeting on 29 October 2015. The report required Cabinet Members to make a decision on the way forward regarding identifying an indemnity partner if Council were to go ahead with making an application for the Compulsory Purchase Order (CPO) of Manston Airport.
- 1.2 After some considerable debate wherein Cabinet and non-Executive Councillors made contributions to the discussion, Cabinet made the following decision:
- a. That having reviewed its position, details of which are contained in the Cabinet report, that no further action be taken at the present time on a CPO of Manston Airport, on the basis that RiverOak do not fulfil the requirements of the Council for an indemnity partner;
 - b. To note that this is the second time that RiverOak have not fulfilled the requirements of the Council for an indemnity partner.

2.0 Reasons for the Cabinet Decision

- 2.1 In the published decision, Cabinet highlighted the reasons for making that decision which were as follows:
- a. The objective of seeking an indemnity partner is to ensure that – if the Council determines to pursue a CPO – a viable airport comes into sustainable long-term operation as quickly as is reasonably possible without any residual cost to the Council.
 - b. The relevant considerations raised in the December 2014 Cabinet report (at paragraph 1.3 above) remain relevant today. In addition the review of this decision since July 2015 has highlighted the following issues:

- c. There remains the lack of evidence that financial resources are in place or proposed to be in place to acquire the land prior to the confirmation of the CPO despite the fact that the Council is obliged to attempt to purchase the land by negotiation in parallel with the CPO process.
- d. Whilst letters of support for the project have been provided by potential investors, any commitment to the project has been caveated and, in the absence of any binding commitment, there is limited evidence of the financial resources proposed to be in place to acquire the land and develop the airport scheme after the confirmation of the CPO and the evidence is not sufficient for the council to be satisfied as to the resourcing of the CPO and the likelihood of the scheme going ahead.
- e. RiverOak's public announcement indicates that no bond or surety will be offered to fund any shortfall for the proposed funding either before or after the confirmation of the CPO. A bond is required both before and after confirmation.
- f. There is insufficient evidence currently available for the Cabinet to be satisfied that a proposed CPO is likely to be successful which would justify its entering into an indemnity agreement. There is good reason to consider the principle of the CPO alongside the decision to enter an indemnity agreement.
- g. Given the above, your legal advisors and officers are not satisfied at this moment in time that the information or assurances provided to date by RiverOak justify the Council deciding to make a CPO or as part of that process to support the appointment of RiverOak as the Council's indemnity partner in advance of deciding whether to make a CPO.

3.0 The Current Situation

3.1 On 4 November 2015, the Overview & Scrutiny Panel Chairman made a written request to the Monitoring Officer to call-in the Cabinet decision. The Chairman advised that a number of Councillors had made similar requests to the Chairman to call-in the decision.

3.1 The reasons for the call-in were indicated as follows:

A presumption in favour of openness - Although the report is well presented, in the opinion of a significant number of members, the report may be read as being loaded to achieve the outcome.

3.3 In adjudicating whether a Cabinet decision is subject to call-in, Members may wish to note that the grounds for call-in should fall within the five principles of decision making which are detailed in Article 13 of the Council Constitution as

- Proportionality (i.e. the action must be proportionate to the intended outcome);
- Due consultation and the taking of professional advice from officers;
- Respect for human rights;
- A presumption in favour of openness; and
- Clarity of aims and desired outcomes.

3.4 The Monitoring Officer confirmed that the call-in was valid.

4.0 Options

- 4.1 After having reviewed all the evidence that was presented to Cabinet on 29 October 2015, the Panel may wish to make recommendations for further consideration by Cabinet;
- 4.2 Members could decide to take no further action, in which case the Cabinet decision on Manston Airport shall be deemed implementable from the date of this Extraordinary Overview & Scrutiny Panel.

5.0 Corporate Implications

5.1 Financial and VAT

- 5.1.1 There are no financial implications arising directly from this report other than those highlighted in the Cabinet report attached as Annex 1 to the Panel report.

5.2 Legal

- 5.2.1 There are no legal implications arising directly from this report other than those highlighted in the Cabinet report attached as Annex 1 to the Panel report.

5.3 Equity and Equalities

- 5.3.1 There are no equity and equalities issues arising directly from this report other than those highlighted in the Cabinet report attached as Annex 1 to the Panel report.

6.0 Recommendation

- 6.1 With reference to the options in section 4.0 of the report, guidance is sought from the Members of the Overview & Scrutiny Panel.

7.0 Decision Making Process

- 7.1 The Overview & Scrutiny Panel can make a call-in of a Cabinet decision and they can refer the decision with some recommendations, back to Cabinet for reconsideration. Cabinet would then have to meet to consider the Panel recommendations.
- 7.2 If the Panel decides not to take any further action, the Cabinet decision becomes implementable from the date of the extraordinary OSP meeting.

Contact Officer:	Charles Hungwe, Senior Democratic Services Officer, Tel: 01843 577186
Reporting to:	Nicholas Hughes, Committee Services Manager Tel: 01843 577208

Annex List

Annex 1	Cabinet Report – 29 October 2015
Annex 2	Cabinet Report – 11 December 2014
Annex 3	Cabinet Minutes – 11 December 2014

Background Papers

Title	Details of where to access copy
<i>None</i>	<i>N/A</i>

Corporate Consultation Undertaken

Finance	Nicola Walker, Interim Head of Financial Services
Legal	Tim Howes, Director of Corporate Governance & Monitoring Officer