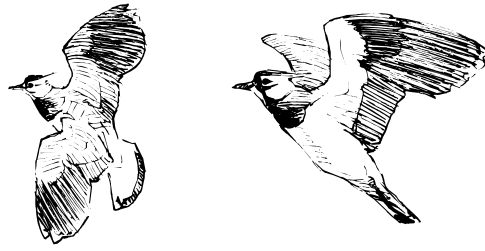




a million
voices for
nature



Terry Ellames
Shepway District Council
Civic Centre
Castle Hill Avenue
Folkestone
Kent CT20 2QY

8 June 2009

RSPB South East Regional Office
2nd Floor Frederick House
42 Frederick Place
Brighton
BN1 4EA
Tel. 01273 775333
Fax. 01273 220236
www.rspb.org.uk

Dear Mr Ellames,

Application Numbers: Y06/1647/SH and Y06/1648/SH

Location: London Ashford Airport, Lydd

Summary comments from the RSPB

As requested by you in our telephone conversation on 19 May 2009, please find a summary of the RSPB's concerns regarding plans by London Ashford (Lydd) Airport (**the Applicant**) to construct a new terminal building and car parking area and a 444m runway extension (**the Applications**). This is presented in Annex 1 - concerns over the impacts of the development, and Annex 2 - concerns over proposed mitigation.

The RSPB lodged formal objections to the Applications in March 2007, and following provision of further information by the applicant, maintained these objections in November 2007, October 2008 and April 2009. For more detailed information regarding the RSPB's concerns, please refer back to our previous responses.

Yours sincerely

Fay Martin
Conservation Officer

Annex 1 Summary of the RSPB's concerns: Impacts of the proposed development

It is the RSPB's opinion that, based on information provided by the Applicant, it cannot be ascertained that there will not be an adverse effect on the integrity of the Dungeness to Pett Level Special Protection Area (SPA) or the Dungeness Special Area of Conservation (SAC). Consequently, the strict tests in Regulations 49 and 53 of the Habitats Regulations 1994 (as amended) (no less damaging alternative solutions, imperative reasons of overriding public interest, and the provision of compensation) must be met before the Applications can be consented.

Bird strike risk

The Applicant states that the management of bird strike will not have an adverse effect on the integrity of the SPA¹. However, the RSPB considers this conclusion to be flawed. The Applicant's Bird Control Plan (BCP) remains in draft format, whilst we also have concerns regarding the efficacy of the BCP and its impacts on the SPA. These are summarised here:

- The Bird Hazard Risk Assessment² (BHRA) of the BCP identifies swans, geese, game birds, herring gull and mallard as particularly high bird strike risk, for which specific procedures will be required to minimise the threat. The BHRA states that waterbirds cannot be dealt with – aircraft will have to be grounded whilst these birds fly over. The RSPB questions the feasibility of this measure, including whether such a measure will prove acceptable to the operation of the expanded, commercially run airport. We are therefore concerned that the airport may resort to an increase in bird scaring, to provide a larger buffer around the airfield and thus reduce bird strike risk, in an attempt to maintain efficient operation of the airport. However, increased bird scaring activities will result in greater impacts on the SPA than predicted.
- The BCP includes bird scaring to produce a 300m wide buffer round the airport boundary to discourage birds. The focus of this buffer is on priority bird strike species, but bird scaring will also affect non-target species. Noise contour work by the Applicant² shows that bird scaring, via noise disturbance (such as via the use of pyrotechnics), will affect the SPA beyond the 300m buffer. Furthermore, the BCP includes bird scaring to disperse acute hazards off-airfield, which may also affect the SPA. However, there is no information supplied to assess the impact of this.
- The BHRA considers the current game bird rearing and shooting nearby is incompatible with the growth of the airport. However, this hazard cannot be reduced without agreement from adjacent landowners; this does not appear to have been sought. The RSPB is concerned that this demonstrates the flawed (e.g. ineffective and unenforceable) nature of the BCP, and a lack of commitment from the Applicant to deal with the threat to aircraft safety.
- Whilst a BHRA has been provided, the RSPB remains concerned that the lack of information on bird flightlines and lack of understanding of gull movements means that the bird strike risk may have been underestimated. The RSPB therefore considers the BHRA cannot be relied upon to provide an accurate assessment. Expert advice provided to the RSPB by Wildwings Bird Management, and presented in our response dated 15 November 2007, stated that Lydd represents an extremely hazardous site in terms of what we know at present, and that further hazards are likely to be identified by studies of migratory and nocturnal movements of birds.
- The Applicant stated that the BCP is presented as a draft document for discussion and iteration, and that the bird control measures would need to be adjusted and refined as required to control risks to both aircraft safety and wildlife habitat disturbance. This gives no certainty as to the plan and its impacts. As such, this approach is not acceptable under the Habitats Regulations, as at the time of determination of the Applications, the competent authority needs to have certainty that there will not be an adverse effect on the integrity of the SPA, using the best environmental

¹ LAA Supplementary Information, Overview of Applications and Supporting Materials 2009

² LAA Supplementary Environmental Information, 2008

information available.

Noise

The Applicant states that *'Increased aircraft noise would impact to some extent on bird reserves in and around the SPA'*¹. The RSPB is concerned that the Applicants have not, as intended, produced a noise management plan. There is therefore no certainty that measures to mitigate noise impacts (such as noise performance standards and regular review of departure procedures and routes) will be effective or enforceable. For the competent authority to conclude no adverse effect on the SPA, it must be certain that any measures proposed to mitigate the impacts of noise increases will be effective. The RSPB considers that, since no information is available to assess the effectiveness of such mitigation measures, it cannot be certain that noise increases from aircraft movements will not have an adverse effect on the integrity of the SPA.

Nitrogen deposition

The RSPB believes that the Applicant has failed to demonstrate, beyond reasonable scientific doubt, that there will not be an adverse effect on the integrity of the Dungeness Special Area of Conservation (**the SAC**) due to nitrogen deposition. A report commissioned by the RSPB and Kent Wildlife Trust³ highlights several concerns regarding the effects of increased nitrogen deposition.

The information supplied by the Applicant⁴ suggests that the predicted future rates of nitrogen deposition resulting from the Applications would fall an acceptable threshold⁵, and would therefore not result in a negative impact on the sensitive plant and lichen communities. However, the report indicates that the threshold figures used by the Applicant are not reliable, for the following reasons:

- The threshold appears to be set too high, and a lower figure should be used to ensure no adverse effect on lichens in the long term⁶.
- The literature on determining thresholds is restricted, in that it deals with experiments, monitoring and surveys that have taken place over less than 10 years. The Applications would have a considerably longer life span, therefore longer term effects would need to be considered, for which data are not available. It is anticipated that the effects of nitrogen pollution will be cumulative; consequently, thresholds for the longer term would need to be set lower than the threshold proposed by the Applicant.
- The Applicant has not considered longer term cumulative and indirect effects, such as eutrophication and the establishment of other plants which would gradually out-compete important lichen and other low-nutrient tolerant communities.

Sewerage

The options proposed to upgrade the drainage system at London Ashford Airport (**LAA**) include the installation of cesspools. There is insufficient information provided to ascertain whether the cesspools could have an adverse effect on the SPA/SAC. The potential impacts of the options should be fully assessed in the Appropriate Assessment (AA). Leaving the choice of upgrade until after planning permission is granted is unacceptable since it leaves uncertainty as to the potential effects.

Planning policy

The Kent and Medway Structure Plan (2006) and Shepway District Local Plan (2006) include policies supporting expansion at Lydd Airport, subject to there being no material harm to/significant impact

³ Cresswell Associates (2008) Assessment of the air pollution impacts from an expanded Lydd Airport. Commissioned by the RSPB and Kent Wildlife Trust

⁴ LAA Supplementary Environmental Information, 2008

⁵ This threshold is defined as the 'Critical Load', below which nitrogen pollution is deemed to have a negligible effect.

⁶ The Critical Load for shingle habitat as used in the Environmental Statement for the proposed runway extension is 10-20 kgN.Ha⁻¹.Y⁻¹, which is based on information available from the Air Pollution Information System (APIS) website. However, with more recent information on the effects of nitrogen on lichens now available, it appears that this may be set too high, and a Critical Load below 5 kgN.Ha⁻¹.Y⁻¹ may be needed to ensure no damage.

on internationally designated sites. The RSPB's view is that the Applicant has not demonstrated that there will not be an adverse effect on internationally designated sites, and therefore the applications do not comply with these policies.

The South East Plan does not include a policy for expansion at Lydd Airport, whilst also advocating wetland creation in the Romney Marsh area (Policy NRM5 – Conservation and Improvement of Biodiversity). The BCP details a 13km bird-safeguarding zone that includes the area of strategic opportunity for wetland creation envisaged in Policy NRM5. With wetland creation at Romney Marsh likely to increase the number of waterfowl crossing the airport and/or its immediate airspace, such work is likely to be in conflict with the BCP's Safeguarding aim of guarding against new or increased bird strike hazards. Therefore, consenting the Applications is likely to result in a conflict with the South East Plan.

Climate change

The expansion of Lydd Airport would be accompanied by a significant increase in greenhouse gas emissions contributing to climate change, which presents a significant threat to local, national and international biodiversity. The RSPB is concerned that the Applicant is relying solely on the Government to address the impacts of the Applications on climate change.

The Climate Change Committee has issued advice to Government, stating that aviation emissions should be taken into account in the UK's strategy for meeting its long-term climate change goal (an 80% reduction in emissions by 2050). The RSPB does not believe that that Government's commitment of an 80% reduction in emissions by 2050 can be met if aviation growth is not constrained. Therefore, the RSPB considers that the Council should also refuse permission to expand Lydd airport on climate change grounds.

Landscape and visual amenity

The Applicant has failed to address the impact of increased aircraft traffic on the RSPB Dungeness Reserve (**the Reserve**). The Dungeness landscape is unique and, despite existing infrastructure, evokes a sense of remoteness and tranquillity. The Reserve is one of the best places to experience and enjoy this landscape, however the frequency of peak noise events is likely to erode its tranquil nature. The RSPB is concerned that the Applications will damage the visitor and educational experience on the Reserve and result in a decline in numbers from the usual annual figures of 29,000 visitors and 1,000 students.

Annex 2 Summary of the RSPB's concerns: Proposed mitigation

Mitigation

The RSPB does not feel that proposed mitigation measures supplied by the Applicant⁷ are sufficient to ensure no adverse effect on the integrity of the SPA or SAC. Proposed mitigation is shown in bold with our concerns underneath:

Area: Ecology

Mitigation: **A habitat and biodiversity action plan will be developed and will include (amongst others) methods to ensure a balance is met between recognising the importance of wetland habitat for bird conservation and the need to minimise bird strike hazard.**

⁷ LAA Supplementary Information, Overview of Applications and Supporting Materials 2009

RSPB concerns:

- We consider that further clarity and additional detail is required regarding what the biodiversity action plan is mitigating for.
- It is not clear how two conflicting needs (recognising the importance of wetland habitat for bird conservation and minimising bird strike hazard) will be reconciled. Further detail and clarity is therefore needed.

Area: Bird Conservation and Hazard Management

Mitigation: **The Applicant will continue to develop and implement a BCP, which will be in line with the outline BCP submitted with the 2008 Supplementary Information.**

RSPB concerns:

- It is not clear what the BCP is mitigating for, since it is under the heading of both Bird Conservation and Hazard Management.
- Since the BCP is in draft format, there remains uncertainty over whether it would affect the integrity of the SPA (please refer to previous comments above).

Area: Air

Mitigation: **The Applicant will develop an air quality strategy together with an air quality monitoring strategy.**

RSPB concerns:

- It is not clear what the air quality strategy is mitigating for.
- If this measure is proposed as mitigation for the impacts of nitrogen deposition on the SAC, then further detail is required to give certainty that the air quality strategy will be effective and enforceable. This is a necessary requirement for the competent authority to conclude no adverse effect on the SAC.

Area: Noise and Vibration

Mitigation: **The Applicant will develop a noise management plan, which will include measures such as controlling ground noise; establishing noise performance standards for aircraft based at LAA; and managing flight path, departure, arrival and taxiing procedures.**

RSPB concerns

- It is not clear what the noise management plan is mitigating for.
- Without detail on the content of the noise management plan, then its effectiveness cannot be assessed.
- If these measures are proposed as mitigation for noise impacts on birds, then the RSPB is concerned that there is no certainty they will be possible, effective or enforceable. This is a necessary requirement for the competent authority to conclude no adverse effect on the SPA.

Area: Solid Waste Management

Mitigation: **At 300,000ppa the applicant will investigate the options to deal with foul water disposal for the additional 200,000ppa and the suitable option to be agreed with the local planning authority.**

RSPB concerns

- As the upgrading of sewage treatment at LAA is an integral part of the development proposals, and may have a significant effect on the European Sites, it is not acceptable to leave the choice of type of upgrading until after permission is granted. The Applicant must provide information on the full implications of the upgrade options, so that any potential impacts on the designated sites can be assessed in the Appropriate Assessment.