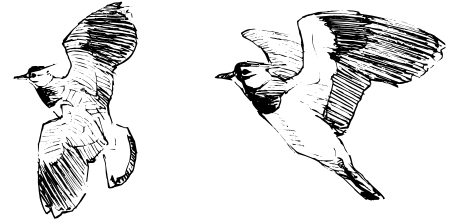




nature's voice



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19 October 2010

Dear Mr Ellames,

Application Numbers: Y06/1647/SH and Y06/1648/SH
Location: London Ashford Airport, Lydd
Updated draft S.106 legal agreement and conditions

Thank you for consulting the RSPB on the updated draft S.106 and conditions for the Lydd airport expansion applications. Without prejudice to our objections to the applications or the forthcoming Public Inquiry, we have the following comments to make.

Failure to address the issues

We consider that the updated draft S.106/conditions are inadequate in detail and will cause harm to the designated nature conservation sites. We would therefore welcome discussions with key stakeholders being held to address the concerns set out in this letter.

There remain many serious unresolved issues raised by NE, the RSPB and other objectors which, we consider, these draft S.106 and conditions do not sufficiently address. This includes, but is not limited to the lack of detail provided in the draft Bird Control Management Plan (BCMP) and the consequent risk of an adverse effect on the SPA, pSPA, pRamsar site and SSSI and the scientific uncertainty surrounding the potential impacts of increased nitrogen deposition on the SAC, and that consequently an adverse effect on the SAC cannot be ruled out.

Bird Control Management Plan

Section 2 of the draft conditions for the Runway Extension (RE) and Terminal Building (TB) states that the development will be constructed in accordance with drawings and documents, including the draft BCMP. However, we consider that the BCMP should be finalised, before a decision is made on the applications, rather than in draft format, so that the potential impacts of the BCMP on the SPA, pSPA, pRamsar and SSSI can be appropriately assessed by the Inspector.

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Condition 18 for the RE and 21 for the TB state that the BCMP will be approved by the Local Planning Authority (LPA). We welcome that Natural England and the RSPB will be consulted on the approval of the BCMP. However, with only a draft BCMP, the suggested planning conditions do not (and cannot) resolve the inherent uncertainties involved.

The draft BCMP contains insufficient detail, in its current form, to demonstrate that it will not result in an adverse effect on the SPA, pSPA, pRamsar site and SSSI. We wish to emphasise the importance of this point, since section 8 of the draft S.106 for the RE refers to the submission of off-site bird habitat management that would supplement the BCMP. Any additional bird hazard control measures not detailed in the draft BCMP clearly have the potential to have an adverse effect; therefore, we wish to reiterate that **the provision of this detail is essential in order for the competent authority to undertake an appropriate assessment.**

There are also elements of the BCMP that are currently outside the control of LAA¹; consequently, we question the enforceability of the BCMP if permission is granted. Since the suggested conditions do not provide certainty that the final BCMP will not result in an adverse effect on the designated sites, the justification of/"need" for Condition 18 for the RE and 21 for the TB is, our opinion, undermined. Therefore, we consider that the draft BCMP needs to be finalised (including detail of off-site habitat management) and agreed by all relevant parties and for the finalised BCMP to be a planning condition to ensure it is implemented if permission is granted.

Construction Environmental Management Plan (CEMP)

Condition 3 for RE and condition 6 for the TB state that a CEMP will be submitted to and approved by the LPA prior to the commencement of development. We have previously raised concerns in our objection letters² regarding the potential impacts of construction on designated sites. Given that the CEMP will propose noise control measures, we recommend that Natural England and the RSPB be consulted on the production of the document. Should the construction impacts in the designated sites not be addressed through the CEMP, we would recommend that additional conditions be included to mitigate potential impacts (for example timing of works to avoid sensitive periods and/or screening). Further investigative work should be carried out to inform these conditions, and we would be pleased to advise further if necessary.

Annual passenger numbers

Condition 12 for RE and 16 for TB state that passenger numbers using the airport for '*Public Transport Flight Movements shall not exceed 300,000*' (emphasis added). Definitions set out in the conditions document explains that public transport aircraft are those which exceed 45 tonnes. It is not clear why passenger numbers only appear to be limited for public transport flights. We therefore wish to see clarification on whether the cap on passenger numbers refers to **all** aircraft types, in addition to those which are greater than 45 tonnes.

Noise Management Plan

Section 11.1.2 (b) in the previous draft S.106³ states that the noise management plan will include a target noise performance standard devised specifically in terms of ornithology. The updated draft S.106 no longer contains reference to ornithology with regard to the noise management plan. Given that LAA acknowledges that increased aircraft noise would impact to some extent on bird reserves in and around the SPA⁴, we request clarification as to why this text for the noise management plan has been amended to exclude reference to birds.

¹ The draft BCMP states that agreement will be sought with landowners to modify land use practices such as game rearing to reduce bird hazards

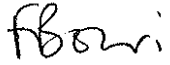
² November 2007 and October 2008

³ As set out in appendix 4 of the Shepway District Council Supplementary Report to inform the Council meeting on 3 March 2010

⁴ March 2009 Supplementary Environmental Information, Volume 1, Section 5.103

Aside from the above, we have no further comments on the S.106/conditions as there is nothing of relevance to our principle concerns with the applications. We however reserve the right to add to or amend the above comments in light of any further information being provided.

Yours sincerely

A handwritten signature in black ink, appearing to read 'fBouri'.

Fay Bouri
Conservation Officer