Date: 25th July 2011
Our ref: TR/01-2/CON-P1

NATURAL ENGLAND

Dr Roy Armstrong,
Armstrong McCaul Biological Consultants

International House
Dover Place
Ashford
Kent
TN23 1HU

Sent via e-mail only

Dear Dr Armstrong

LYDD AIRPORT INQUIRY

I am writing to you in connection with your response to the second rebuttal proof of Dr Underhill-Day which was issued on 6 May 2011 with reference LAA/7/G. There are two factual matters stated in LAA/7/G which I do not consider are correct, particularly relating to the national and international designations. There is also a point arising from LAA/7/E in relation to specific bird species. I would hope that we would be able to agree these matters as common ground out of the inquiry, rather than having to deal with them by cross-examination, and therefore save inquiry time.

The areas which I have addressed in this letter are:

- British Trust for Ornithology (BTO) WeBS data and its use to support the designations (LAA/7/G para 5.1)
- the 85dB contour and the habitats and breeding species lying within this and similar contours (LAA/7/G paras 4.1-4.2, 10.2-10.4)
- specific bird species and their conservation status (LAA/7/E paras 3.11, 3.14, 3.17)

1. Change in reporting in the annual BTO WeBS publication 'Waterbirds in the UK'

In paragraph 5.1 of LAA/7/G, you note that there has been a change in the way that the BTO publish the yearly figures for this area in the annual WeBS publication 'Waterbirds in the UK' (WITUK). You state that '*the BTO have now changed the way in which they calculate the WeBS totals for Dungeness to Rye Bay SPA'* and say that this *'clearly proves'* that the bird counts for the SPA are *'being inflated and incorrectly assessed'*. I do not accept this for the reasons set out below. I would hope that we can agree that there is not an issue on this point.

1.1 Change to one site – Dungeness and Rye Bay

Count sectors used for the national WeBs counts can vary greatly in size. A count sector can range from one small wetland body to large ecological units such as the Ribble Estuary and the Wash. In the past, and up to the WeBS report for winter 2006/07, waterbird habitat in the Dungeness and Rye Bay area was reported as a set of several different count sectors (e.g. Dungeness Gravel Pits, Rye and Pett, Walland Marsh). This reflected how, traditionally, the

WeBS count sectors had been kept separate, especially as the sectors cross two counties, Kent and East Sussex. This separation was in part to assist with the publication of separate accounts in the annual County Bird reports.

In 2006 the Dungeness, Romney Marsh and Rye Bay SSSI was notified. The new SSSI boundary resulted in the combination of eight SSSIs in the Romney Marsh area. This was done in recognition that the area as a whole functions as one large ecological unit. In particular, the bird interest in the SSSI is made-up of many wetland birds that move across the area on a daily, seasonal, annual or decadal period using the mosaic of various wetland bodies across the area.

In March 2008, one of the WeBS Local Organisers initiated a discussion about whether it would be better to report all the count sector sites in the area as a single site, given the new SSSI notification and the proximity of the sites. The WeBS partners considered this (including myself as the local advisor, and senior colleagues in Natural England National Site Designations Team) and agreed that it was sensible to create the new site 'Dungeness & Rye Bay' which represented an amalgamation of the smaller sites within the SSSI. As you have noted, the new site was first reported on in the 2007/2008 annual WeBS report.

The change was made as a result of the SSSI designation and not because of anything connected with the substance of the counts. The change merely relates to the definition of the site for reporting purposes in the annual WeBS report, where a number of count sector sites are combined into a larger site for reporting purposes.

1.2 Dungeness and Rye Bay counts

The BTO Core Counts for the Dungeness and Rye Bay area are taken once a month during the period from September to March. A list of predetermined dates is published by the BTO. This enables synchronisation of counts across the whole country and helps to reduce the risk of birds being either double counted or missed from counts altogether.

The Dungeness and Rye Bay site is a coastal site and therefore the counts will be linked into the tide timetable. Both BTO Local Organisers have confirmed to me that every effort is made to count all the sites on the same day, as set out by the WeBS protocols, with dates defined well in advance. Perfect synchronisation is, of course, not always possible. According to the BTO a delay of one or two days on one count sector is not significant for the reporting of waterbirds on a site with the characteristics of Dungeness/Rye.

The count data is then processed on behalf of the BTO by a professional data input company. Precautions to rule out errors in processing the data are taken (for example the data is keyed in twice by different people and discrepancies identified by computer for correction).

In the past, the WeBS report published the count sectors separately, for example, a peak for a species at Dungeness Gravel Pits sector could be in November, but for the same species a peak for Rye Harbour and Pett Levels sector could be in February. I agree it would be wrong to sum the annual peaks from the smaller sites across different months to gain a total for the larger site, but this is not what is done. The BTO have confirmed to me that the figures are not collated in this way. Where in the past there may have been a peak across a number of months reported for different sites this now appears as one peak for Dungeness and Rye Bay in one single month.

1.3 Dungeness, Romney Marsh and Rye Bay designations

The publication of the figures in the annual WeBS report is not used as a basis for site designation in any event. The analysis of figures for the consideration of designations nationally is a specific, separate exercise that Natural England commissions the BTO to undertake.

For the specific purposes of a SSSI notification, Natural England goes direct to the BTO to make a specific request for data relating to a bespoke area of interest. In the case of Dungeness, Romney Marsh and Rye Bay, the site includes many count sector sites and so the BTO undertakes a 'custom consolidation' of its data. A custom consolidation exercise was carried out for the Dungeness Romney Marsh and Rye Bay SSSI, drawn from the WeBs count sectors within the SSSI boundary. The consolidation process adds up the counts for different sectors each month to ensure that it is not simply a summation of the separate sector means. In this way the BTO is able to consolidate the WeBS data without creating a risk of double counting. As well as the SSSI, the same has been done for the pSPA and pRamsar designations.

2. Western boundary of the RSPB reserve and the pSPA and SPA habitats

In LAA/7/G at paragraph 4.2 you say that the vast majority of the SPA lies outside the 85dB contour in the new noise level diagrams. Whilst that may be strictly correct given the size of the SPA overall, it would be useful if we could agree what is within the contours shown on the new noise diagrams.

In LAA/7/G at paragraphs 10.2-10.4 you also say that *'there are no key blocks of habitat within the 85dB noise contour'* and that *'no key breeding areas (particularly reedbeds) occur within the 85dB noise contour'*. Whilst the extent of the habitat would be apparent to the Inspector on a site visit, it would I think be useful to try to agree the position between us. In general terms, it appears to me that the western boundary of the RSPB reserve, the pSPA and SPA contain important habitat for birds throughout the year, including, for example, mute swan, shoveler, bittern, golden plover, marsh harrier and wigeon. These species and habitats occur within the 88dB, 85dB, 82dB and 79dB noise contours on the new noise level diagrams.

With regard to breeding areas, and in particular reedbeds, within the 88 to 85dB contours the water bodies display a reed fringe rather than reedbed. This habitat can provide breeding areas for wetland birds such as Cetti's and reed warbler, mallard, pochard, coot, moorhen and mute swan which are all part of the SSSI breeding assemblage. Extending to the 82 to 79dB contour, reedbed is present, and can support breeding marsh harrier and other breeding reedbed and wetland species.

I attach to this letter a summary of the relevant areas of habitat for birds which exists within the noise contours. I hope that this could form the basis of the agreement of common ground between us. I appreciate that the extent to which these noise contour thresholds will impact on the bird interests will be a matter for further discussion between yourself and Dr. Underhill-Day.

3. Specific species and conservation status

In LAA/7/E you mention the conservation status of three species and question the presentation of data to support the inclusion of the species in the designations. I do not consider that there is any justification for these comments.

3.1 Cetti's warbler (paragraph 3.11 in LAA/7/E)

This species is a notified feature of the SSSI because the site supports greater than 1% of the Great Britain breeding population, with 12 pairs representing 1.9% (five year mean 2001-2005) of the published Great Britain population estimate. Whilst the national population of Cetti's warbler may have risen quickly in recent years, this would only be significant if the SSSI population had not also increased at a similar rate. The size of a species population, whether large or small, is not relevant: to qualify under the designation criteria, any site that regularly supports more than 1% of the national population is regarded as nationally important. Cetti's

warbler is also part of the nationally important breeding bird assemblage for the SSSI, irrespective of its population size.

3.2 Common sandpiper (paragraph 3.14 in LAA/7/E)

In paragraph 3.14 of LAA/7/E you say that the apparent importance of this species is an artefact of the recording system and comment that the numbers of birds present on passage falls below the 1% threshold, by reference to the numbers which breed in the UK. This is not comparing like with like. This species is present at Dungeness as a passage migrant. It is part of the pSPA non-breeding bird assemblage. The figures collated for the breeding birds total are completely separate from those collated for the autumn passage figures.

Also, the WeBS counts only record peak occurrences rather than overall numbers of birds that stage at a site during a migration season. So, the five year peak mean (1999-2003) of 66 common sandpipers on autumn passage quoted in the SSSI documentation is an absolute minimum since it represents birds that were present simultaneously on one survey each year. The actual number of common sandpipers using the SSSI on autumn passage will be much greater as many will pass through unrecorded on areas of the site that fall between WeBS count dates. The importance of this site for common sandpiper is shown by the fact that in 2008 (for instance) there were only six sites in the UK with peaks of more than 30, of which Dungeness and Rye Bay was the second most important, with 72 individuals.

3.3 Little stint (paragraph 3.17 in LAA/7/E)

In paragraph 3.17 of LAA/7/E you say that the population of little stint at Dungeness cannot be considered to be of conservation significance. However, little stint is part of the internationally important assemblage of over 20,000 waterfowl in the non-breeding season in the SSSI and pSPA. The assemblage is made up of all naturally occurring waterfowl species that use the site during the non-breeding season. The pSPA feature is the assemblage itself. Therefore for each species that contributes to the total assemblage, the population size and global range of each species is irrelevant. The population of little stint is therefore of conservation significance notwithstanding the numbers present.

I suggest that the best way to deal with the proposals in this letter would be for us to meet or have a telephone conference to talk them through. Perhaps you could contact me to make arrangements to do this? Please note I shall be away on Annual Leave for two weeks from the 8th August 2011 returning on 22nd August 2011.

Yours sincerely

Jo Dear
Lead Conservation Advisor
South East Region
Natural England
Direct line: 0300 060 4776
Email: jo.dear@naturalengland.org.uk

ENC List of relevant habitats for birds within the 88 to 79dB contours

CC. Mrs V. Lindsay, Pinsent Masons LLP
Ms A. McCue, Indigo Planning

London Ashford Airport Public Inquiry

List of habitats within the 88dB, 85dB, 82dB and 79dB noise contours

Western boundary of the RSPB reserve and the pSPA and SPA habitats

The habitat blocks which form the western boundary of the RSPB reserve and fall within the pSPA and SPA are a mosaic of wetland features lying within arable and grazing fields with underlying shingle. The wetlands have formed following gravel extraction activities in the past. The gravel extraction followed the fingers of shingle that lay near to the surface of the ground. These extractions then became flooded and now provide reed fringed wetland habitat which open onto grazing or arable fields.

Noise contours illustrated in Appx 3 Figure 1 LAA/3/H
The noise contours illustrated in Appx 3 Figure 1 (LAA/3/H) show the LAMax noise contours 88dB, 85dB, 82dB and 79dB on the departure flight of a 737-800 on Flightpath 18 from Lydd Airport.

Habitats within the 88dB noise contour

Habitats within pSPA and SPA: the pSPA habitat that lies within the 88dB contour lies SE of the end of the runway, adjacent to the southern side of the railway line that services the Power Stations.

The habitat within the pSPA boundary is reed fringed flooded gravel pit. This wetland lies within grazing /arable fields.

This is privately owned land away from public access. It is used by an angling club managed by the landowner.

Habitat adjacent to pSPA and SPA – Functional land: The area of land outside the pSPA boundary holds grazing and arable fields with reed filled ditches.

Habitats within 85dB noise contour

Habitats within pSPA and SPA: The pSPA habitat that lies within the 85dB contour lies to the SE of the runway and is a larger extent of the same flooded gravel pit and adjacent fields that lie within the 88dB noise contour.

This provides open water and reed fringed margins with scattered scrub on the banks. The past gravel extraction carried out along the fingers of shingle near to the surface of the ground are interspersed with grazing fields. Islands offer nesting opportunities for water fowl.

Further to the south, an area of pSPA falls within the 85dB contour within the RSPB reserve. This lies just to the south of Boulderwall Farm. This is flooded gravel extraction with grazing on adjoining fields.

This is within the RSPB reserve and is away from any public access.

Habitat adjacent to pSPA and SPA – Functional land: The area of land outside the pSPA boundary holds grazing and arable fields with reed filled ditches. The ditches form a network across the area and drain towards the larger Denge Marsh sewer ditch. Crops that are grown in the fields may change according to the farmers' decisions.

Habitats within the 82dB and 79dB noise contours

The extent of habitat that lies within the 82dB contour extends along the full western edge of the RSPB reserve. This contour of 82dB includes part of the current SPA and areas of the pSPA from the railway line through to the southern boundary of the reserve.

The 79dB contour includes SPA and pSPA habitat within the RSPB reserve on both sides of the Dungeness Road. The area lying within this contour extends from the Water Tower Pits by the railway line across the SPA and pSPA south over the RSPB reserve including Hookers Pit and the wetland creation project area known as Denge Marsh Reedbed on the southern boundary of the reserve.

These two areas represent a mosaic of wetland bodies interspersed with arable and grazing fields and exposed shingle. There is a variety of open water with sheltered reed fringe margins and scrub covering the banks and occasional island. The area to the north of the Dungeness road represents an area that is away from public access and the pit margins are heavily reed fringed. Reedbeds are present in the larger pits. The area that lies to the south of the Dungeness Road offers wetlands that open onto grazing and arable fields. Within these wetlands there will be varying depths of water and islands.

Habitat adjacent to pSPA and SPA – Functional land: The area of land outside the pSPA boundary holds grazing and arable fields with reed filled ditches. The ditches form a network across the area and drain towards the larger Denge Marsh sewer ditch. Crops that are grown in the fields may change according to the farmers' decisions.

Northern area of Lade Pit: The noise contour map illustrated in Figure NV17 LAA/5/C shows the area of the pSPA at Lade Pit that falls within the 79dB contours

The extent of habitat that lies within the 79dB contours is the northern area of the large flooded gravel pit. This is open water habitat with reed and wetland vegetation fringing the water body along the western margin.