

APP/L2250/V/10/2131934 & APP/L2250/V/10/2131936

SECTION 77 TOWN AND COUNTRY PLANNING ACT 1990 – REFERENCE OF APPLICATIONS TO THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT

TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

**PROOF OF EVIDENCE OF SEAN MCGRATH BA (HONS)  
MSC MRTPI**

**PLANNING MATTERS**

In respect of:

Planning Application Reference: Y06/1647/SH (New Terminal Building)

Planning Application Reference: Y06/1648/SH (Runway Extension)

relating to land at London Ashford Airport, Lydd, Romney Marsh, Kent, TN29 9QL

**London Ashford Airport Limited  
Proof of Evidence of Sean McGrath  
Planning**

PINS refs. APP/L2250/V/10/2131934  
and APP/L2250/V/10/2131936  
LPA refs. Y06/1647/SH & Y06/1648/SH

22 December 2010

**Indigo**

**indigo**

Indigo Planning Limited  
Swan Court  
Worple Road  
London SW19 4JS

Tel: 020 8605 9400  
Fax: 020 8605 9401

info@indigoplanning.com  
indigoplanning.com

---

# London Ashford Airport Limited Proof of Evidence of Sean McGrath Planning

PINS refs. APP/L2250/V/10/2131934  
and APP/L2250/V/10/2131936  
LPA refs. Y06/1647/SH & Y06/1648/SH

<b>Contents</b>	<b>Page</b>
<b>1. Qualifications and Experience</b>	<b>7</b>
<b>2. Secretary of State's Matters</b>	<b>9</b>
<b>3. Scope of Evidence</b>	<b>11</b>
<b>4. The Application Proposals and Background</b>	<b>13</b>
The Application Proposals	13
The Applicant	13
The Application Site and Surroundings	13
Current Operational Restrictions	14
Existing Infrastructure	14
Existing Airport Capacity	14
The Proposed Runway Extension	15
<b>5. Ecological Designations</b>	<b>17</b>
Protected European Sites	17
Proposed European Sites	17
National Sites	18
Local Sites	18
<b>6. Determination of the Applications</b>	<b>19</b>
The Call-in of the Applications	20
Summary	21
<b>7. The 1992 Call-In Decision</b>	<b>22</b>
The Secretary of State's Decision	22
Summary	25
<b>8. National Planning Policy and Guidance</b>	<b>26</b>
National Planning Policy	26
Government Circulars	27
2003 Aviation White Paper	27
Future of Air Transport Progress Report	29
Status of Government Aviation Policy	30
Decentralisation and Localism Bill 2010	30
PPS1: Delivering Sustainable Development	31
PPS4: Planning for Sustainable Economic Growth	35
PPS7: Sustainable Development in Rural Areas	38
PPS9: Biodiversity and Geological Conservation	39
PPG13: Transport	42
PPG24: Planning and Noise	44

# London Ashford Airport Limited Proof of Evidence of Sean McGrath Planning

PINS refs. APP/L2250/V/10/2131934  
and APP/L2250/V/10/2131936

LPA refs. Y06/1647/SH & Y06/1648/SH

PPS25: Development and Flood Risk	46
Summary	47
<b>9. Development Plan Policy</b>	<b>50</b>
South East Plan	51
Shepway District Local Plan Review 2006)	52
Emerging Development Plan Documents	63
Summary	63
<b>10. Effects on Ecological Designations</b>	<b>65</b>
Protected European Sites	65
Proposed European sites	67
National Sites	68
Summary	69
<b>11. Response to Secretary of State's Matters</b>	<b>70</b>
Accordance with the Shepway Local Plan	70
Consistency with emerging Development Plan Documents	70
Consistency with PPS 9: Nature Conservation	71
Other Material Considerations	72
Noise and Community Annoyance	73
Air Quality and Nitrogen Deposition	75
Socio-Economic Considerations	75
Transport and Accessibility	75
Flooding	77
Nuclear Safety	77
Carbon Management and Climate Change	78
Landscape	79
The 1992 Permission	80
Conditions and section 106	80
Summary	80
<b>12. Benefits of the Applications</b>	<b>81</b>
Ecological Enhancements	81
Employment Generation	82
Training and Development	82
Contribution towards Regeneration	82
Contribution towards Tourism	83
Catalyst for Inward Investment	83
Accessibility Enhancements	83
Noise and Night-time Flying Restrictions	84
The Fall-Back Position	84
Summary	85
<b>13. Planning Conditions</b>	<b>86</b>

**London Ashford Airport Limited  
Proof of Evidence of Sean McGrath  
Planning**

PINS refs. APP/L2250/V/10/2131934  
and APP/L2250/V/10/2131936

LPA refs. Y06/1647/SH & Y06/1648/SH

Runway Extension Planning Conditions	86
Terminal Building Planning Conditions	87
Summary	88
<b>14.Planning Obligations</b>	<b>89</b>
Obligations in relation to the Runway Extension (even if the Terminal Building application is refused) and Terminal Building	89
Summary	90
<b>15.Conclusions</b>	<b>92</b>

**London Ashford Airport Limited  
Proof of Evidence of Sean McGrath  
Planning**

PINS refs. APP/L2250/V/10/2131934  
and APP/L2250/V/10/2131936

LPA refs. Y06/1647/SH & Y06/1648/SH

**Appendices**

**Appendix 1**

Schedule of Supporting Material to the Applications

**Appendix 2**

The Airport's CAA Licence

**Appendix 3**

Site Location Plan

**Appendix 4**

Historical Passenger Data

**Appendix 5**

Nuclear Installations Inspectorate Correspondences

**Appendix 6**

Letter from British Energy date 6 December 2010

# 1. Qualifications and Experience

- 1.1. My name is Sean McGrath and I am a director of Indigo Planning Limited. Indigo is one of the largest independent specialist planning consultancies in the United Kingdom. We advise a wide range of public and private sector clients on planning matters.
- 1.2. I am a Member of the Royal Town Planning Institute. I hold a Bachelor of Arts degree in Geography and History from the University of London and a Master of Science degree in Town and Country Planning from the University of Reading.
- 1.3. I have twenty years experience as a town planner. I have worked for Indigo (which was previously known as GMA Planning) for eight years, prior to which I was employed by Drivers Jonas, Town Planning Consultancy Limited and the London Borough of Harrow.
- 1.4. I have co-ordinated and worked on many different types of planning and development projects throughout the United Kingdom. I have experience of advising a variety of clients in both the private and public sectors. I have a broad experience of promoting industrial, commercial, residential, retail and leisure schemes in the United Kingdom.
- 1.5. I have been advising London Ashford Airport Limited (the Applicant) on planning matters in relation to the development proposals since 2005. I was the lead planning consultant for the two planning applications (the Applications) submitted for the London Ashford Airport at Lydd, Kent (the Airport). I am very familiar with the Airport, the immediate locality and the wider Shepway and Kent area.
- 1.6. My Proof of Evidence provides an analysis of the planning policy context for the Applications, together with an overview of the key planning issues relating to them. My Proof of Evidence addresses the six issues about which the Secretary of State particularly wishes to be informed. It also provides a planning response to specialist matters raised by the Applications.
- 1.7. In addition to my planning policy Evidence, the following Evidence is provided by:
  - a. **Mr Tim Maskens** of the Applicant on Airport operations and flight paths (LAA/3/A);
  - b. **Ms Louise Congdon** of York Aviation on aviation and socio-economic need (LAA/4/A);
  - c. **Mr Richard Perkins** of Parsons Brinckerhoff on noise impacts on the local community (LAA/5/A);
  - d. **Mr Nigel Deacon** from Airfield Wildlife Management on ornithology and particularly bird

management (LAA/6/A);

- e. **Dr Roy Armstrong** of the University of Cumbria on ornithology and particularly on any potential for the disturbance of birds (LAA/7/A);
- f. **Dr Bethan Tuckett-Jones** of Parsons Brinckerhoff on air quality and nitrogen deposition (LAA/8/A);
- g. **Dr Mark McLellan** of MMX Environmental Practice on ecology (LAA/9/A);
- h. **Mr Clive Self** of CSA on landscape, tranquillity and visual impact (LAA/10/A);
- i. **Mr Stuart Coventry** of URS on climate change and carbon management (LAA/11/A);
- j. **Mr Keith Sowerby** of Steer Davies Gleave on transport (LAA/12/A); and
- k. **Mr Christopher Mead** of WSP on flooding (LAA/13/A).



## 2. Secretary of State's Matters

- 2.1. The Secretary of State for Communities and Local Government has issued a direction under his powers in Section 77 of the Town and Country Planning Act 1990 (as amended) that the Applications shall be referred to him instead of being determined by Shepway District Council (the Council). The Secretary of State's letter to this effect is Core Document CD1.47.
- 2.2. The Secretary of State has advised that he particularly wishes to be informed about the following matters for the purposes of his consideration of the Applications at the Inquiry.
- a. The extent to which the proposed development is in accordance with the development plan for the area, having regard in particular to the Shepway District Local Plan Review (adopted 16 March 2006) (saved policies).
  - b. The extent to which the proposed development is consistent with emerging Development Plan Documents, including consideration of the weight to be attached to them.
  - c. The extent to which the proposed development would be consistent with Government policies in Planning Policy Statement 9: Nature Conservation – with particular regard to:
    - i. The extent to which the proposed development is likely to have an impact on the local flora and fauna and any designated sites;
    - ii. The importance that the Government attaches to the SAC; SPA; SSSI; proposed Ramsar site and proposed extension and additions to the SPA;
    - iii. Whether or not there is likely to be any impact on a European protected species listed in the Habitats Directive; and
    - iv. Whether there is likely to be any impact on a species protected under the Wildlife and Countryside Act 1981 or any other legislation.
  - d. Whether there are any other material considerations relevant to the Secretary of State's consideration.
  - e. Whether any permissions granted for the proposed development should be subject to any conditions and, if so, the form these should take.
  - f. Whether any planning permissions granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.

2.3. The above six points are to be taken as the Secretary of State's statement under rule 6 (12) of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000.

2.4. My Proof of Evidence focuses on planning policy matters, but does respond to all of the above six matters. Other witnesses provide detailed Evidence to address points c and d.

### 3. Scope of Evidence

3.1. My Proof of Evidence is submitted in respect of the call-in of the following two Applications:

**Application One – LPA ref. Y06/1648/SH**

- Construction of a 294m runway extension together with an additional 150m starter extension (“the runway extension application”).

**Application Two – LPA ref. Y06/1647/SH**

- A new terminal building, capable of processing 500,000 passengers per annum (ppa) (“the terminal building application”).

3.2. Additional car parking will be provided in association with the two Applications. The runway extension application proposes 287 additional car parking spaces on existing hardstanding. The terminal building application provides an additional 352 car parking spaces on existing hardstanding. The total new car parking provision under the two Applications will be 639 spaces. This is in addition to the existing car parking provision at the Airport of 223 spaces. Therefore, the total car parking provision will be 862 spaces.

3.3. A Statement of Common Ground (SCG) has been agreed between the Applicant and Shepway District Council (the Council). This is Core Document CD4.1. An update to this SCG is currently being prepared following the recent High Court decision in the Cala Homes (South) Ltd case (2010 EWHC 2866).

3.4. A number of other SCGs are under preparation between the Applicant and the following parties:

- a. Lydd Airport Action Group (LAAG);
- b. Natural England (NE)/ Royal Society for the Protection of Birds (RSPB);
- c. Kent Wildlife Trust (KWT);
- d. Campaign to Protect Rural England (CPRE); and
- e. Shepway Labour Party.

3.5. Shepway Environment and Community Network did not respond to the Applicant’s invitation to agree common ground.

3.6. My Proof of Evidence sets out the planning policy context for the Applications. I describe how

the Applications accord with planning policy at the national, regional and local level. If there are any detailed or additional comments raised by Rules 6 Parties, these will be dealt with in rebuttal Evidence as required.

3.7. My Proof of Evidence is structured as follows:

- Section 4 summarises the Application proposals and their background;
- Section 5 identifies the ecological designations of relevance to the Airport;
- Section 6 summarises the determination procedure of the Applications to date;
- Section 7 summarises the previous consideration of the expansion proposals;
- Section 8 provides an analysis of how the Applications comply with national policy;
- Section 9 provides an analysis of how the Applications accord with the Development Plan;
- Section 10 summarises the effects on the relevant ecological designations;
- Section 11 sets out my response to the specialist matters raised by the Secretary of State;
- Section 12 sets out the benefits of the Applications;
- Section 13 considers the appropriateness of the proposed planning conditions;
- Section 14 considers the appropriateness of the proposed planning obligations; and
- Section 15 sets out my conclusions.

## 4. The Application Proposals and Background

- 4.1. A detailed background to the Applications is provided in the SCG between the Applicant and the Council (CD4.1). To provide a context to my evidence, some key points are summarised below.

### The Application Proposals

- 4.2. The Applications seek planning permission for the construction of a 294m runway extension, a 150m starter extension, a new terminal building capable of processing up to 500,000 passengers per annum and associated parking facilities.
- 4.3. The terminal building application is linked to the runway extension application. However, a terminal building permission will not be implemented in isolation from the implementation of the runway extension. This is secured through the proposed section 106 agreement.
- 4.4. The Applications were accompanied by a wide range of supporting material, both at the time of the submission of the Applications to the Council and in the form of supplementary information provided post-submission, which addressed particular issues and matters that arose through public consultation. The range of supporting documents is set out in full in Section 5 of the SCG between the Applicant and the Council and summarised in **Appendix 1** of my Proof of Evidence.

### The Applicant

- 4.5. The Applicant for the Applications is London Ashford Airport Limited.
- 4.6. The Airport has been operational since the 1950s and is licensed by the Civil Aviation Authority (CAA). A copy of the Airport's CAA licence is appended to this Proof of Evidence at **Appendix 2**.
- 4.7. The Applicant is a 'Relevant Airport Operator' under the Airports Act 1986, which confers on the Applicant the status of a statutory undertaker. The Airport, therefore, benefits from permitted development rights under Part 18 of the Town and Country Planning (General Permitted Development) Order 1995.

### The Application Site and Surroundings

- 4.8. The existing boundary of the Airport site extends in total to 132ha. This is illustrated by the Site Location Plan attached as **Appendix 3** to this Proof of Evidence.
- 4.9. A detailed description of the site and surroundings can be found in the SCG between the

Applicant and the Council (CD4.1).

- 4.10. The surrounding area includes a number of coastal settlements and villages. There are also a number of ecologically protected sites in the vicinity of the Airport. Details of these sites are set out at Section 5 of this Proof of Evidence.

### **Current Operational Restrictions**

- 4.11. Dungeness Power Stations A and B lie approximately 3.5km to the south of the Airport. Dungeness A was closed in December 2006. It is currently undergoing its decommissioning programme overseen by Magnox South Limited. Dungeness B (owned by British Energy, and part of EDF Energy) is scheduled to be decommissioned in 2018.
- 4.12. Dungeness was included in a list of eleven potential sites, published on 15 April 2009, for new nuclear power stations at the request of EDF Energy. The Government did not include Dungeness C in its draft National Policy Statement for Nuclear Power Generation published on 9 November 2009, citing environmental reasons and concerns about coastal erosion and associated flood risk. Dungeness C was ruled out by the Secretary of State for Energy and Climate Change, Chris Huhne, in October 2010, when the revised draft National Policy Statement for Nuclear Power Generation was published.
- 4.13. A restricted flying area currently exists over the existing and former power stations. Details of this restricted flying area are addressed in the evidence of Mr Tim Maskens (LAA/3/A).
- 4.14. Two military areas close to the Airport have been in existence for many years. They do not materially affect the Airport's current or proposed operations. Mr Tim Maskens explains in his Proof of Evidence (LAA/3/A) that the implementation of the Applications will have no effect on these restricted areas.

### **Existing Infrastructure**

- 4.15. The Airport has an operational runway of 1,505m in length which may be approached from either direction. The runway designations are 03 for an approach from a southerly direction and 21 from a northerly direction.
- 4.16. The existing terminal, built in 1954, accommodates offices, customs and security facilities, a restaurant and a bar. Other existing infrastructure at the Airport includes car parking, a maintenance hangar, an Air Traffic Control tower, fire-fighting services and fuel storage.
- 4.17. The existing terminal building was designed to be capable of processing up to 300,000 passengers per annum.

### **Existing Airport Capacity**

- 4.18. The Airport was the first post-war airport constructed in England. It has provided a key

regional service for over fifty years. At its previous peaks of operation, the Airport accommodated an average throughput of 250,000 passengers per annum. CAA records show that in 1959 the Airport accommodated 261,195ppa and 254,954ppa in 1961, as shown at **Appendix 4**.

- 4.19. Passenger movements have reduced over the recent past, principally due to competition from seacraft services to France. The Airport has, however, maintained capability to provide both scheduled and private services. It retains its CAA licence to operate general aviation, passenger flights and freight transport services twenty four hours a day, seven days a week.
- 4.20. The only practical restriction on the number of flights is the capacity of the existing 1950s terminal building. As I have already indicated, the existing terminal building is designed to be capable of processing up to 300,000 passengers per annum. In her evidence, Ms Louise Congdon (LAA/4/A) considers the capacity of the existing terminal. She concludes that having examined the configuration of the existing terminal building, the current capacity is limited to 200,000 passengers per annum. However, Ms Louise Congdon agrees that if parts of the existing terminal building were reconfigured, then the existing terminal building could allow approximately 300,000 passengers per annum to be processed, although she accepts that there would be constraints on the flexibility of airline scheduling due to constraints imposed by the layout and facilities even within a reconfigured terminal. This highlights the need for the proposed new terminal building to be consented.
- 4.21. In addition, to aeroplane movements, the Airport accommodates helicopter movements. In 2005, for example, there were approximately 1,200 helicopter movements per annum and in 2009 there were 1,376 helicopter movements.

### **The Proposed Runway Extension**

- 4.22. The runway extension application involves lengthening the existing north-east to south-east runway by 294m (8,998m<sup>2</sup>) of additional pavement at its north-easterly end. The result will be to increase the runway's total length from 1,505m to 1,799m.
- 4.23. Planning permission for a 150m starter extension is also sought. This will provide larger aircraft with an extra stretch of asphalt for take-off, but will not be used for landing purposes.
- 4.24. The Airport will provide a Runway End Safety Area (RESA) of approximately 240m. This is a safety area in the event of any undershooting or overrunning of the runway. The Airport will also provide a Clear and Graded Area (CGA) of 105m width (measured from the runway centre line) either side of the runway extension. These measures fully accord with CAA regulations.
- 4.25. Only the runway extension, the starter extension and 150m of RESA which overlaps with the starter extension will be hard-paved. The remaining 90m of the RESA and the CGA will

comprise areas of semi-improved grassland. These areas will be kept clear of obstacles and will require grass maintenance.

- 4.26. The proposed runway extension will not alter the largest type of aircraft currently able to operate at the Airport. However, a lengthened runway will allow the larger aircraft than can already be accommodated at the Airport to take off with a full payload. At present, the larger aircraft can take off from the Airport, but with restrictions on the numbers of passengers on board due to the existing length of the runway.
- 4.27. With the runway extension alone (i.e. without the proposed new terminal building) the Airport would not be able to process a throughput of more than 300,000 passengers per annum. Although as the evidence of Ms Louise Congdon explains, the proposed terminal building would not just assist in increasing the throughput capacity of the Airport, but it would also assist in providing flexibility to airlines.

### **The Proposed Terminal Building and Capacity Increase**

- 4.28. The new terminal building will be on an existing area of hardstanding adjacent to Bravo Apron. It will allow a maximum throughput of 500,000 passengers per annum (i.e. 250,000 outbound and 250,000 inbound passengers per annum).
- 4.29. The new terminal building will have a gross external area of 7,666m<sup>2</sup> and will include a check-in area, departure lounge, arrivals lounge, baggage reclaim, ancillary retail, security, ancillary offices and staff area.
- 4.30. If it were to operate at its maximum capacity of 500,000 passengers per annum, there will be on average 16 scheduled aircraft movements per day (e.g. 8 landings and 8 take-offs on average), with the remaining number of flight movements comprised of light propeller-driven aircraft and small executive jets.
- 4.31. The proposed terminal building will be built to achieve at least a 'Very Good' BREEAM rating. This is explained more fully in the Proof of Mr Stuart Coventry (LAA/11/A).



## 5. Ecological Designations

- 5.1. There are a number of ecologically important designations within the vicinity of the Airport.

### Protected European Sites

#### Dungeness Special Area of Conservation (SAC)

- 5.2. The Dungeness SAC is located to the east of the existing runway. The paved area of the runway extension will include a very small area of land (0.23ha) within the SAC, representing 0.007% of the total SAC area. The total area of SAC included in the application boundaries is 1.82ha, representing only 0.056% of the total SAC. This total area includes land that will be maintained as semi-improved grassland for the purposes of the CGA.

#### Dungeness to Pett Levels Special Protection Area (SPA)

- 5.3. The Dungeness to Pett Levels SPA is located approximately 750m east and 500m south of the existing runway. The Applications do not use any land within the SPA.

### Proposed European Sites

#### Proposed SPA Extension

- 5.4. Natural England (NE) has consulted on a proposed extension to the existing Dungeness to Pett Levels SPA (the pSPA). This would result in the existing SPA boundary being brought marginally closer to the Airport. The Applications do not use any land within the pSPA.
- 5.5. The Conservation of Habitats and Species Regulations 2010 do not provide statutory protection for proposed SPAs before they have been agreed with the European Commission. However, for the purposes of considering development proposals affecting them, the Government's policy is to consider them in the same way as if they had already been designated. For this reason, the Airport has considered the pSPA as part of its assessment as if it were designated as a SPA.

#### Proposed Ramsar

- 5.6. NE has consulted on a potential Dungeness to Pett Levels Ramsar wetland site (pRamsar). Ramsar sites are wetlands of international importance, designated under the Ramsar Convention.
- 5.7. The Applications do not use any land within the pRamsar. This site has not been listed as a Ramsar to date and so does not enjoy the same statutory protection as the designated SAC or SPA. Notwithstanding this, the Applicant has considered the pRamsar as part of its

assessment as if it were a Ramsar. The Applicant's assessment also considered a wider boundary for the pRamsar than the proposed boundary that NE has recently consulted on.

### **National Sites**

- 5.8. The Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI) is located to the east of the existing runway.
- 5.9. The proposed runway extension itself will only include a very small area of land within the SSSI (1.62ha, representing 0.018% of the whole SSSI), this being the only area within the SSSI that will be changed to paved area. A total of 12.85ha (representing only 0.14% of the total SSSI) will be affected by the Applications, but will undergo a positive land use change from predominantly agricultural land to semi-improved grassland.

### **Local Sites**

- 5.10. The Dungeness Local Nature Reserve, which includes the RSPB reserve, is located to the south east of the Airport. The RSPB reserve falls within the SPA boundary and is not within the Application boundaries.

## 6. Determination of the Applications

- 6.1. The Applications were submitted to the Council in December 2006. Four rounds of supplementary material were submitted to the Council in October 2007, August 2008, March 2009 and December 2009. All supplementary material was subject to consultation. The material was submitted in response to issues raised by the Council and Rule 6 Parties. The extensive consultation that occurred during the application process has enabled a thorough determination process to be carried out by the Council in respect of the Applications.
- 6.2. A number of documents submitted to the Council during these rounds of supplementary information have superseded earlier planning application documents. An up-to-date list of the current and superseded documents is provided in Appendix 1 of my Proof of Evidence.
- 6.3. The Applications were considered at a Special Committee meeting on 3 March 2010. After a seven-hour debate, Members of the Council resolved to grant planning permission for the Applications. Members voted by a clear 2:1 majority to grant planning permission (Voting: 27 For; 12 Against; and 2 Abstentions). A detailed description of the determination of the Applications is set out in the SCG between the Applicant and the Council (CD4.1).
- 6.4. Although Officers had recommended refusal of the Applications, this was on a limited basis. The majority of issues that had been raised during the consultation process had been satisfied and only a limited number of issues remained outstanding with Officers. These issues related to what Officers considered might be the potential impacts of the proposals on birds in respect of the SPA and SSSI, and some uncertainty over the pSPA and pRamsar in relation to birds.
- 6.5. Officers' previously expressed concerns regarding the potential effects of the Applications on the integrity of the SAC had been satisfied by the time that the Applications were reported to the Special Committee. This, therefore, was not a matter articulated in the Officers' recommendation for refusal.
- 6.6. Based on all the detailed evidence before them, the Special Committee concluded that all outstanding issues had been addressed and it resolved to adopt the conclusions of an amended Appropriate Assessment (AA) for the Applications. The Council's AA concluded beyond reasonable scientific doubt that there would not be an adverse effect on the integrity of the SAC, the SPA, the pSPA or the pRamsar as a result of the implementation of the Applications, subject to appropriate mitigation.
- 6.7. I address the effect of the Applications on these designations and the proposed mitigation measures in Sections 10, 13 and 14 of my Proof of Evidence.

- 6.8. The Special Committee resolved to grant planning permission for the Applications subject to the imposition of the conditions and the Section 106 heads of terms set out in the Officers' report. The reasons for approval, as set out in the Minutes of the Special Meeting of the Council on 3 March 2010 (CD1.52) can be summarised as follows:
- The Applications would not have an adverse impact on the integrity of the Dungeness to Pett Levels SPA.
  - The Applications would not have an adverse impact on the integrity of the Dungeness SAC.
  - The Council is satisfied having considered all representations and the Officers' report that there is no reasonable scientific doubt remaining that the Applications would have an adverse effect on the integrity of the SPA or SAC.
  - The Applications do not conflict with national planning policy guidance.
  - The Applications do comply with the provisions of the Shepway District Local Plan Review, in particular policies CO8, CO9, TR15, and SD1.
  - The Applications do comply with the South East Plan.
- 6.9. In coming to the decision to resolve to grant planning permission, the Council had regard to the full range of relevant Local Plan and South East Plan policies, as set out in the SCG between the Applicant and the Council (CD4.1).
- 6.10. I address planning conditions and the section 106 agreement in Sections 13 and 14 respectively of my Proof of Evidence.
- 6.11. A copy of the Supplementary Report to the Officers' report to the Special Committee dated 19 February 2010 is CD1.51. The minutes of the Special Committee meeting of 3 March 2010, including the reasons for granting planning permission comprise CD1.52.

### **The Call-in of the Applications**

- 6.12. Following notification of the resolution of the Council to grant planning permission for the Applications, the Government Office for the South East (GOSE) issued an Article 14 Direction. This prevented the grant of planning permission for the Applications by the Council until a decision had been made whether or not the Secretary of State should call-in the Applications.
- 6.13. The letter dated 22 June 2010 (Core Document CD1.47) confirmed the Secretary of State for Communities and Local Government's direction to call the Applications in for his own determination.

## Summary

- 6.14. An extensive consultation process occurred during the application process. This enabled a thorough determination process to be carried out by the Council in respect of the Applications.
- 6.15. Members of the Council resolved to grant planning permission for the Applications by a clear 2:1 majority on 3 March 2010. They concluded, based on their consideration of the Applicant's submissions and the Council's own assessment of the proposals, beyond reasonable scientific doubt that there would not be an adverse effect on the integrity of the SAC, the SPA, the pSPA or the pRamsar as a result of the implementation of the Applications, subject to appropriate mitigation. Officers and Members were satisfied that the Applications do not conflict with national planning guidance and do comply with development plan policies.
- 6.16. Although Officers had recommended refusal of the Applications, this was on a limited basis. The majority of issues that had been raised had been satisfied and only a limited number of issues remained outstanding with Officers. Officers' previously expressed concerns regarding the potential effects of the Applications on the integrity of the SAC had been satisfied by the time that the Applications were reported to the Special Committee. This, therefore, was not a matter articulated in the Officers' recommendation for refusal.
- 6.17. The Applications were called in by the Secretary of State for Communities and Local Government on 22 June 2010.

## 7. The 1992 Call-In Decision

- 7.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions shall be made in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. I consider that the planning history of the Airport is a material consideration. Therefore, the previous consideration of the proposals at the Airport are a material consideration, even if a permission is time expired. In my view, even if the permission is time expired, decision makers should consider the reasons why the permission had been granted at that time, particularly if the same or similar issues were raised by the previous determination process.
- 7.3. In the case of the Airport, due regard should be given to the Secretary of State's decision to grant planning permission in 1992, following a public Inquiry, to extend the Airport runway in a manner very similar to that proposed now by the current runway extension application. The Secretary of State's decision letter is CD1.46. The SPA and SAC were not designated at that time, but the SSSI was designated. However, the SPA was proposed at the time the Secretary of State made his decision and appropriate weight was given to the potential classification at the time.
- 7.4. The Secretary of State was of the view that any detrimental effect upon birds resulting from the proposed runway extension would not be significant within the terms of the EC Directive on the conservation of wild birds (paragraph 16 of his decision letter which is CD1.46). While the legal protection and applicable tests may differ today with the designation of the SPA and the SAC, the Evidence of Mr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A) confirms that the impact on birds remains acceptable. It could be concluded that the reaction of the birds to aircraft activities have not altered since 1992.
- 7.5. I consider the 1992 decision in more detail below.

### **The Secretary of State's Decision**

- 7.6. In September 1992, the Secretary of State granted planning permission following a call-in inquiry for a 296m x 37m concrete extension to the existing runway at the Airport. The proposal was to extend the runway in a northern-easterly direction. This is the same orientation as the current proposed runway extension and it was an extension of a comparable length and width. The runway application proposes 2m less in length to that granted in 1992. A copy of the Secretary of State's 1992 decision is Core Document CD1.46.

### **Consideration of the Evidence**

- 7.7. The Secretary of State considered all the evidence and representations before him and found no reason to withhold permission, and stated, at paragraph 51 that the ‘precautionary principle’ would only apply to “cases where there is a dearth of substantive evidence”. He clarified that:

*“In this instance, as already indicated, the Secretary of State considers that there is sufficient evidence to enable him to reach a decision on the merits of the case and, as indicated elsewhere in this letter, the Secretary of State remains of the view that any detrimental effect upon the birds resulting from the proposed runway extension would not be significant within the terms of the EC Directive on the Conservation of Wild Birds”.*

### **Ecological Impacts**

- 7.8. The Secretary of State concluded that the extension to the runway should be granted planning permission as it was in accordance with both national and Development Plan policy at that time. Further, the Secretary of State was satisfied that the runway extension would not have a detrimental effect upon the SSSI or upon residential amenity.
- 7.9. Although the only formal designation at the time of the previous Inquiry was the SSSI, the Secretary of State did have regard to the potential classification of the SPA, which has since been designated.
- 7.10. The Secretary of State also considered the Bern Convention on the Conservation of European Wildlife and Natural Habitats and the Ramsar Convention on Wetlands of International Importance and was satisfied that in the event of granting permission, the imposition of certain conditions would meet the relevant obligations under those conventions to conserve wildlife habitats, in particular wetlands. (Paragraph 65 of CD1.46).

### **Impacts on Birds**

- 7.11. Of particular relevance is the Secretary of State’s confirmation at paragraph 60 of his report that, after hearing all the Evidence, including evidence from English Nature (now Natural England), he:

*“remains of the opinion that the detrimental effect of the proposed runway extension would not be significant in terms of the survival and reproduction at Dungeness of the rare species of birds that breed there.”*

- 7.12. In short, the Secretary of State was of the opinion that the detrimental impact of the new runway extension would not be significant on the survival and reproduction on rare birds. This is the same conclusion that was reached by the Council in light of all the evidence

supporting the current Applications, including material from the Applicant, other consultees including NE, the RSPB and the Council's own consultants in preparation for the Special Committee meeting on 3 March 2010.

- 7.13. On the question of bird strike and the consequent damage to aircraft, the Secretary of State was advised by the CAA that this was a very remote possibility, but nonetheless, the safety measures in place at the Airport would ensure that an aircraft in difficulty arising from a bird strike would have a safe flight route and landing options. I consider that this situation is unchanged. Safety measures for aircraft in difficulty are in place at the Airport, indeed they have improved since 1992, and can deal adequately with such emergency requirements.

#### **Impact of Noise Disturbance on Residents**

- 7.14. With respect to noise impact on residents, the Secretary of State concluded at paragraph 59 of his report that:

*“In view of the restrictions that the Secretary of State is proposing to impose by way of condition on the times and number of aircraft at Lydd Airport, he remains of the view that the implications of the proposed development for residential amenity do not justify withholding planning permission”.*

- 7.15. Therefore, in 1992, when aircraft were noisier and a significantly greater number of aircraft movements would be permitted than under the current proposals, it was concluded that the disturbance to residential amenity was within acceptable limits. The noise generated by aircraft has reduced since 1992, as a result of improvements in engine and airframe technology. It is additionally proposed under the current Applications that there will be no night time flights between 23.00 and 07.00 and the section 106 agreement will include mitigation measures to ensure that acceptable noise levels are maintained. On this basis, the current Secretary of State can be assured that the noise of aircraft associated with the current expansion plans will be acceptable because, not only have the thresholds for determining noise nuisance remained the same since 1992, but aircraft are quieter, there will be fewer aircraft movements, flight restrictions are proposed and noise mitigation measures will be secured. This is demonstrated in Mr Richard Perkins' Proof of Evidence (LAA/5/A).

#### **Nuclear Safety**

- 7.16. The Secretary of State concluded that the threat to the safety of Dungeness power stations as a result of the implementation of the proposed development was not a reason for refusal. He concluded that the proposed extension of the runway and the subsequent increase of use of the Airport would be acceptable following the application of appropriate planning controls as agreed between the Airport and the Council.
- 7.17. The Secretary of State concluded at paragraph 58 of his 1992 report, that based on the



information provided by the CAA and the NII, safety considerations:

*"did not justify refusal of planning permission, provided that permission was subject to the conditions and obligations proposed by Shepway District Council..."*

- 7.18. In respect of the current Applications, the Nuclear Installations Inspectorate (NII) has confirmed through a formal consultation response that any theoretical risk of an aircraft crashing into the reactors and causing an uncontrolled release of radioactivity was below their published risk criteria and not of concern.

### **Restrictions**

- 7.19. It should be noted that the 1992 permission imposed a cap of 56,000 aircraft movements per annum. The current Applications propose a reduced cap of 40,000 aircraft movements per annum. Accordingly, any effects from the current Applications will be materially reduced from that which was considered to be acceptable in 1992.

### **Summary**

- 7.20. The 1992 planning permission granted by the Secretary of State was not implemented. However, the Secretary of State's decision and the subsequent policy documents illustrate a history of support and approval for the continued use and expansion of the Airport.
- 7.21. I consider that the current Applications should be considered against this backdrop.

## 8. National Planning Policy and Guidance

- 8.1. The legal context for the Applications will be addressed in legal submission as necessary by the Applicant's representatives for the purposes of the Inquiry.
- 8.2. The SCG between the Applicant and the Council provides a full list of the national planning policy and guidance which is of potential relevance to the determination of the Applications.

### National Planning Policy

- 8.3. In this Section, I consider the key elements of the national planning policy framework as relevant to the consideration of the Applications. This is provided by the following documents:
- a. The Future of Aviation: White Paper, 2003 (CD5.24);
  - b. The Future of Air Transport Progress Report, December 2006 (CD5.25);
  - c. The Decentralisation and Localism Bill 2010 (CD5.26);
  - d. Planning Policy Statement 1: Delivering Sustainable Development, January 2005 (CD6.1);
  - e. Planning Policy Statement: Planning and Climate Change – Supplement to Planning Policy Statement 1, December 2007 (CD6.2);
  - f. Planning Policy Statement 4: Planning for Sustainable Economic Growth, December 2009 (CD6.3);
  - g. Planning Policy Statement 7: Sustainable Development in Rural Areas, August 2004 (CD6.4);
  - h. Planning Policy Statement 9: Biodiversity and Geological Conservation, August 2005 (CD6.5);
  - i. Planning Policy Guidance Note 13: Transport, April 2001 (CD6.6);
  - j. Planning Policy Guidance Note 24: Planning and Noise, October 1994 (CD6.13); and
  - k. Planning Policy Statement 25: Development and Flood Risk, March 2010 (CD6.14).

## Government Circulars

8.4. The following contain other Government Circular advice of potential relevance to the determination of the Applications:

- Circular 11/95 The Use of Conditions in Planning Permissions (CD5.20);
- Circular 05/05 Planning Obligations (CD5.19); and
- Circular 06/05 Biodiversity and Geological Conservation (CD5.23).

8.5. Particular reference has been made to these Circulars in the design of appropriate mitigation measures, the preparation of draft planning conditions and the preparation of the draft section 106 agreement. I address these matters further in Sections 13 and 14 of my Evidence.

## 2003 Aviation White Paper (CD5.24)

8.6. The Government's White Paper, the 'Future of Air Transport' provides the strategic framework for the development of air travel over the next 30 years. The key objective identified in the Aviation White Paper is the need to balance a rise in the affordability of air travel against the protection of the environment. The Aviation White Paper acknowledges that the failure to allow for growth in air travel would have significant economic impacts at a regional and national level. It states in the foreword that:

*"Air travel is essential to the United Kingdom's economy and to our continued prosperity. In the last 30 years there has been a five-fold increase in air travel. And it has opened up opportunities that for many simply did not exist before; half the population flies at least once a year, and many fly far more often than that."*

8.7. It goes on to state that:

*"Our economy depends on air travel. Many businesses, in both manufacturing and service industries, rely on air travel; and it is particularly important for many of the fastest growing sectors of the economy. Visitors by air are crucial to UK tourism. Airfreight has doubled in the last 10 years; one third by value of all goods we export go by air. And 200,000 people are employed in the aviation industry, with three times as many jobs supported by it indirectly."*

8.8. The Aviation White Paper supports a strategy for a 'balanced approach', which recognises the need to expand existing airports rather than building new ones. It advises that the expansion of existing regional airports must be incorporated in the relevant policy documents, in order to achieve planned and sustainable growth.

- 8.9. The Aviation White Paper acknowledges that the difficulties of attaining this balance are most acute in the South East. Over half of the 200 million journeys through UK airports in 2003 were through airports in the South East, and this trend is forecast to continue. The Aviation White Paper identifies an urgent need for additional runway capacity in the South East Region, to be provided where possible by making the best use of existing runways, although the need for a new runway in the region is also identified in the Aviation White Paper
- 8.10. The Aviation White Paper confirms that the majority of the additional capacity needed will be concentrated around the larger airports in the South East Region, with Stansted identified as the preferred location for a new runway. The application that was current at the time for a second runway at Stansted has subsequently been refused.
- 8.11. In respect of the South East Region, whilst indicating support for the provision of two new runways at Stansted and Heathrow, the White Paper makes specific reference to the role which could be played by the small airports in the Region, of which the Airport is one. At paragraph 11.93 and 11.94, the Aviation White Paper states:

*“Small airports have an important part to play in the future provision of airport capacity in the South East. Their ability to provide services to meet local demand, and thereby help relieve pressures on the main airports, will be particularly important in the period before a new runway in the South East is built.*

*There is support from a wide range of stakeholders that the small airports in the South East should be allowed to cater for as much demand as they can attract. And from the studies undertaken for the White Paper and the responses to the consultation, it appears that some further development could be possible at any of the smaller airports that have been assessed without insurmountable environmental constraints.”*

- 8.12. In respect of the Airport, the Aviation White Paper states at paragraphs 11.98 and 11.99 that:

*“The operators of Southend, Lydd and Manston argue that their airports could grow substantially and each has plans for development. The potential of other airports, including, Shoreham, and Biggin Hill, should also not be overlooked.”*

- 8.13. and went on to state that:

*“We consider that all these airports could play a valuable role in meeting*

*local demand and could contribute to regional economic development. In principle, we would support their development, subject to relevant environmental considerations.”*

- 8.14. From this statement, I consider that the Airport was one of the airports assessed as being able to see some further development in order to meet local demand for air travel without “insurmountable environmental constraints”.
- 8.15. I consider that Evidence put forward by Dr Mark McLellan on ecology (LAA/9/A), Mr Nigel Deacon on bird strike and management (LAA/6/A), Dr Roy Armstrong on disturbance of birds (LAA/7/A) and Dr Bethan Tuckett-Jones on air quality (LAA/8/A) reconfirms this view. The Evidence demonstrates that no significant adverse environmental impacts would occur as a result of the Applications on the SSSI and no adverse effects on the integrity of the SPA, pSPA, SAC and pRamsar would occur as a result of the Applications.
- 8.16. I consider that the Evidence put forward by Ms Louise Congdon (LAA/4/A) has demonstrated the significant economic benefits associated with the Applications, in particular in relation to employment generation. These benefits will fail to be realised in the event that planning permission is not granted. Ms Louise Congdon’s Proof of Evidence has demonstrated the likely extent of decline in the Airport’s economic output that would be characteristic of the implementation of the Applicant’s Fall-Back Position. I consider this further in Section 12 of my Proof of Evidence.
- 8.17. The 2003 Aviation White Paper addressed Lydd Airport in the same terms as Kent International Manston Airport (KIMA) in north Kent, approximately 5km north of the Airport. Both airports were considered to be able to play a valuable role in meeting local demand and contributing to regional economic development. I consider this situation to be unchanged. Evidence provided by Ms Louise Congdon (LAA/4/A) concludes that each will provide complementary services and both can have an important economic role in Kent.
- 8.18. In summary, the Applications represent a contribution towards making best use of existing airport capacity and are consistent with the starting point of the 2003 Aviation White Paper strategy. Specifically, the Applications contribute towards achieving the role envisaged by the Government for small airports in the South East Region. The Applications will play a valuable role in meeting local demand and contributing to regional economic growth and do not have any insurmountable environmental constraints. This is confirmed in the Evidence of Dr Mark McLellan (LAA/9/A), Mr Nigel Deacon (LAA/6/A), Mr Roy Armstrong (LAA/7/A) and Dr Bethan Tuckett-Jones (LAA/8/A).

### **Future of Air Transport Progress Report (CD5.25)**

- 8.19. A progress report on the Aviation White Paper was published by the Government in

December 2006. The report states that the Government remains committed to the long-term strategy for the development of air travel set out in the 2003 Aviation White Paper. The progress report sets out the Government's commitment to accommodating air transport growth, which is shown to be increasing. The Government cites continued international competitiveness, trade and freight transport, aviation's direct contribution to economic development and people's aspiration to travel as drivers for the increasing demand.

- 8.20. The report sets out steps that seek to mitigate the environmental impact of an increase in air travel in recognition of the environmental challenges of airport operation, thus reinforcing the balanced approach set out in the Aviation White Paper.

### **Status of Government Aviation Policy**

- 8.21. Although the Government has announced its intention to review its aviation strategy, I understand that there is no planned imminent change to Government aviation policy. The provisions of the 2003 White Paper, therefore, remain valid, updated as appropriate in light of the recent decisions to cancel projects at Heathrow and Stansted airports. The 2003 White Paper remains the most recent statement of Government policy relevant to airports.
- 8.22. Recent grants of planning permission for developments at other regional airports, for example at Bristol and Southend, demonstrate that even in the absence of updated aviation policy, decisions in favour of development being taken in accordance with the 2003 White Paper and the 2006 Report are not precluded.

### **Decentralisation and Localism Bill 2010 (CD5.26)**

- 8.23. The Localism Bill was presented to Parliament for its first reading on 13 December 2010. I am aware that there is a legal challenge before the Courts which is considering the materiality of the Bill in decision-making. I expect a decision in that case before the conclusion of this inquiry, and so I shall reserve my comments as to the weight if any which should be given to it
- 8.24. The Bill proposes some key changes in the way in which the planning system is to work in England and Wales. It appears to promote a shift in power from the central to the local level and also introduces a new tier – the neighbourhood – formally into the planning system.
- 8.25. The key aspects that impact on the planning system of relevance to the Applications are:
- (a) The Infrastructure Planning Commission is to be abolished. Its functions are to be transferred to PINS and the Secretary of State. Decisions on applications for major infrastructure projects will now be taken by Ministers.

- (b) National Planning Statements will remain. No further advice is given on the National Planning Framework which should combine all of the existing PPSs and PPGs into one document.
- (c) Provision is made for the removal of the legislation which set the basis for Regional Spatial Strategies, which would then no longer form part of the Development Plan.
- (d) Local Authorities and public bodies would have a ‘duty to cooperate’ and work strategically following the abolition of Regional Spatial Strategies; and to engage ‘constructively’ in the preparation of Development Plan Documents.
- (e) The Bill introduces three key changes to the Community Infrastructure Levy. Firstly, provision is made for some funds to be passed down to the neighbourhood level. Secondly, funds will be able to be spent on ongoing operational and maintenance costs, as well as the initial costs of providing new infrastructure. Thirdly, Local Planning Authorities will gain greater flexibility when deciding upon a reasonable charging level.

### **PPS1: Delivering Sustainable Development (CD6.1)**

- 8.26. PPS1 provides overarching planning policies on the delivery of sustainable development through the planning system. It primarily provides guidance on the requirements for spatial planning and the preparation of development plan policies.
- 8.27. Paragraph 3 defines sustainable development as:
- “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”*
- 8.28. There is a clear and growing requirement which is recognised in the Aviation White Paper (see paragraph 8.6 above) and elsewhere to meet the future requirements for further airport capacity in the South East. The expansion of the Airport can help to meet this demand in a sustainable manner. The Evidence of Mr Stuart Coventry (LAA/11/A) confirms that the Applications do not conflict with the UK’s climate change policy and targets. I am satisfied that granting consent for the Applications will meet present needs without compromising the ability of future generations to meet their needs.
- 8.29. PPS1 seeks to promote social cohesion, the protection of the environment, the use of natural resources and sustainable economic development. In summary, the core principles identified are: creating sustainable communities with sufficient quality housing and a strong economy and adequate infrastructure. Underpinning these are the need to protect and enhance the natural and historic environment and the need to conserve the countryside.

- 8.30. Paragraph 4 confirms that the Government's four aims for sustainable development are:
- Social progress which recognises the needs of everyone;
  - Effective protection of the environment;
  - The prudent use of natural resources; and
  - The maintenance of high and stable levels of economic growth and employment.
- 8.31. It is stated that these aims should be pursued in an integrated way through a sustainable, innovative and productive economy that delivers high levels of employment, in ways that protect and enhance the physical environment and optimises resource and energy use.
- 8.32. Paragraph 5 confirms that planning should facilitate and promote sustainable patterns of urban and rural development. It confirms that it should, in summary, contribute to sustainable economic development, protect and enhance the natural environment and protect the quality and character of the countryside.
- 8.33. Paragraph 17 confirms that the Government is committed to protecting and enhancing the quality of the natural and historic environment. It confirms that a high level of protection should be given to the most valued townscapes and landscapes, wildlife habitats and natural resources. It states that those with national and international designations should receive the highest level of protection.
- 8.34. Paragraph 19 confirms that plan policies and planning decisions should be based on:
- up-to-date information on the environmental characteristics of the area;
  - the potential impacts, positive as well as negative, on the environment of development proposals (whether direct, indirect, cumulative, long-term or short-term);
  - recognition of the limits of the environment to accept further development without irreversible damage;
- 8.35. It states that planning authorities should seek to enhance the environment as part of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which might reduce or eliminate those impacts pursued. Where adverse impacts are unavoidable, planning authorities and developers should consider possible mitigation measures. Where adequate mitigation measures are not possible, compensatory measures may be appropriate.
- 8.36. I consider that the Applications accord with the objectives and aims of PPS1 for the following reasons.



- 8.37. The Applications are consistent with the key aim of ensuring the effective protection of the environment. The ecological and environmental value of designated sites will be preserved and enhanced through design, mitigation and enhancement measures. This is detailed in particular in the Evidence provided by Dr Bethan Tuckett-Jones on air quality (LAA/8/A), Dr Mark McLellan on ecology (LAA/9/A), Mr Nigel Deacon on bird strike and management (LAA/6/A) and Dr Roy Armstrong on disturbance of birds (LAA/7/A).
- 8.38. The Applications will employ the prudent use of resources. The Applications will be developed with minimal impact upon the surrounding areas of environmental and ecological value and will ensure the environment is safeguarded. This is addressed particularly in the Evidence provided by Dr Mark McLellan on ecology (LAA/9/A).
- 8.39. The Applications will achieve sustainable economic development. The expansion of the Airport will attract business, open up wider markets and create employment opportunities. Local jobs will be provided in particular for the Romney Marsh area, which is recognised as being one of the most deprived areas in the South East region. This is addressed particularly in the Evidence provided by Ms Louise Congdon on socio-economics (LAA/4/A).
- 8.40. Considerable regard has been given to the national, international and local designations of land. Evidence provided by a number of the Applicant's witnesses demonstrates that there will be no significant adverse impact on these important sites as a result of the Applications on the national and local designations and no adverse effects on the integrity of the SPA, pSPA, SAC and pRamsar would occur as a result of the Applications.
- 8.41. In summary, the Applications will meet the four aims for sustainable development by:
- Promoting social progress through investment, regeneration and job creation;
  - Ensuring that there will not be unacceptable adverse impacts on the environment and that the environment will be safeguarded;
  - Natural resources will be prudently used in order to minimise the impact on the environment; and
  - Promoting economic growth and employment.
- 8.42. I address these matters in the context of other national, strategic and local policies in the following sections of my Evidence.
- 8.43. Paragraph 9 of the Supplement to PPS1 (CD6.2) sets out the Key Planning Objectives for spatial strategies. These include, and of relevance to these Applications, to:

- Conserve and enhance biodiversity; and
  - Respond to concerns of business and encourage competitiveness and technological innovation in mitigating and adapting to climate change.
- 8.44. At paragraph 40, the Supplement to PPS1 states that applicants for planning permission to develop proposals which contribute to the delivery of the Key Planning Objectives should receive “expeditious and sympathetic handling” of their applications. It states that applicants should consider how their proposals contribute towards the Government’s ambition of a low-carbon economy and how well adapted they are for the expected effects of climate change.
- 8.45. Policy makers are encouraged to secure the highest viable resource and energy efficiencies and reduction in emissions when providing for the development of services and infrastructure needed by communities. Policies should conserve and enhance biodiversity and recognise that the distribution of habitats and species will be affected by climate change.
- 8.46. The Applications accord with the objectives and aims of the Supplement to PPS1 for the following reasons.
- 8.47. It is proposed that the new terminal building will include sustainability measures that lead to achieving, at the very least, a BREEAM rating of ‘very good’. This will be achieved through the use of energy efficient heating, ventilation and air conditioning. It is also proposed that 10% of the terminal building’s energy will be achieved through the use of a biomass boiler and/or ground source heat pump. The requirement to meet 10% of energy from renewable sources will be imposed by a condition.
- 8.48. A Carbon Management Plan will be secured through the section 106 agreement. This will require the Airport to submit a carbon management action plan to the Council for ground operational vehicles (excluding aeroplanes and helicopters) and for energy use of buildings at the Airport. This will set out measures to seek to minimise carbon emissions using best practice techniques from comparable small-regional airports. The is consistent with good practice at other UK airports of a similar size.
- 8.49. Mr Stuart Coventry’s Evidence (LAA/11/A) confirms that assuming that passengers will otherwise use an alternative airport, by flying from the Airport there will be carbon emission savings because of the reduced car movements. He confirms that the carbon emissions savings from flying from the Airport compared to flying from Gatwick is greater than the entire carbon footprint of the operation of the Airport.
- 8.50. Mr Coventry also confirms that the UK can meet its policy on reducing the carbon emissions by 2050 even allowing for a 60% or higher growth in air transport movements. Clearly, the proposed growth at the Airport comprises only a tiny percentage of the UK’s air transport movements and thus can be accommodated within the 60% growth, even more so if it

represents displaced flights from other airports.

#### **PPS4: Planning for Sustainable Economic Growth (CD6.3)**

- 8.51. PPS4 sets out a national policy framework for planning for sustainable economic growth and development in both urban and rural areas. The policies for economic development apply to rural areas as they do to urban areas, subject to the requirements of policies EC6, EC7 and EC10.
- 8.52. PPS4 defines economic development at paragraph 4 as development within the B Use Classes, public and community uses and main town centre uses. The policies also apply to other development which achieves at least one of the following objectives:
- (a) Provides employment opportunities;
  - (b) Generates wealth; or
  - (c) Produces or generates an economic output or product.
- 8.53. The Government's overarching objective is to achieve sustainable economic growth. This is defined as:
- "Growth that can be sustained and is within environmental limits, but also enhances environmental and social welfare and avoids greater extremes in economic cycles."*
- 8.54. For the purposes of assessment against relevant PPS4 criteria, the Applications comprise economic development. The Airport is an existing economic activity. The Applications will deliver new employment opportunities and ensure the Airport's continued economic output. This is considered further in Section 12 of my Proof of Evidence and in the Evidence of Ms Louise Congdon (LAA/4/A).
- 8.55. Policy EC7 addresses tourism in rural areas. Policy EC7.1 supports sustainable rural tourism that benefits rural businesses, communities and visitors. It is stated at EC7.1a that
- "local planning authorities should...support the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities"*.
- 8.56. In meeting EC7.1a, local planning authorities are requested to carefully weigh the objective of providing adequate facilities or enhancing visitors' enjoyment or improving the financial viability of the facility with the need to protect landscapes and environmentally sensitive sites.
- 8.57. The Applications are supported by a wealth of technical assessments which thoroughly demonstrate that the potential effects on both protected landscapes and environmentally

sensitive sites have been taken fully into account. It has been demonstrated in the Evidence of Dr Bethan Tuckett-Jones on air quality (LAA/8/A), Dr Mark McLellan on ecology (LAA/9/A), Mr Nigel Deacon on bird strike and management (LAA/6/A), Dr Roy Armstrong on disturbance of birds (LAA/7/A) and Mr Clive Self on landscape (LAA/10/A) that the Applications will not have a significant adverse effect on the national and local designations and no adverse effects on the integrity of the SPA, pSPA, SAC and pRamsar. In these circumstances, the expansion of tourism and visitor facilities should be supported.

- 8.58. Policy EC10.1 states that local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. PPS4 states that planning applications that secure sustainable economic growth should be treated favourably.
- 8.59. Policy EC10.2 is relevant. It states that all planning applications for economic development should be assessed against the following criteria:

- (a) *“whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change;*
- (b) *the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured;*
- (c) *whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions;*
- (d) *the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives; and*
- (e) *the impact on local employment.”*

- 8.60. The Applications comply with Policy EC10.1 for the following reasons:

- i. The expansion of the Airport has been planned to limit carbon dioxide emissions for ground operational vehicles (excluding aeroplanes and helicopters) and for energy use of buildings at the Airport. These matters are considered in more detail in the Evidence of Mr Stuart Coventry (LAA/11/A).
- ii. The Airport will be accessible by a choice of means of transport. The Evidence of

Mr Keith Sowerby (LAA/12/A) demonstrates that the impact on local traffic levels and congestion is acceptable.

- iii. The design of the terminal is inclusive and of high quality. It improves the quality of the area. This is considered further in the Evidence of Mr Clive Self (LAA/10/A) on landscape and visual impact.
- iv. The impact on economic and physical regeneration and local employment are positive. These matters are considered further in the Evidence of Ms Louise Congdon (LAA/4/A).

8.61. Policy EC12 addresses planning applications for economic development in rural areas. It states (amongst other things) that local planning authorities should:

*“support small-scale economic development where it provides the most sustainable option in villages, or other locations, that are remote from local service centres, recognising that a site may be an acceptable location for development even though it may not be readily accessible by public transport”.*

8.62. As is discussed in the Proof of Evidence of Mr Keith Sowerby (LAA/12/A), measures will be provided to enhance the Airport’s accessibility by public transport as part of the Applications.

8.63. The Applications accord with the objectives and aims of PPS4 for the following reasons:

- (a) They will deliver sustainable economic development.
- (b) They will provide important employment opportunities for local people.
- (c) They will allow the Airport to increase its economic output. Significant economic development will be achieved without harm to important ecological and environmental designations.
- (d) They will contribute materially to the improvement of the economic performance of Shepway District and indeed beyond. They accord with, and respond positively to, adopted economic and regeneration objectives for Shepway District.
- (e) They will contribute materially to reducing the gap in economic growth between Shepway District and other parts of the South East region.
- (f) They represent important economic, social and physical regeneration and represent significant local investment in infrastructure and services.
- (g) The new terminal building has been sensitively designed to respond to and complement the character of the surrounding landscape. This represents a net improvement from the existing situation in visual amenity terms.

- (h) They will make a material contribution towards improved public transport accessibility.
- (i) They will make a material contribution towards responding positively to climate change considerations.

8.64. Economic matters are considered further in the Evidence of Ms Louise Congdon (LAA/4/A).

### **PPS7: Sustainable Development in Rural Areas (CD6.4)**

8.65. PPS7 provides planning guidance for rural areas, including country towns and villages and the wider, largely undeveloped countryside up to the fringes of larger urban areas. The economic development sections of PPS7 have been replaced by PPS4, which is considered above. PPS7 primarily provides guidance on the requirements for the preparation of development plan policies.

8.66. The Government's objectives for rural areas that are relevant to this PPS, in summary, are:

- To raise the quality of life and the environment in rural areas.
- To promote more sustainable patterns of development.
- Promoting the development of the English regions by improving their economic performance so that all are able to reach their full potential.
- To promote sustainable, diverse and adaptable agricultural sectors.

8.67. It is stated that sustainable economic growth and diversification, together with continued protection of the open countryside with the highest protection for our most valued landscapes and environmental resources, is a part of the objective to raise the quality of life and the environment in rural areas (page 6 objective (i)).

8.68. It is stated that where greenfield land is required to be used for development, that it is ensured that it is not used wastefully (page 6 objective (ii)).

8.69. It is stated that developing enterprise that provides a range of jobs and underpins strong economies improves the economic performance of rural areas and enables them to reach their full potential (page 6 objective (iii)).

8.70. The Government is supportive of the replacement of suitably located, existing buildings of permanent design and construction in the countryside for economic development purposes. The replacement of buildings should be favoured where this would result in a more acceptable and sustainable development than might be achieved through conversion. For example, where the replacement building would bring about an environmental improvement in terms of the impact of the development on its surroundings and the landscape value (paragraph 19).

- 8.71. Planning policy making bodies are encouraged to recognise the vital contribution that tourism and leisure activities make to many rural economies and PPS7 confirms that there is scope for such activities in areas statutorily designated for their landscape value (paragraph 21).
- 8.72. The Applications accord with the objectives and aims of PPS7 for the following reasons.
- The Applications provide sustainable economic growth.
  - The Application proposals can be implemented whilst ensuring protection of valued local landscapes and environmental resources.
  - The Applications minimise the use of greenfield land and ensure no greenfield land is used wastefully.
  - The Applications will generate new local employment opportunities and will make an important contribution towards strengthening and diversifying local economic development.
  - The Applications do not harm land within areas designated nationally for their landscape or scenic beauty. They will not detract from the attractiveness or importance of the features, or the surrounding countryside.
  - The Applications do not adversely affect any local landscape designations.
  - The Applications represent an important contribution towards strengthening local tourism and leisure opportunities.
- 8.73. The issue of potential impact on statutory and local landscape and ecological designations is dealt with by in the Evidence of Mr Clive Self (LAA/10/A), Dr Mark McLellan (LAA/9/A), Mr Nigel Deacon (LAA/8/A), Dr Roy Armstrong (LAA/7/A) and Dr Bethan Tuckett-Jones (LAA/8/A). Their Evidence confirms that the impact is acceptable.

### **PPS9: Biodiversity and Geological Conservation (CD6.5)**

- 8.74. PPS9 sets out policies on the protection of biodiversity and geological conservation through the planning system. In the context of PPS9, the term 'biodiversity' relates to the variety of life in all its forms as discussed in the UK Biodiversity Action Plan, identified in Biodiversity: The UK Action Plan (1994).
- 8.75. Geological conservation relates to sites which are designated for the geology and/or geomorphological importance. It is accompanied by a guide which provides good practice guidance on the ways in which regional and local planning bodies can help deliver the national policies in PPS9 and comply with the legal requirements of Circular 06/2005. It is principally of assistance to planning policy formulation.

8.76. PPS9 states that the planning system has a significant part to play in meeting the Government's international commitments and domestic policies for habitats, species and ecosystems. It is stated that planning, construction, development and regeneration should have minimal impacts on biodiversity and enhance it wherever possible.

8.77. It states that the Government's objectives for planning are:

- *“to promote sustainable development*
- *integrate biodiversity and geological diversity with other considerations.*
- *sustaining, and where possible improving, the quality and extent of natural habitat”*

8.78. Appropriate weight is to be attached to: designated sites of international, national and local importance; protected species; and to biodiversity interests within the wider environment in the determination of planning applications.

8.79. Paragraph 1 sets out the key principles to which local planning authorities should “adhere” to. In summary, these are as follows.

- i. Planning decisions should be based upon up-to-date information about the environmental characteristics of their areas.
- ii. Appropriate weight should be attached to designated sites of international, national and local importance; protected species; and to biodiversity and geological interests within the wider environment.
- iii. Taking a strategic approach to the conservation, enhancement and restoration of biodiversity and geology.
- iv. The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests.
- v. If significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

8.80. Paragraph 6 addresses international sites. It states that:

*“The most important sites for biodiversity are those identified through international conventions and European Directives”.*

8.81. It goes on to confirm:



*“For the purposes of considering development proposals affecting them, as a matter of policy, the Government wishes pSPAs and cSACs included in a list sent to the European Commission, to be considered in the same way as if they had already been classified or designated. Listed Ramsar sites, also as a matter of policy, should receive the same protection as designated SPAs and SACs.”*

- 8.82. Paragraphs 7 and 8 address SSSIs. It confirms that, as in the case in the vicinity of the Airport, many SSSIs are designated sites of international importance. Paragraph 8 states:

*“Where a proposed development on land within or outside a SSSI is likely to have an adverse effect on an SSSI (either individually or in combination with other developments), planning permission should not normally be granted. Where an adverse effect on the site’s notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs.”*

- 8.83. PPS9 advises that development proposals for sites with significant biodiversity interest should aim to retain this interest or incorporate it into any development of the site. Development proposals provide many opportunities for building-in beneficial biodiversity features as part of good design.

- 8.84. The effect on biodiversity and geomorphology are a key consideration in the determination of the Applications. The Applications accord with the objectives and aims of PPS9 for the following reasons.

- (a) The need to protect and integrate biodiversity within the development proposals has been carefully considered and assessed throughout the preparation of the Applications.
- (b) The Development Plan was prepared in light of careful consideration of ecological designations around the Airport. The Applications are in accordance with the relevant Development Plan policies.
- (c) It has been demonstrated that, with the benefit of appropriate mitigation measures, the Applications will not result in significant harm to biodiversity interests at the Airport or the wider area.
- (d) There will be no adverse effects on the integrity of the SPA and SAC designations.

- (e) There will be no significant adverse effects on the SSSI or the broader national network of SSSIs
- (f) There will be no adverse effects on the integrity of the pSPA or pRamsar sites,
- (g) Opportunities for the incorporation of beneficial biodiversity features within the design of the proposed development have been undertaken. This will result in biological diversity interests at the Airport being conserved and existing resources enhanced. This is addressed in the Evidence of Dr Mark McLellan on ecology (LAA/9/A),
- (h) Enhancement measures, in addition to proposed mitigation measures, are proposed. These will enhance and improve the quality and extent of biodiversity habitats at the Airport. The delivery of these measures will be secured by planning condition and/or legal obligations.
- (i) It is common ground between the Applicant and the main Rule 6 Parties that there will be no impact on geomorphology.
- (j) Up-to-date survey information has informed the proposed development design, the proposed mitigation solutions and the proposed enhancement measures.

8.85. The issue of biodiversity is fully addressed in the Evidence of Mr Nigel Deacon on bird strike and management (LAA/6/A), Dr Roy Armstrong on disturbance of birds (LAA/7/A), Dr Bethan Tuckett-Jones on air quality (LAA/8/A) and Dr Mark McLellan on ecology (LAA/9/A),.

### **PPG13: Transport (CD6.6)**

- 8.86. PPG13 sets out the national objectives to integrate planning and transport at all levels of planning policy formulation and application. It promotes securing more sustainable transport choices both for carrying people and for moving freight.
- 8.87. Paragraphs 4 to 9 of Annex B to PPG 13 deals specifically with aviation.
- 8.88. Paragraph 5, part 2 states that local planning authorities should take into account the economic, environmental and social impacts of general aviation in determining planning applications.
- 8.89. Annex B reinforces the Government's strategic preference for the growth of regional airports where this is consistent with sustainable development. Annex B states that local planning authorities need to consider the growth of regional airports and also the role of small airports and airfields serving businesses, recreational, training and emergency service needs. It emphasises the increasing role smaller airfields will have in catering for the growth in commercial air transport. It acknowledges that greater utilisation of existing facilities can achieve economies of scale.

8.90. Paragraph 7 of the Annex states that local planning authorities should:

*“consider the extent to which development is related to the operation of the airport, and is sustainable given the prevailing and planned levels of public transport”.*

8.91. It confirms that non-related development should be assessed against relevant policy elsewhere. In this case, the Applications are for development to meet the operational needs of the Airport.

8.92. Paragraph 8 confirms that:

*“Airport operators should be partners in implementing surface transport initiatives to ensure that access by public transport is enhanced. This may involve for example, parking restraint and the development of a travel plan for the airport”.*

8.93. Paragraph 9 of the Annex states that the environmental impacts of aviation proposals will always need to be very carefully considered. It states that existing sites with established aviation uses will often provide the best opportunities for aviation facilities, in so far as neighbouring development is likely to be compatible with aviation use.

8.94. Generally, PPG13 seeks to ensure employment-generating development and key services offer a realistic choice of access by public transport. PPG13 recognises, however, that this may be less achievable in some rural areas. It is recognised that the potential for non-recreational walking and cycling is more limited in rural areas than in urban areas.

8.95. The Applications accord with the objectives and aims of PPG13 for the following reasons.

- (a) The Applications are in accordance with the relevant policies contained within the adopted Development Plan Documents. The potential economic, environmental and social impacts of general aviation were thoroughly assessed and taken into account in the formulation of the plan policies.
- (b) The potential environmental impacts of the Applications have been thoroughly assessed. It has been demonstrated that the Applications would not have a significant adverse effect on the national and local designations and no adverse effect on the integrity of the SPA, pSPA, SAC and pRamsar.
- (c) The Airport is an existing and established aviation facility. It is compatible with existing surrounding land uses. The Applications will not materially alter the character or use of the Airport. I am satisfied that the Airport will continue to be a compatible use with its neighbours.

- (d) The Applications accord with the key aviation policies set out in PPG13. It is an existing regional airport which already plays an important role in serving local business needs. The Applications will improve the Airport's ability to cater for general passenger travel as well as increased commercial travel.
- (e) The Applications will generate an overall net improvement in the availability of public transport services in the Lydd area. For example, the Airport is currently accessible by bus routes serving a stop at the end of the Airport access road. It is proposed that the existing bus routes will be extended to serve the Airport terminal building. Stagecoach, the local bus operator, has expressed an interest in pursuing these route enhancements, subject to negotiation with the Airport and financial contributions where appropriate. This is consistent with the objectives for promoting social inclusion and sustainable travel choices.
- (f) The Applications will materially improve integration between existing modes of transport through the introduction of a shuttle bus service between the existing public transport interchange at Ashford International Station and the Airport. This will provide a means for passengers and Airport employees to make more sustainable transport choices and have an alternative to accessing the Airport by car.
- (g) The Applications will result in reduced journey lengths both in terms of air travel and roads journeys as passengers will be able to use their local airport rather than travel to Gatwick or other more distant airports.
- (h) A Travel Plan and transport related planning conditions have been discussed and agreed between the Applicant, the Council and statutory consultees.
- (i) A financial contribution towards the improvements to the Camber/Rye Road will be paid by the Applicant should improvements to the road be necessary.
- (j) The Applications were supported by robust assessments of the impacts of additional trips to/from the Airport and by additional assessments agreed with the Highways Agency and Kent County Council (as the appropriate Highways Authority). The Highways Agency and Kent County Council do not object to the Applications on transport grounds.

8.96. Transport matters are more fully addressed in the Evidence of Mr Keith Sowerby (LAA/12/A).

### **PPG24: Planning and Noise (CD6.13)**

8.97. PPG24 provides a toolkit for local planning authorities to minimise the adverse impact of noise in their determination of development proposals. It sets out the main considerations

which Local Planning Authorities should take into account in considering applications which generate noise. Paragraph 1 states that the aim of the PPG is to provide advice on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development.

- 8.98. Paragraph 2 of PPG24 states that Development Plans should weigh the matter of separating noise-sensitive developments from major sources of noise such as air transport against the needs of providing for other land uses and provide an appropriate policy framework.
- 8.99. It is stated that there will be circumstances when it is acceptable – or even desirable in order to meet other planning objectives – to allow noise generating activities on land near or adjoining noise-sensitive development.
- 8.100. Paragraph 10 states that much of the development which is necessary for the creation of jobs and the construction and improvement of essential infrastructure will generate noise. It is stated that the planning system should not place unjustifiable obstacles in the way of such development. Nonetheless, local planning authorities must ensure that development does not cause an unacceptable degree of disturbance.
- 8.101. It is stated at Paragraph 20 that special consideration is required where noisy development is proposed in or near SSSIs. It confirms that:

*“Proposals likely to affect SSSIs designated as internationally important under the EC Habitats or Birds Directives or the Ramsar Convention require extra scrutiny. Special consideration should also be given to development which would affect the quiet enjoyment of the National Parks, the Broads, Areas of Outstanding Natural Beauty or Heritage Coasts. The effect of noise on the enjoyment of other areas of landscape, wildlife and historic value should also be taken into account”.*

- 8.102. It is stated that planning conditions or planning obligations can be used to control or reduce noise levels, or to mitigate the impact of noise. This is particularly the case if there is the potential for the intensification of an existing noise generating use as a result of a planning proposal. Such control measures must be proportionate and reasonable.
- 8.103. Annex 3 of PPG24 sets out detailed guidance on the assessment of noise from different sources and addresses noise from aircraft. It advises that for aircraft noise, daytime levels (07:00 - 23:00), should be expressed in terms of noise exposure contours in LAeq, 16hr. However, it goes on to state that for small aerodromes, local planning authorities should not rely solely on LAeq.
- 8.104. Annex 3 states that where land is, or is likely, to become subject to significant levels of

aircraft noise, local planning authorities should determine approximately which areas are likely to fall within the different noise exposure categories.

- 8.105. The Applications accord with the objectives and aims of PPG24 for the following reasons.
- (a) The adopted Development Plan policy framework supports the principle of expansion at the Airport. The matter of the potential effect of the Airport expansion on neighbouring uses has been considered in detail in the plan-making process.
  - (b) The Applications have been subject to an environmental impact assessment, together with technical updates to the assessments as relevant. Noise was a matter for consideration and it was concluded that the numbers of properties that would be exposed to high levels of aircraft noise is extremely small relative to other airports in the UK, and the likely noise generated does not exceed the threshold for significant community annoyance. Despite there being no need for mitigation due to the minor impact from noise, significant mitigation has been offered with the Applications. This is demonstrated in Evidence provided by Mr Richard Perkins (LAA/5/A).
  - (c) The Evidence of Dr Roy Armstrong (LAA/7/A) has demonstrated that there will be no adverse effects of noise disturbance as a result of the implementation of the Applications on habitats or birds within the relevant ecological designations.
  - (d) Noise impacts will be mitigated through the use of both planning conditions and planning obligations. The Applicant and Council have been in consultation regarding appropriate controls relating to noise. Proposed control solutions have been prepared in liaison with Rule 6 Parties. The implementation of the Applications will result in more restricted operations at the Airport than is currently permitted.
  - (e) I do not consider that the extent of the increased noise levels from the existing conditions will cause an unacceptable level of disturbance for nearby residents. I consider that any concerns regarding local amenity can be satisfied through appropriate control measures, as proposed by the Applicant, and that amenity considerations will be safeguarded.

### **PPS25: Development and Flood Risk (CD6.14)**

- 8.106. PPS25 sets out national planning policy on development and flood risk. The key aims of the policy are to ensure that flood risk is taken into account at all stages in the planning process and to avoid inappropriate development in areas at highest risk of flooding.
- 8.107. It states that the effects of natural weather events can be increased in severity both as a consequence of previous decisions about the location, design and nature of a land use, and as a potential consequence of future climate change. It states that climate change

factors will lead to increased and new risks of flooding within the lifetime of planned developments.

8.108. PPS25 confirms that positive planning has an important role to play in helping to deliver sustainable development and applying Government's policy on flood risk management. All forms of flooding and their impact on the natural and built environment are material considerations in the determination of planning applications.

8.109. The Applications accord with the objectives and aims of PPS25 for the following reasons.

- (a) The Applications are supported by site-specific Flood Risk Assessments (FRAs). These examine the Airport's vulnerability to flooding from other sources as well as from river and sea flooding. The potential in increased flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off were assessed.
- (b) The FRAs submitted in support of the Applications were accepted by the Environment Agency (EA). The EA has no objection to the Applications subject to appropriate conditions being attached to any permissions granted.
- (c) It is demonstrated in Evidence presented by Mr Christopher Mead (LAA/13/A) that, subject to the implementation of appropriate flood risk measures to be controlled by planning conditions, there will not be any significant flood risk directly associated with the Applications. This is agreed between the Applicant and the Council.
- (d) Planning conditions will ensure that the proposed runway extension and new terminal building will be appropriately resilient and resistant to flood risk. The proposed design includes safe access and escape routes, as agreed with the EA.
- (e) Measures to reduce the overall level of flood risk at the Airport will be delivered through appropriate layout and form of development and the appropriate application of sustainable drainage techniques.

## Summary

8.110. I have considered the Applications against the range of national planning policy and guidance. I conclude that the proposals are in accordance with the aims and objectives of national planning policy and guidance for the following reasons.

- (a) The Aviation White Paper acknowledges that the Airport could play a valuable role in meeting local demand for air travel and could contribute to regional economic development. The White Paper supports the Airport's expansion in principle subject

to relevant environmental considerations. The environmental constraints in respect of the Applications can be addressed.

- (b) Considerable regard has been given to the national, international and local designations of land. Evidence provided by a number of the Applicant's witnesses demonstrates that there will be no significant adverse impact on these important sites as a result of the Applications on the national and local designations and no adverse effects on the integrity of the SPA, pSPA, SAC and pRamsar would occur as a result of the Applications.
- (c) Assuming that passengers will otherwise use an alternative airport, by flying from the Airport there will be carbon emission savings because of the reduced car movements. Carbon emissions savings from flying from the Airport compared to flying from Gatwick are greater than the entire carbon footprint of the operation of the Airport.
- (d) The UK can meet its policy on reducing the carbon emissions by 2050 even allowing for a 60% or higher growth in air transport movements. The proposed growth at the Airport comprises only a tiny percentage of the UK's air transport movements and thus can be accommodated within the 60% growth, even more so if it represents displaced flights from other airports.
- (e) The Applications will deliver sustainable economic development and contribute materially to the improvement of the economic performance of Shepway District and other areas of Kent. They accord with, and respond positively to, adopted economic and regeneration objectives for Shepway District.
- (f) The Development Plan was prepared in light of careful consideration of ecological designations around the Airport. The Applications are in accordance with Development Plan policy.
- (g) The new terminal building represents a net improvement from the existing situation in visual amenity terms.
- (h) The Applications will make a material contribution towards improved public transport accessibility through the introduction of a shuttle bus service between Ashford International Station and the Airport.
- (i) Opportunities for the incorporation of beneficial biodiversity features within the design of the proposed development have been undertaken. This will result in biological diversity interests at the Airport being conserved and existing resources enhanced.



- (j) The Applications will result in reduced journey lengths both in terms of air travel and roads journeys as passengers will be able to use their local airport rather than travel to Gatwick or other more distant airports.
- (k) Likely noise generation has been considered and its impact is acceptable and does not exceed the threshold for significant community annoyance. There will be no adverse effects of noise disturbance on habitats or birds within the relevant ecological designations. Noise impacts will be mitigated through the use of both planning conditions and planning obligations.
- (l) The Flood Risk Assessments submitted in support of the Applications were accepted by the Environment Agency (EA). The EA has no objection to the Applications subject to appropriate conditions being attached to any permissions granted.

## 9. Development Plan Policy

- 9.1. As previously stated, section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
- 9.2. The SCG between the Applicant and the Council provides a full list of the Development Plan policies that is considered to be of main relevance to the determination of the Applications.
- 9.3. In this Section, I consider the key Development Plan policies relevant to the consideration of the Applications

### **Statutory Development Plan**

- 9.4. The statutory development plan for the application site comprises the following:
- the South East Plan (May 2009);
  - the Shepway District Local Plan Review 2006 (as saved);
  - the Kent Minerals Local Plan (as saved); and
  - the Kent Waste Local Plan (as saved).
- 9.5. The Development Plan documents of relevance to the determination of the Applications are the Shepway District Local Plan Review 2006 (as saved) and the South East Plan. This is agreed between the Applicant and the Council.
- 9.6. The Kent and Medway Structure Plan 2006 no longer forms a part of the statutory development plan. It is, however, agreed between the Applicant and the Council that the Structure Plan forms a relevant piece of background policy for the Applications (see Section 7 of this Proof) and is a material consideration in the determination of the Applications. The Structure Plan provided support for the expansion of the Airport. It was subject to substantial consultation and drafted in light of the various environmental designations relevant to the Application Site.
- 9.7. The South East Plan (CD7.1) currently forms part of the development plan. The Secretary of State has stated in a letter to all Chief Planning Officers in England, dated 10 November 2010, that a previous letter dated 27 May 2010 noting that regional planning strategies would be revoked should be regarded as a material consideration in any decisions they are currently taking. This letter is under challenge. On Monday 13 December 2010, the Coalition Government laid before Parliament the Localism Bill and this proposes removal of the regional tier of planning policy.

- 9.8. The Government Office Network is now in discussion with the Department for Communities and Local Government (CLG) regarding transitional arrangements for the planning work carried out previously at regional level. These discussions will continue through the Government's Spending Review period.

### **South East Plan (CD7.1)**

- 9.9. The South East Plan is the Regional Spatial Strategy (RSS) for the south east region and was formally adopted in May 2009. The Plan sets out the long term spatial planning framework for the region over the period 2006 - 2026. The Plan includes spatial policies for:

- Scale and distribution of housing;
- Priorities for new infrastructure and economic development;
- The strategy for protecting the countryside, biodiversity and the built and historic environment; and
- Tackling climate change and safeguarding natural resources.

- 9.10. The key regional spatial strategy policies of relevance to the Applications are considered in this Section. The full text for each Policy is provided in Core Document CD7.1. The most relevant policy in the South East Plan is Policy T9 which deals with Airports. Other policies are relevant and important, but they reflect national guidance that has been addressed in Section 8. I consider that the Applications comply with the key relevant policies. I consider T9 in detail.

### **Policy T9: Airports**

- 9.11. Policy T9 states that relevant regional strategies, local development documents and local transport plans will include policies and proposals that:

- i. support the development of Gatwick and Heathrow;
- ii. encourage Southampton Airport to sustain and enhance its role as an airport of regional significance;
- iii. support an enhanced role for Kent International Airport as an airport of regional significance; and
- iv. take account for airport masterplans produced in accordance with the Air Transport White Paper.

- 9.12. Paragraph 8.30 states that other smaller airports could also play a valuable role in meeting local demand and contributing to regional economic development. The paragraph goes on to state:

*'Subject to relevant environmental considerations, their development should be supported, and regional and local planning frameworks should consider policies which facilitate growth at these airports.'*

- 9.13. Policy T9 follows the approach taken in the Aviation White Paper whereby support is given to the expansion of regional airports, subject to environmental considerations. The Plan recognises the role a number of smaller regional airports could play in meeting demand and contributing to regional economic development.
- 9.14. The Airport will draw passengers from the south east and is a smaller regional airport for these purposes.
- 9.15. The policy in the South East Plan is consistent with National and local policy, which provides in principle support for the expansion of the Airport, subject to environmental considerations. This is a clear re-affirmation of the planning policy support for an expansion at the Airport because environmental considerations are addressed.

### **Shepway District Local Plan Review 2006 (CD7.5)**

- 9.16. The Shepway District Local Plan 2006 is the relevant development plan document and there are a number of saved policies in this which are relevant to the determination of the Applications. I do not consider there are reasons why significant weight should not be given to these policies in the determination of the Applications.
- 9.17. The key local plan policies of relevance to the Applications are considered in this Section. The full text for each Policy is provided in Core Document CD7.5.

### **Policy TR15 – Lydd Airport**

- 9.18. Policy TR15 specifically addresses the expansion of the Airport. It states that the Council:
- "will permit proposals for the expansion of facilities at Lydd Airport directly related to the commercial and recreational flying use provided there would be no significant impact upon the internationally important wildlife communities in the Lydd/Dungeness area. Regard will also be given to the likely effect of proposals on other special features in the area, particularly the power station."*
- 9.19. Paragraph 11.41 of the Local Plan states that the Council supports development that strengthens the function of the Airport. However, as it is remote from surrounding settlements and exposed in the landscape, development not directly related to the airport use would be inappropriate. It is stated that the County Council supports the growth of services at the Airport and consider it could support increased aviation activity on a scale of 1 to 2 million passengers per year.

- 9.20. Paragraph 11.40 recognises that the Airport is an important facility for the District with potential for improvements and expansion. It states that the Council recognises the importance of the Airport as a source of employment for Romney Marsh. The paragraph notes the support in the Structure Plan for the expansion of the Airport.
- 9.21. Paragraph 11.41 states that the Council supports development that strengthens the Airport function, but not for development not directly related to the airport use.
- 9.22. I consider that 'other special features' (besides `the power stations) for the purposes of Policy TR15 are the SSSI, the pSPA and pRamsar sites, the Dungeness National Nature reserve (which includes the RSPB Local Nature Reserve) and the Lydd and Hythe military firing ranges.
- 9.23. The Proposals comply with Policy TR15 because they are directly related to commercial and recreational flying uses and there would be no adverse effect on the integrity of any of the internationally important wildlife communities in the Lydd/Dungeness area. The impacts of the Applications on the SSSI, the pSPA, pRamsar sites and the National Nature Reserve have been assessed. The evidence of Mr Nigel Deacon on bird strike and management (LAA/6/A), Dr Roy Armstrong on disturbance of birds (LAA/7/A), Dr Bethan Tuckett-Jones on air quality (LAA/8/A) and Dr Mark McLellan on ecology (LAA/9/A) show that there would not be an adverse affect on the integrity of the pSPA and pRamsar and that there would not be a significant adverse effect on the SSSI and National Nature Reserve. The Applications would also have no adverse effect on the Power Stations or the firing ranges. For these reasons, it is clear that the Applications accord with Policy TR15.

#### **Policy SD1 – Sustainable Development**

- 9.24. Policy SD1 states that all development proposals are to take account of the broad aim of sustainable development. This is defined by the Council as meeting economic and social objectives and helping people to meet their personal aspirations through accommodating the District's need for commercial and industrial development and other land uses and improving the quality of life of all members of society.
- 9.25. Policy SD1 is a criteria based policy and requires the assessment of development proposals against a range of environmental criteria. Most of the criteria are of relevance to the Applications. I deal with each of these in turn.

#### Criterion a)

- 9.26. Criterion a) states that development patterns should be shaped in a way which reduces the need to travel, especially by car, and increase the attractiveness of walking, cycling and public transport.

9.27. The Applications accord with Policy SD1 criterion a) because the expansion of the Airport will reduce the need to travel by car to airports elsewhere. The number of car journeys to the Airport will be reduced through the provision of a shuttle bus service. The Airport will be served by a shuttle bus service from Ashford International Station making the Airport. The Airport is currently accessible by bus routes serving a stop at the end of the Airport access road. It is proposed that the existing bus routes will be extended to serve the Airport terminal building. Stagecoach, the local bus operator, has expressed an interest in pursuing these route enhancements, subject to negotiation with the Airport and financial contributions where appropriate.

Criterion b)

9.28. Criterion b) states that proposals should preserve and enhance built and cultural heritage. There are no listed buildings, conservation areas or historical parks and gardens affected by the Applications. There are no nationally or locally important ancient monuments and no known archaeological sites affected by the Applications.

9.29. Three large concrete structures, known as the 'Listening Ears' are located in Denge, a former Royal Air Force site near Dungeness, approximately 5km south-east of the Airport. They are Grade II listed. These are pre-radar listening devices that were used to detect slow moving enemy aircraft during the 1930s by focussing sound waves within their curved shape and providing an early warning system. There is public access to these structures via guided tours and plans to include them within a Nature Reserve designation. They are directly linked with local air flight movements and air flight history.

9.30. The Applications will not have any harmful effect on the 'Listening Ears'. The character and use of the listening ears, together with their surroundings, will not be affected by the implementation of the Applications.

9.31. In short, the Applications accord with Policy SD1 criterion b).

Criterion c)

9.32. Criterion c) states that areas of countryside that are of special quality, in particular, the Kent Downs Area of Outstanding Natural Beauty (AONB), Special Landscape Areas, Local Landscape Areas, Heritage Coast and undeveloped coast, ancient woodlands and the best and most versatile agricultural land should be protected and enhanced.

9.33. Development proposals are to sustain the character and diversity of the wider countryside in general.

9.34. The Applications will have no impact upon the AONB, the Dungeness Special Landscape Area, Local Landscape Areas, the coast or ancient woodland. The Applications do not have

any impact upon good quality agricultural land. The Environmental Impact Assessments for the Applications confirm that the agricultural land immediately surrounding the Airport is graded 3 to 4. It is, therefore, classified as moderate to poor quality agricultural land.

9.35. For these reasons the Applications accord with Policy SD1 criterion c).

Criterion d)

9.36. Criterion d) states that designated or proposed sites of international, national, countryside and local wildlife importance and plant or animal life protected by law should be enhanced and protected.

9.37. The impacts of the Applications on internationally, nationally and locally designated sites, as well as the proposed designations, have been assessed. The evidence of Mr Nigel Deacon on bird strike and management (LAA/6/A), Dr Roy Armstrong on disturbance of birds (LAA/7/A), Dr Bethan Tuckett-Jones on air quality (LAA/8/A) and Dr Mark McLellan on ecology (LAA/9/A) show that the development proposals would not give rise to an adverse affect on the internationally designated and proposed sites and that there would not be a significant adverse effect on the nationally and locally designated sites. Therefore, the Applications accord with this criterion.

9.38. The implementation of the Applications will allow a framework to be put in place that will actively protect the ecological sites and important local flora and fauna. This type of framework is not currently in place. It will introduce management and monitoring commitments that will protect and also enhance the relevant designated sites, proposed sites and important local wildlife. Its introduction is a key benefit of the Applications. I consider this benefit further in Section 12 of my Proof of Evidence.

9.39. Criterion d) also states that the overall stock of nature conservation resources within the District should be maintained and enhanced. The development proposals would not give rise to an adverse affect on the internationally designated and proposed sites and there would not be a significant adverse effect on the nationally and locally designated sites. Indeed, the value of some will be enhanced as a result of the Applications through the package of ecological enhancements that are proposed. These are addressed in detail in the Proofs of Evidence of Dr Mark McLellan (LAA/9/A), Mr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A).

9.40. In short, the Applications accord with Policy SD1 criterion d).

Criterion e)

9.41. Criterion e) states that new development should be located within or around built-up areas on previously developed land in preference to development on greenfield sites.

- 9.42. The Applications seek to make more efficient use of an existing commercial Airport.
- 9.43. The extension of the runway will use a small amount of greenfield land, but this is unavoidable due to the location of the existing runway. Also, land has been the previous subject of the grant of planning permission. The new terminal building represents brownfield development and does not require the use of any greenfield land.
- 9.44. In short, there is no conflict with criterion e).

Criterion f)

- 9.45. Criterion f) states that proposals should maintain and improve the character and vitality of the built environment. High quality of design should be promoted and development density should be appropriate to its location.
- 9.46. The Applications will improve the character and vitality of the Airport. The 1950s terminal building will be replaced with a modern, contemporary new terminal building which responds sensitively to the existing site and surroundings. The design of the terminal building is of high quality. In short, the Applications accord with criterion f).

Criterion g)

- 9.47. Criterion g) states that energy efficiency and conservation, re-use and recycling of materials and the sensitive development of renewable energy resources should be encouraged.
- 9.48. The terminal building has been designed to achieve at least a 'very good' BREEAM rating and will include sustainable measures such as biomass boiler, primary cooling by solar shading and rainwater harvesting. These measures will be secured through condition and/or planning obligations.
- 9.49. For this reason, the Applications accord with criterion g).

Criterion h)

- 9.50. Criterion h) states that development proposals should maintain and enhance water, soil and air quality.
- 9.51. The Applications have no impact upon soil and water quality. This issue of air quality has been dealt with comprehensively, including in the context of nitrogen deposition and any effects associated with the expansion and consequential effects on lichen in the SSSI and SAC. The evidence of Dr. Bethan Tuckett-Jones confirms that there would not be an adverse affect on the integrity of the SAC and that there would not be a significant adverse effect on the SSSI. Indeed, this has been confirmed by Natural England in a letter dated 10 December 2010 reference to the evidence of Dr. Bethan Tuckett-Jones that following the progress between the technical experts on air quality they would no longer be calling a witness on this



topic. Natural England confirmed that they will not have a witness in relation to nitrogen deposition impacts as a result of the proposals and the likely affect on important vegetation communities including but not restricted to lichen species occurring as part of the vegetated shingle in the SAC. In summary, the implementation of an Air Quality Management Strategy to be secured by planning condition will result in there being no issues in relation to air quality.

9.52. For this reason, the Applications accord with Policy SD1 criterion h).

Criterion i)

9.53. Criterion i) states that development proposals should maintain and enhance the provision of recreational open space, amenity land and tree and hedgerow cover.

9.54. The Applications have no impact upon recreational open space, amenity land, trees or hedgerows and accord with criterion i)

Criterion j)

9.55. Criterion j) states that development proposals should prevent negative impacts on coastal protection, flood defence, land drainage and groundwater resources.

9.56. The Applications have no impact upon coastal protection, flood defences, land drainage and ground water resources and accord with Policy SD1 criterion j). It should be noted that the Environment Agency and the Romney Marsh Internal Drainage Board do not have an objection to the Applications.

Criterion k)

9.57. Criterion k) states that development proposals should safeguard and enhance the amenity of residents.

9.58. The effect of the Applications in terms of residential amenity has been comprehensively assessed under a number of scenarios. Noise and disturbance from aircraft has been considered in the evidence of Mr Richard Perkins (LAA/5/A). He confirms that the numbers of residential properties that would be exposed to high levels of aircraft noise is limited to three in (in the summer average scenario). This is extremely small relative to other airports in the UK. Further, the levels that these small number of residential properties are predicted to experience is only just on the threshold for significant community annoyance (57 dB(A) contour).

9.59. Despite there being no need for mitigation due to the minor impact from noise, the Airport is offering an extensive range of options such as noise preferential flight paths, no night flights (excluding emergency and governmental activities), and a Noise Management Plan. The

Airport has also gone further with a corporate commitment to the noise insulation scheme and the 'Five Communities Scheme' which would only normally be associated with larger airports.

- 9.60. The extensive range of operation measures and controls offered as part of the Applications will go a long way to mitigate any adverse effects there may be, and we do not believe there will be, on residential properties.
- 9.61. The evidence of Mr Richard Perkins concludes that the noise impact of the proposed runway extension and the proposed new terminal would be minor and with mitigation measures proposed the amenity of residents will be safeguarded.
- 9.62. In short, the Applications accord with Policy SD1 criterion h).

### **Other Criteria**

- 9.63. Policy SD1 states that development proposals that would "significantly conflict" with one or more of criteria a) - k) of Policy SD1 will only be permitted where three other tests are met. I am satisfied on the basis of the evidence put forward on behalf of the Applicant that there will be no significant conflict with any of environmental criteria a) to k). However, I also consider the supplementary tests to be met. I consider them below.

#### Criterion i)

- 9.64. Criterion i) asks whether there is an overriding economic or social need for a development proposal.
- 9.65. There is a clear economic and social need for the expansion of the Airport. The impacts of the proposal have been thoroughly assessed and it is concluded that there would not be any significant adverse impacts upon ecology, the environment or residential amenity. It is clear that the proposal will provide social and economic benefits without causing harm to the environment.

#### Criterion ii)

- 9.66. Criterion ii) requires demonstration that the negative environmental impacts of a development proposal have been minimised as far as possible.
- 9.67. Any negative impacts have been minimised and a number of mitigation measures are proposed which will be secured through planning conditions and section 106 planning obligations. I address these Sections 13 and 14 of my Proof of Evidence.

#### Criterion iii)

- 9.68. Criterion iii) seeks measures to compensate for any adverse environmental effects. It states that compensatory measures should, as a minimum, ensure that no net environmental loss

occurs.

- 9.69. The impacts are not such that compensation is necessary.
- 9.70. In summary, I consider that the Applications accord with criteria a) to k) of Policy SD1 and that they are in accordance with the Policy.

#### **Policy BE16 – Landscape Amenity**

- 9.71. Policy BE16 states that, inter alia, the Council will require proposals to retain important existing landscape features.
- 9.72. The Airport lies within an extensive area identified as ‘Romney Marshes Character Area 123’. In terms of intrinsic landscape character, the Airport is not covered by any statutory designation for landscape character or quality. The northern tip of the Airport does however fall within the Romney Marsh Local Landscape Area and the land to the east falls within the Dungeness Special Landscape Area. The surrounding area is, however, heavily characterised by industrial uses. For example, the area is dominated by the imposing power stations and associated power lines of Dungeness, military uses, farming uses, an industrial estate and sewerage works, in addition to the Airport itself.
- 9.73. The proposals retain the important landscape features and there is no conflict with this Policy. The Evidence of Mr Clive Self (LAA/10/A) addresses landscape quality. It confirms firstly that the new terminal building is of high quality design, responds sensitively to its site and surroundings and as such will not appear discordant with the local landscape. Secondly, it confirms that aircraft will not generate any material impacts in landscape and visual amenity terms.

#### **Policy U6 – Areas at Risk from Flooding**

- 9.74. Policy U6 states that development, including proposals involving the raising of land, will not be permitted in areas at risk from flooding, as shown on the Proposals Map, if they would materially increase the risk of flooding elsewhere, unless appropriate flood protection and mitigation measures are proposed and will be carried out, to prevent this occurring.
- 9.75. The Airport is not identified as being in an area at risk from flooding. The evidence of Mr Christopher Mead (LAA/13/A) addresses flood risk and concludes that based on national and local flood policy, flood risk does not prejudice expansion at the Airport.
- 9.76. The Applications accord with Policy U6.

#### **Policy U15 – Light Pollution**

- 9.77. Policy U15 states that development proposals which involve outdoor lighting will be permitted subject to the scheme satisfying the following criteria:

- i) The quantity and illumination of the lighting proposed is the minimum necessary to meet its stated purpose.
- ii) The lighting is positioned and shaded so as to minimise glare and light spillage from the site, or impact on local residents, road users and pedestrians or wildlife.
- iii) The impact on the visibility of the night sky is reduced as far as possible.

9.78. It is agreed between the Applicant and the Council that, subject to the preparation and implementation of an appropriate lighting scheme for the terminal building, car park areas and associated roads and other areas within the Airport boundary, which will be secured by planning condition, the implementation of the Applications would not significantly affect the ambient level of light conditions in the surrounding area.

9.79. It is also agreed by both parties that the existing external lighting associated with the Airport's current buildings will be improved through the implementation of the Applications.

9.80. It is also relevant that:

- i. the lighting proposed is the minimum necessary for the Applications;
- ii. the design, shadowing and buttoning of the lighting will minimise glare and light spillage in order to minimise the impact; and
- iii. the visibility on the night sky is reduced.

9.81. In summary, the Applications accord with Policy U15.

#### **Policy TR2 – Public Transport**

9.82. Policy TR2 states that where major new developments are proposed, permission will not be granted unless provision is made in the layout to allow penetration by buses. It confirms that for the purpose of this Policy 'major' development is in excess of 100 dwellings or more than 5 hectares of employment land. Using these strict definitions, the Applications are not major proposals. Notwithstanding this, the site will in any event be accessible by, and penetrated by, buses. The Airport is currently accessible by bus routes serving a stop at the end of the Airport access road. It is proposed that the existing bus routes will be extended to serve the Airport terminal building. Stagecoach, the local bus operator, has expressed an interest in pursuing these route enhancements, subject to negotiation with the Airport and financial contributions where appropriate. Details of a proposed shuttle service between the Airport and Ashford International Station are provided in Mr Keith Sowerby's evidence (LAA/12/A). In addition, coach and bus pick-up and drop-off facilities will be provided adjacent to the terminal buildings. The terminal building will have parking for 14 coaches.

9.83. For these reasons, the Applications accord with Policy TR2.

### **Policy TR8 – A259 (Hammonds Corner)**

- 9.84. Policy TR8 states that proposals to provide environmental improvements along the A259 and roadside corridor will be permitted where they would improve the attractiveness of the physical environment without compromising pedestrian safety and convenience.
- 9.85. In terms of Hammonds Corner, it is proposed that a roundabout junction will replace the existing T-junction. This proposed layout, which has been provisionally approved by Kent County Council, has also undergone the various assumption and sensitivity testing, which has shown that the layout proposed will accommodate up to 500,000ppa. The impacts of the proposed roundabout on the environment have also been considered and found that there would not be any significant adverse effects.

### **Policy TR13 – Travel Plans**

- 9.86. Policy TR13 states that where development proposals are considered likely to have significant transport implications, a travel plan should be submitted with the planning application.
- 9.87. A travel plan has been submitted with the Applications (CD1.35b), which forms the basis of a specific "Runway Extension Updated Travel Plan" (to cater for up to 300,000ppa) and a "Terminal Building Updated Plan" (to cater for up to 500,000ppa). These travel plans will be secured in the proposed section 106 Agreement. Further details of this are provided in Mr Keith Sowerby's Evidence (LAA/12/A). This policy is, therefore, satisfied.

### **Policy CO1 – Development in the Countryside**

- 9.88. Policy CO1 states that the Council will protect the countryside for its own sake. It states that subject to other Plan policies, development in the countryside will be permitted where proposals comply with a number of criteria. However, if land is allocated on the proposals map for a specific development purpose, the associated policy will take precedence over Policy CO1. In this case, the Airport is allocated for expansion and this is reflected in Policy TR15 (see paragraph 9.18 above).

### **Policy CO4 – Special Landscape Areas**

- 9.89. The following three Special Landscape Areas (SLAs) are defined on the Proposals Map: North Downs (including the scarp and crest); Old Romney Shoreline; and Dungeness.
- 9.90. Policy CO4 states that development proposals should protect or enhance the natural beauty of the SLA. The Council will not permit development proposals that are inconsistent with this objective unless the need to secure economic and social wellbeing outweighs the need to protect the SLAs' countryside landscape significance.
- 9.91. In terms of intrinsic landscape character, the Airport and adjoining area is not covered by any statutory designation for landscape character or quality. The northern tip of the Airport does,

however, fall within the Romney Marsh Local Landscape Area (see below) and the land to the east falls within the Dungeness Special Landscape Area. However, Mr Clive Self in his evidence (LAA/10/A) has assessed the value and character of the area and confirms that the Airport is of low landscape quality.

- 9.92. The proposals have no direct impact on any of the SLAs' natural beauty and so the SLAs are not affected by the Applications. Mr Self has considered the indirect impact of the Applications on the SLAs. This includes the impact of aircraft. He concludes that the proposals will not result in any material harm to the character or quality of the surrounding landscape. I agree with this assessment and I conclude that the Applications maintain the natural beauty of the SLAs and that there is no conflict with Policy C04.

#### **Policy CO5 – Local Landscape Areas**

- 9.93. The Romney Marsh Local Landscape Area washes over the northern tip of the Airport.
- 9.94. Policy CO5 states that development proposals should protect or enhance the landscape character and functioning of Local Landscape Areas. It states that the Council will not permit development proposals that are inconsistent with this objective unless the need to secure economic and social well-being outweighs the need to protect the area's local landscape importance.
- 9.95. As noted above, the Airport is of low landscape quality and the Applications will not have an adverse impact either directly or indirectly on the overall landscape, character or function of Romney Marsh Local Landscape Area.
- 9.96. In short, there is no conflict with Policy CO5.

#### **Policies CO8-CO11 and CO14 Environmental, Ecological and Nature Conservation Sites**

- 9.97. Policies CO8 – CO11 and CO14 deal with the ecological and environmental value of Dungeness, nature conservation, and valued sites including the internationally designated sites, the potentially designated sites, SSSIs, the Dungeness National Nature Reserve and Local Nature Reserves. These policies reflect national and international guidance. These policies are important to the assessment of the Applications and I have considered these designations and the impact of the Applications on them in detail in Section 10 of my evidence. I conclude that there is no conflict with these key policies.
- 9.98. In short, the Applications accord with Policies CO8-11 and Policy CO14.

#### **Policy CO12 – Conditions/Agreements and Nature Conservation**

- 9.99. Policy CO12 states that the Council will consider the use of conditions and/or planning obligations to ensure development proposals protect and enhance important nature

conservation resources, including provision for future management.

- 9.100. I address the proposed conditions and proposed section 106 Agreement in Sections 13 and 14 of my evidence. Together, the conditions and proposed section 106 Agreement will protect and enhance the nature conservation resources. The Proofs of Evidence of Mr Nigel Deacon on bird strike and management (LAA/6/A), Dr Roy Armstrong on disturbance of birds (LAA/7/A), Dr Bethan Tuckett-Jones on air quality (LAA/8/A) and Dr Mark McLellan on ecology (LAA/9/A) consider these measures in details. .

### **Policy CO13 – Water Courses, Ponds, Canals and Banks**

- 9.101. Policy CO13 states that development proposals likely to have a harmful effect on the freshwater environment, including water courses, natural ponds, canals and sewers and adjoining banks, will only be permitted where harmful impact will be minimal and where benefit in the form of increased access and/or water based recreation outweigh the negative effects. In such cases, measures should be taken to minimise impacts and fully compensate for remaining adverse effects.
- 9.102. In order to implement the runway extension, a length of 801m of drainage sewer will need to be removed. It is proposed that 1300m of new ditch length will be created, and the hydrological integrity of the sewer system as a whole will be preserved. The hydrological solution was designed by WSP in consultation with the Internal Drainage Board and the Environment Agency in 2009 (CD42.A). It is intended that the new sewer is 'seeded' by sediment from the old sewer, in order to facilitate ecological development.
- 9.103. Dr Mark McLellan's evidence (LAA/9/A) considers the impact on the freshwater environment. He concludes the overall impact on the environment will be positive. Furthermore, there will be a benefit through increased access to ditches for the Environment Agency and the Internal Drainage Board. For these reasons, I consider that the proposals accord with Policy CO13.

### **Emerging Development Plan Documents**

- 9.104. The Council is currently preparing its Local Development Framework and has reached Preferred Options stage for its Core Strategy. It is expected that this will be submitted to the Secretary of State for consideration in Autumn 2011.
- 9.105. It is agreed between the Applicant and the Council that based on the above timetable, the Core Strategy will not have reached a stage whereby its policies are a material consideration in the determination of the Applications.

### **Summary**

- 9.106. Section 38(6) of the Planning and Compulsory Act 2004 states that Applications should be determined in accordance with the development plan, unless material considerations indicate

otherwise. This Section of my Proof of Evidence has demonstrated that the Applications comply with the development plan.

- 9.107. The Applications are supported by policies in the South East Plan, most notably Policy T9..
- 9.108. The expansion of the facilities at the Airport is supported in local planning policy at Policy TR15 of the Shepway District Local Plan Review 2006 (as saved), subject to the impact upon sites of environmental and ecological value, and other special features, such as the Dungeness Nuclear Power Stations. I am satisfied that it has been demonstrated that the development proposals would not have an adverse affect on the integrity of the European sites and proposed European sites and that there would not be any significant adverse effects on the national and local designated sites or the locally important flora and fauna. I am satisfied that the impact upon the nuclear power stations and other special local features is minor and is acceptable.
- 9.109. The Applications are not in conflict with any emerging Development Plan Documents. I do not consider that there are any other material considerations that would lead me to the conclusion that planning permission should not be granted for the Applications.
- 9.110. I am satisfied that the Applications accord with the development plan and consider that they should be supported. I do not consider that there are any planning policy grounds for refusing the grant of planning permission for the Applications.



## 10. Effects on Ecological Designations

- 10.1. The Airport is located within or in close proximity to a number of areas of ecological significance, carrying statutory designations of international, national or local nature conservation importance.
- 10.2. A summary of the relevant considerations for each designation will be dealt with as necessary in legal submissions. I set out below my key conclusions in respect of the likely effects of the implementation of the Applications on these designations in this Section.

### Protected European Sites

#### Dungeness Special Area of Conservation (SAC)

##### Land Use Change

- 10.3. There will be very little land use change as a result of the proposed runway extension. The proposed runway extension footprint currently comprises semi-improved grassland and agricultural land. The proposed extension will comprise a paved area and a runway strip (clear and graded area (CGA) comprising semi-improved grassland).
- 10.4. It is concluded that only the change in use to the paved area could give rise to likely significant environmental effects. The extent of this change will be 0.23ha of the SAC (equating to 0.007% of the total SAC area) will change from semi-improved grassland to paved area;
- 10.5. The areas of semi-improved grassland that will be paved are of negligible habitat value for any SAC designated species. This land use change will not have a likely significant effect on the SAC and, in any event, the land use change will not adversely affect the integrity of the SAC. As a result, no mitigation measures are proposed to deal specifically with this minor land take from the SAC.

##### Great Crested Newts

- 10.6. The only habitat within the SAC designation which could be directly affected by the Applications will be that of great created newts which may use the grassland for foraging after they have left breeding ponds in spring. The only change in land use from arable to semi-improved grassland will in fact be one of minor improvement in respect of foraging habitat and, therefore, beneficial for this species. The new clear and graded area (CGA) around the runway extension will not result in a land use change from existing conditions.
- 10.7. Accordingly, the evidence of Mark McLellan (LAA/9/A) confirms that this land use change will

not have a likely significant effect on great crested newts within the SAC and, in any event, the land use change will not adversely affect the integrity of the SAC. In addition, the land use change will not have a significant adverse effect on the great crested newt within the SSSI.

- 10.8. As part of a wider biodiversity improvement programme for the Airport, a package of voluntary ecological enhancements are proposed. These enhancements are set out in the Proof of Evidence of Dr Mark McLellan (LAA/9/A). The enhancements propose a package of enhancement measures including improvements to Pond A (identified in Appendix 2 to LAA/9/A), the ditch and other small waterbodies which have been designed to increase the numbers of breeding great crested newts on the airfield and provide new habitat. This new habitat for foraging newts will be created by converting some land from arable land to semi-improved grassland. These enhancements will be implemented through an Airfield Biodiversity Action Plan (ABAP) and secured by planning condition. These enhancements will ensure that the SAC and SSSI area of the airfield will be safeguarded and, in fact, improved, as an ecological habitat.

#### Nitrogen Disposition

- 10.9. The indirect impacts on the SAC relate to the impact of nitrogen disposition from the burning of fossil fuels on lichen.
- 10.10. It has been demonstrated in evidence by Dr Bethan Tuckett-Jones (LAA/8/A) that the Applications will not cause a material change in existing air quality levels and are consistent with air quality policy. Any minor impacts have been shown to be at a low level. Evidence has demonstrated that nitrogen deposition arising from the development proposals will not have a likely significant effect on the lichen in the SAC and, in any event, the nitrogen deposition will not adversely affect the integrity of the SAC in terms of its designation for lichen.
- 10.11. Natural England no longer intends to call an air quality expert witness at the Inquiry. Air quality modelling information prepared on behalf of the Applicant was shared with Natural England. After an expert review of this data, undertaken by an independent consultant on behalf of Natural England, and discussions with Dr Bethan Tuckett-Jones, it was concluded that a supplementary Statement of Common Ground (SCG) on air quality matters could be prepared and presented to the Inquiry. Natural England confirmed that they will not have a witness in relation to nitrogen deposition impacts as a result of the proposals and the likely affect on important vegetation communities including, but not restricted to lichen species occurring as part of the vegetated shingle in the SAC.
- 10.12. Natural England confirmed in a letter to Pinsent Masons LLP on 10 December 2010 (copy enclosed in the Proof of Mrs Bethan Tuckett Jones LAA/8/A)) that, subject to the conclusion

of the discussions between the air quality experts and the agreement of a satisfactory supplementary Statement of Common Ground, Natural England expects that any remaining uncertainty about the effects of the Airport's expansion on the vegetated shingle in the SAC and SSSI could be addressed by way of planning condition.

- 10.13. An Air Quality Management Strategy (AQMS) will be secured by planning condition that will monitor the nitrogen disposition levels at the Airport.

### **Special Protection Area (SPA)**

#### Land Use Change

- 10.14. There will be no land use change within the SPA as a result of the implementation of the Applications. The boundary of the SPA lies outside of the Application Site.
- 10.15. The SPA was classified on account of its importance to bird populations. The Proofs of Evidence of Mr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A), confirm that the implementation of the Applications will not have a likely significant effect on the SPA and, in any event, would not adversely affect the integrity of the SPA.
- 10.16. The evidence of Dr Armstrong and Mr Deacon confirms that there would be no likely significant effect on the SPA as a result of the visual or noise disturbance from the proposed changed aircraft mix or the impacts of bird control activities. I am satisfied that the evidence demonstrates that there are no likely significant adverse effects, using both fieldwork at the SPA and the Airport, and case studies from other airports and that:
- bird communities in the SPA can be protected from excessive bird-scaring noise; and
  - the use of bird-scaring noise at certain parts of the Airport at prescribed volumes is tolerable to birds without harm.
- 10.17. The Bird Control Management Plan (BCMP) (Appendix 1 to LAA/6/A) mitigates the potential disturbance of bird scaring techniques. The evidence provided by Mr Nigel Deacon confirms bird scaring would not increase over and above the guidance set out in the BCMP. It is concluded that if the recommendations of the BCMP are implemented and controlled through planning condition, the Applications would not have a likely significant effect on the SPA and, in any event, would not adversely affect the integrity of the SPA

### **Proposed European sites**

#### Proposed Special Protection Area (pSPA)

- 10.18. An extension to the Dungeness to Pett Levels Special Protection Area (the pSPA) is proposed. This would result in the SPA boundary being brought marginally closer to the Airport. The Applications will not use any land within the pSPA.

- 10.19. The proposed designation is a material consideration in the determination of the Applications. PPS9 advises that pSPAs should be considered in the same way as if they had already been designated.
- 10.20. The proposed designation does not raise additional or new matters of concern. Extensive ornithology work has been undertaken to inform the Applications and the impact assessments for the SAC, the SPA and the SSSI. This work has also been used to inform the assessment of the impact on the pSPA and the pRamsar. For the detailed reasons in the Proofs of Evidence of Mr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A), the implementation of the Applications would not have a likely significant effect on the pSPA and, in any event, would not adversely affect the integrity of the pSPA. Proposed Ramsar (pRamsar)

### **Proposed Ramsar (pRamsar)**

- 10.21. The Airport is in proximity to a potential Ramsar (pRamsar) site. The Applications do not use any land within the pRamsar site.
- 10.22. The pRamsar does not have equivalent status to existing designations or to the pSPA under PPS9. The pRamsar is not afforded statutory protection under the Conservation of Habitats and Species Regulations 2010, nor is it listed or part of the Natura 2000 network. However, it is a material consideration in the determination of the Applications.
- 10.23. The Applicant's assessment of and approach to the pRamsar goes significantly beyond the legal requirements for the status of the proposed site. For the detailed reasons in the Proofs of Evidence of Dr Mark McLellan (LAA/9/A), Mr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A), the implementation of the Applications will not have a likely significant effect on the pRamsar and, in any event, would not adversely affect the integrity of the pRamsar.

### **National Sites**

#### Site of Special Scientific Interest

- 10.24. The Dungeness Site of Special Scientific Interest (SSSI) is located to the east of the existing runway. The proposed runway extension would include a small area of land within the SSSI (1.62ha, which is 0.018% of the whole SSSI).
- 10.25. I do not consider that there is a significant adverse effect on the SSSI as a result of land use change. I do not consider that the scale of change of use of 0.018% of the total SSSI area represents a significant adverse effect on the SSSI. As a result, no mitigation or compensatory measures are proposed to deal specifically with this minor land take.
- 10.26. The indirect impacts on the SSSI relate to:

- the impact of nitrogen disposition caused by the burning of fossil fuels;
  - the impacts on terrestrial and aquatic invertebrates (including protected species); and
  - the impact on birds of aircraft and bird scaring techniques.
- 10.27. The evidence of Dr Bethan Tuckett-Jones (LAA/8/A), Dr Mark McLellan (LAA/9/A) Mr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A), shows that with mitigation there would be no significant adverse environmental effects on the SSSI.

#### National Nature Reserve

- 10.28. The Dungeness National Nature Reserve, which comprises the RSPB local reserve, is located to the south eastern boundary of the Airport (the RSPB local reserve falls within the SPA boundary).
- 10.29. The evidence of Mr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A) shows that impacts arising from the implementation of the Applications through aircraft movements and bird scaring techniques will be minimal and will not cause a significant adverse effect on the National Nature Reserve.

### **Summary**

- 10.30. The Applications would not have a likely significant effect on the SAC, SPA, pSPA and the pRamsar and, in any event, the Applicant's evidence shows that it is beyond reasonable scientific doubt that there would not be an adverse affect on the integrity of any of these sites. In addition, the Applicant's evidence shows that there would not be a significant adverse effect on the SSSI and other nationally and locally designated sites.
- 10.31. Indeed, the enhancements that will follow from the implementation of the Airfield Biodiversity Action Plan (ABAP) will improve the biodiversity of the area.
- 10.32. For the above reasons, I conclude that the Applications are consistent with Government policies in Planning Policy Statement 9: Nature Conservation and Local Plan Policies CO8 – CO11 and CO14.
- 10.33. The Applications are not likely to have a significant adverse impact on a species protected under the Wildlife and Countryside Act 1981 or any other legislation.

## 11. Response to Secretary of State's Matters

11.1. In this Section, I set out my response to the matters raised by the Secretary of State, drawing on the Evidence I have provided in earlier Sections of my Proof and on the Evidence given by other witnesses. This Section also addresses the other material considerations relevant to the Secretary of State's consideration as identified in the Inspector's pre-inquiry meeting note.

11.2. All of these matters are considered in full detail in Evidence by other witnesses. I briefly consider the key points of each of the identified specialist matters of relevance in this Section.

### **Accordance with the Shepway Local Plan**

11.3. Section 9 of my Evidence Proof addresses the first point raised by the Secretary of State on the extent to which the proposed development is in accordance with the development plan for the area, having regard in particular to the Shepway District Local Plan Review (adopted 16 March 2006) (saved policies).

11.4. The expansion of the facilities at the Airport is supported in local planning policy at Policy TR15 of the Shepway District Local Plan Review 2006 (as saved), subject to the impact upon sites of environmental and ecological value, and other special features, such as the Dungeness Nuclear Power Stations. I am satisfied that it has been demonstrated that the development proposals would not have an adverse affect on the integrity of the European sites and proposed European sites and that there would not be any significant adverse effects on the national and local designated sites or the locally important flora and fauna. I am satisfied that the impact upon the nuclear power stations and other special local features is minor and is acceptable.

11.5. Therefore, the proposals are in accordance with the relevant Development Plan policies.

### **Consistency with emerging Development Plan Documents**

11.6. The second matter raised by the Secretary of State is the extent to which the proposed development is consistent with emerging Development Plan Documents, including consideration of the weight to be attached to them.

11.7. As set out at Section 9 of my Proof, the Council is currently preparing its Local Development Framework and has reached Preferred Options stage for its Core Strategy. It is expected that this will be submitted to the Secretary of State for consideration in Autumn 2011. It is

agreed between the Applicant and the Council that based on the above timetable, the Core Strategy will not have reached a stage whereby its policies are a material consideration in the determination of the Applications.

### **Consistency with PPS 9: Nature Conservation**

11.8. The Secretary of State wishes to be informed on the extent to which the proposed development would be consistent with Government policies in Planning Policy Statement 9: Nature Conservation – with particular regard to:

- i. The extent to which the proposed development is likely to have an impact on the local flora and fauna and any designated sites;
- ii. The importance that the Government attaches to the SAC; SPA; SSSI; proposed Ramsar site and proposed extension and additions to the SPA;
- iii. Whether or not there is likely to be any impact on a European protected species listed in the Habitats Directive; and
- iv. Whether there is likely to be any impact on a species protected under the Wildlife and Countryside Act 1981 or any other legislation.

11.9. As set out in Section 10 of my Proof of Evidence and in Evidence provided by Dr Bethan Tuckett-Jones (LAA/8/A), Dr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A) and Dr Mark McLellan (LAA/9/A), it has been demonstrated that there is no likely significant adverse impact on key ecology considerations as a result of the implementation of the Applications. The following has been demonstrated in Evidence:

- i. The Applications are not likely to have a significant adverse impact on local flora and fauna or any designated sites;
- ii. The Applications will not have an adverse effect on the integrity of the SAC;
- iii. The Applications will not have a likely significant effect on the SPA, the pSPA and the pRamsar but, in any event, the Applications would not give rise to an adverse affect on the integrity of these sites;
- iv. The Applications will not have a significant adverse effect on the designated SSSI;
- v. The Applications will not have a significant adverse effect on a species protected under the Wildlife and Countryside Act 1981 or any other legislation.

11.10. I consider that the Applications are consistent with the policies in PPS9 and with relevant saved Local Plan policies relating to ecology. I am satisfied on the basis of the Evidence of

Dr Bethan Tuckett-Jones (LAA/8/A) and Dr Mark McLellan (LAA/9/A) that there are no grounds to refuse the grant of planning permission on the basis of the impacts on flora and fauna or any designated sites.

- 11.11. The Secretary of State wishes to be informed about the likely effect of implementing the Applications on birds in terms of the SPA, the proposed SPA, the proposed Ramsar, the SSSI and protected species.
- 11.12. The potential impact upon these designations and the relevant protected species is considered in the Evidence of Dr Nigel Deacon (LAA/6/A) and Dr Roy Armstrong (LAA/7/A). I am satisfied that it has been demonstrated that the Applications will not have a likely significant effect on the designated sites in terms of birds or on protected bird species as a result of the implementation of the Applications but, in any event, the Applications would not give rise to an adverse affect on the integrity of the European Sites or a significant adverse effect on the SSSI or RSPB Reserve.
- 11.13. The Evidence of Mr Nigel Deacon's confirms that, subject to the preparation and implementation of an appropriate Bird Control Management Plan to be secured via planning condition, the implementation of the Applications would not result in a significant risk of birdstrike in relation to aircraft at the Airport.
- 11.14. The Evidence of Mr Deacon and Dr Jones confirms that there are grounds to refuse the grant of planning permission on the basis of significant adverse effects on birds.
- 11.15. I consider that the Applications are consistent with the policies in PPS9 and with relevant saved Local Plan policies relating to ecology and protected species, in particular there would not be a likely significant effect on great crested newts, the medicinal leech or water voles. The Evidence of Dr Bethan Tuckett-Jones (LAA/8/A) and Dr Mark McLellan (LAA/9/A) that there are no grounds to refuse the grant of planning permission on the basis ecology or protected species.

### **Other Material Considerations**

- 11.16. The Secretary of State wishes to be informed about whether there are any other material planning considerations relevant to the Secretary of State's determination of the Applications. Rule 6 parties raised a number of issues that they considered to be material to the determination of the Applications. I address these below.

### **Flight Paths**

- 11.17. Rule 6 parties believe that flights paths are material to the Secretary of State's consideration.
- 11.18. It is demonstrated in the Evidence of Mr Tim Maskens (LAA/3/A) that flight paths do not change materially from the current flight path pattern. Flight paths to and from any airport



are largely governed by the orientation of the runway. The Applications are seeking an extension to an existing runway, rather than a new one of a different orientation. Extending the length of the existing runway will not alter the current direction of approach and departure. The pattern of flight paths as a result of the implementation of the Applications will not, therefore, be materially different to the present situation.

- 11.19. I am satisfied that there are no grounds to refuse the grant of planning permission on the basis of concerns about flight paths.

### **Noise and Community Annoyance**

- 11.20. Whilst the Secretary of State has not expressly asked to be informed on matters relating to noise, Rule 6 parties have raised this as a material consideration.

- 11.21. The issue of noise associated with the expansion of the Airport and the impact on the residential amenity has been considered at length on a number of occasions.

- 11.22. In 1992, it was concluded by the Secretary of State in his consideration of proposals to expand the Airport (see Section 7 of my Evidence) that given the restrictions on the times and number of aircraft, the:

*“implications ( $L_{eq}$  16 hour dB(A)) for residential amenity do not justify withholding planning permission”.*

- 11.23. It is relevant that the  $L_{eq}$  16 hour dB(A) remains the most appropriate index for measuring aircraft noise. This is the level above which annoyance can occur. The Evidence of Mr Richard Perkins (LAA/6/A) has demonstrated that, in all assessment scenarios, noise levels as a result of the Applications are below the threshold set by Government for the onset of annoyance.

- 11.24. Aircraft are quieter now than those assessed for the purposes of the 1992 planning permission. Under the expansion proposals, there will be: fewer aircraft movements; flight movements and timings will be restricted; and noise mitigation measures will be secured by planning conditions and legal agreements. A summary of the proposed noise prevention and mitigation measures is as follows:

- i. No scheduled night time flying between 23:00 and 07:00 (excluding emergency and governmental activities) – thus there are no scheduled night time noise issues;
- ii. A 40,000 aeroplane movement cap and a 2,000 helicopter movement cap (including a suggested cap on pure cargo movements);

- iii. All day time scheduled flight movements will be controlled so that they do not exceed a noise budget. This will be based on a contour map from the noise impact environmental study approved by the Council and its independent advisers; and
  - iv. Various operational restrictions, as set out in a proposed section 106 agreement, which the Applicant will work with aircraft operators to achieve.
- 11.25. These controls are more restrictive than those proposed and considered necessary in 1992. Importantly, they also introduce controls that are not presently in place at the Airport.
- 11.26. A Noise Management Plan will be established to create a penalty system for those pilots of aircraft using excessive power when arriving at or departing from the Airport. Any fines resulting from the system's operation will be donated to a Community Fund (managed by the Applicant and the Council) for the environmental improvement and community and recreational projects within a 5km radius of the Airport. The Noise Management Plan will also establish clear lines of communication with local residents to facilitate the addressing of any concerns relating to noise emanating from the Airport.
- 11.27. All of these measures will be secured via the proposed section 106 agreement. I am satisfied that any concerns about potential noise impacts have been adequately addressed in the Evidence of Mr Richard Perkins (LAA/5/A).
- 11.28. Despite there being no need for mitigation due to the minor impact from noise, the Airport is offering an extensive range of options such as noise preferential flight paths, no night flights (excluding emergency and governmental activities), and a Noise Management Plan. The Airport has also gone further with a corporate commitment to the noise insulation scheme and the 'Five Communities Scheme' which would only normally be associated with larger airports.
- 11.29. The extensive range of operation measures and controls offered as part of the Applications will go a long way to mitigate any adverse effects there may be, and we do not believe there will be, on residential properties.
- 11.30. The evidence of Mr Richard Perkins concludes that the noise impact of the proposed runway extension and the proposed new terminal would be minor and is acceptable.
- 11.31. Furthermore, it is also a material consideration that the Airport currently has a license to operate 24 hours. The Applicant is prepared to restrict night time flying between 23:00 – 07:00. This restriction will not apply to anytime night time operations required for emergency and governmental reasons. This restriction is a significant concession on the part of the Airport and demonstrates willingness to minimise noise in the local area in the event of the grant of planning permission for the Applications.

### **Air Quality and Nitrogen Deposition**

- 11.32. Whilst the Secretary of State has not expressly asked to be informed on matters relating to air quality and nitrogen deposition, NE and the KWT have raised these matters as material considerations.
- 11.33. It has been demonstrated in Evidence by Dr Bethan Tuckett-Jones (LAA/8/A) that the Applications will not cause a material change in existing air quality levels and are consistent with air quality policy. Any minor impacts have been shown to be at a low level. Evidence has demonstrated that nitrogen deposition arising from the development proposals will not have a likely significant effect on the lichen in the SAC and, in any event, the nitrogen deposition will not adversely affect the integrity of the SAC in terms of its designation for lichen.
- 11.34. An Air Quality Management Strategy will be secured by planning condition that will monitor the nitrogen disposition levels at the Airport.
- 11.35. NE no longer intends to call an air quality expert witness at the Inquiry. This is because agreement has been reached on this matter between the Applicant and NE. Air quality modelling information prepared on behalf of the Applicant was shared with NE. After an expert review of this data, undertaken by an independent consultant on behalf of NE, and discussions with Dr Bethan Tuckett-Jones, it was concluded that a supplementary SCG on air quality matters can be prepared and presented to the Inquiry. The letter confirming this from NE appears in the Evidence of Mrs Bethan Tuckett Jones (LAA/8/A).
- 11.36. I do not consider that there is any basis to refuse the grant of planning permission for the Applications on the grounds of air quality concerns.

### **Socio-Economic Considerations**

- 11.37. Whilst the Secretary of State has not expressly asked to be informed on matters relating to socio-economic considerations, the socio-economic benefits of the Applications are a material consideration.
- 11.38. I provide a summary of the socio-economic benefits that will be generated by the Applications on grant of planning permission in Section 12 of my Proof of Evidence. I am satisfied on the basis of the Evidence presented by Ms Louise Congdon (LAA/4/A) that significant and important socio-economic benefits will be generated as a result of the implementation of the Applications.

### **Transport and Accessibility**

- 11.39. Whilst the Secretary of State has not specifically raised transport and accessibility as a matter about which he wishes to be informed, CPRE has raised them as material

considerations.

- 11.40. Transport and accessibility matters are dealt with in technical assessments submitted with the Applications and in the Proof of Evidence of Mr Keith Sowerby (LAA/12/A). I summarise the key points below.
- 11.41. An appropriate number of on-site car parking spaces is proposed for the traffic likely to be generated by the Applications, based on the assumptions for passenger trip profiles, staff trip profiles and modal splits. The on-going management of the car parks will be controlled by the preparation and imposition of an appropriate Car Park Management Scheme. This will be secured by the proposed section 106 agreement.
- 11.42. The Applications include proposals to support more sustainable travel choices, including the preparation and implementation of a travel plan to encourage sustainable modes of transport for passengers and staff. A travel plan has been submitted with the Applications (CD1.35b), which forms the basis of a specific "Runway Extension Updated Travel Plan" (to cater for up to 300,000 passengers per annum) and a "Terminal Building Updated Plan" (to cater for up to 500,000 passengers per annum). These travel plans will be secured in the proposed section 106 agreement,
- 11.43. The travel plan submitted with the Applications refers to a proposed shuttle bus between the Airport and Ashford International Station. This service will commence at least two hours before the commercial aircraft departs and continue until at least one hour after the last arrival. During the day, the service will operate according to a timetable commensurate with flight arrivals and departures, ensuring that all passengers and staff have the option of using the shuttle bus to and from Ashford International. The demand for the service will be monitored and the timetable adjusted accordingly.
- 11.44. In addition to the shuttle bus, it is proposed that the existing bus routes to the Airport will be extended to serve the Airport terminal building. Stagecoach, the local bus operator, has expressed an interest in pursuing these route enhancements, subject to negotiation with the Airport and financial contributions where appropriate.
- 11.45. These sustainable transport measures will be secured in the proposed section 106 agreement.
- 11.46. I am satisfied that the Evidence put forward by Mr Keith Sowerby (LAA/12/A) demonstrates that there will not be a significant adverse impact on the local and wider highway network as a result of the implementation of the Applications. On this basis, and subject to the delivery of appropriate traffic and transport mitigation measures via planning conditions and the proposed section 106 agreement, the implementation of the Applications will not have an adverse impact on the highway network and other transport infrastructure.

- 11.47. In short, I am satisfied that traffic and accessibility concerns do not form a valid reason for refusing the grant of planning permission for the Applications. I am also satisfied that the Airport is accessible by a choice of means of transport.

### **Flooding**

- 11.48. The Secretary of State has not specifically asked to be informed about flooding, but CPRE have raised it as a material consideration,
- 11.49. Mr Christopher Mead's (LAA/13/A) Evidence and the Flood Risk Assessments prepared in support of the Applications demonstrate compliance with Policy U6 of the Shepway District Local Plan (adopted 2006).
- 11.50. The scheme complies with PPS25 and the EA has confirmed that it has no objection to the Applications, subject to appropriate conditions being imposed on any planning permissions that are granted
- 11.51. I am satisfied on the basis of the Evidence of Mr Christopher Mead that the risk of sea flooding at the Airport is low and has been robustly considered. I do not consider that flood risk constitutes a reason for refusing the grant of planning permission for the Applications.

### **Nuclear Safety**

- 11.52. The Secretary of State did not ask to be informed about concerns over nuclear safety as a result of the proximity of Dungeness A and B Power Stations. However, LAAG have raised this as a material consideration.
- 11.53. The Nuclear Installations Inspectorate (NII) with the Health and Safety Executive (HSE) have confirmed in an email dated 13 October 2008 and a letter dated 28 July 2010 to PINS that they have no objection to the Applications, subject to appropriate restrictions on the flight paths of aircraft departing from the Airport. These correspondence are attached at **Appendix 5** of this Evidence. The restriction on flight paths will be addressed through the proposed section 106 agreement.
- 11.54. To reach this view, the NII assessed the risk profile for the Dungeness A and B power stations. The NII concluded that the risk to Dungeness A and B as a result of the implementation of the Applications would be sufficiently remote as to mean that there is no need to object to the Applications.
- 11.55. An independent risk assessment prepared by Areva Risk Management Consulting (Core Document reference CD1.40b) supports the NII's conclusions that there should be no grounds for objection based on aircraft crash risk in relation to nuclear safety.
- 11.56. The NII confirmed during the consultation process for Dungeness C that the risks to the

existing Dungeness power stations from the proposed expansion of the Airport have been considered to be acceptable and that this view had been formally submitted to the Council. This appears at **Appendix 5**.

- 11.57. As I explained in Section 7 of this Evidence, the same view was expressed by the NII in respect of the expansion proposals in 1992. The Secretary of State at that time accepted the NII's assessment of risk in granting planning permission.
- 11.58. British Energy (part of EDF) confirmed, in a letter dated 6 December 2010, that they recognise the increase in risk is extremely small and that the Applications would not compromise the current or future activities at Dungeness. However, British Energy's position is that they are duty bound to resist the proposals based on any increase in risk however small. This letter is enclosed at **Appendix 6**.
- 11.59. I consider that subject to appropriate flight path restrictions which will be controlled by planning obligation, the potential risk associated with an aircraft crashing into Dungeness power stations would be so low as to ensure that there are no grounds to refuse the Applications on the risk to nuclear safety.

### **Carbon Management and Climate Change**

- 11.60. Carbon management and climate change is a matter raised by Rule 6 Parties as a material planning consideration.
- 11.61. The Applicant will actively seek to reduce carbon emissions and increase the use of renewable energy technologies at the Airport. This will be achieved through the preparation and implementation of an appropriate Carbon Management Action Plan (CMAP) and this will be secured by the proposed section 106 agreement.
- 11.62. The implementation of the CMAP will ensure that carbon emissions under the Applicant's direct control are monitored and managed, with the aim of establishing a low carbon airport.
- 11.63. The proposed new terminal building will be designed to achieve a BREEAM rating of at least 'Very Good'. This will be secured by planning condition. The design solution for the building will achieve a strong energy and sustainability performance through the use of sustainable measures, such as a biomass boiler, primary cooling by solar shading and rainwater harvesting. The South East Plan policy requirement to obtain 10% of energy requirements from renewable sources will be secured by a planning condition and met.
- 11.64. The Evidence of Mr Stuart Coventry (LAA/11/A) has demonstrated that the Applications include measures to meet the policy requirement to achieve 10% of energy requirements from renewable sources. Mr Stuart Coventry's Evidence confirms that by flying from the Airport there will be carbon emission savings because of the reduced vehicle movements.

He confirms that the carbon emissions savings from flying from the Airport compared to flying from Gatwick is greater than the entire carbon footprint of the operation of the Airport. He also confirms that the UK can meet its policy on reducing the carbon emissions by 2050 even allowing for a 60% or higher growth in air transport movements. Clearly, the proposed growth at LAA comprises only a tiny percentage of the UK's air transport movements and thus can be accommodated within the 60% growth, even more so if it represents displaced flights from other airports.

- 11.65. I consider that the Applications are consistent with relevant climate change policies and that there is no reasonable basis for refusing the grant of planning permission on carbon management or climate change grounds.

### **Landscape**

- 11.66. Landscape impact is a matter raised by Rule 6 Parties as a material planning consideration. Detailed landscape matters are considered in the Proof of Evidence of Mr Clive Self (LAA/10/A).
- 11.67. Mr Self's Evidence confirms that the Airport lies within an extensive area identified as 'Romney Marshes Character Area 123'. In terms of intrinsic landscape character, the Airport is not covered by any statutory designation for landscape character or quality. The northern tip of the Airport does, however, fall within the Romney Marsh Local Landscape Area and the land to the east falls within the Dungeness Special Landscape Area.
- 11.68. Mr Self's assessment is that the area surrounding the Airport is heavily characterised by industrial uses. He notes that the area is dominated by the imposing power stations and associated power lines of Dungeness, military uses, farming uses, an industrial estate and sewerage works, in addition to the Airport itself. I agree with this assessment.
- 11.69. Mr Self's Evidence is that proposed runway extension does not result in the loss of any significant landscape feature, and circulation and parking areas can be mitigated by new landscaping. He concludes that he does not consider that aircraft will generate any material impact in landscape and visual amenity terms.
- 11.70. Mr Self confirms that the visual envelope of the new terminal will be similar to that of the existing hangers as they are of a comparable scale and in a similar location. He considers that the proposed design of the terminal building responds to its landscape setting in a more sensitive way than the hangers and that the new terminal building will make a positive contribution to the existing local landscape.
- 11.71. I am satisfied on the basis of the Evidence of Mr Clive Self that there will be no material impact on the character of the Romney Marshes Character Area and there will be no direct effects on the AONB.

11.72. I agree with the conclusions of Mr Clive Self that the Airport and wider site is of low landscape quality. I am satisfied that it has been demonstrated that the Applications, including the operation of passenger aircraft out of the Airport, will have no material impact on the landscape character of the wider area.

### **The 1992 Permission**

11.73. As set out in detail at Section 7 of my Proof, in 1992 the Secretary of State thoroughly considered the proposals for a runway extension at the Airport and granted planning permission for the runway extension. This illustrates a history of support and approval for the continued use and expansion of the Airport. This positive planning history is a material consideration.

### **Conditions and section 106**

11.74. The final matters that the Secretary of State wishes to be informed on are whether any permissions granted should be subject to any conditions and, if so, the form these should take and whether any planning permissions should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.

11.75. These matters are addressed in Sections 13 and 14 of my Proof. In short, a proposed set of conditions and a section 106 agreement was issued to the Rule 6 Parties for consultation in October 2010. Following the conclusion of this consultation, a draft section and list of conditions will be agreed with the Council and issued to the Inspector prior to the public inquiry.

### **Summary**

11.76. In summary, the Secretary of State has asked to be informed on a number of matters. In response to these matters I conclude that:

- a) The proposals are in accordance with the relevant development plan policies;
- b) No material weight should be attached to the emerging Development Plan Documents policies;
- c) The Applications are consistent with PPS9;
- d) No other material planning considerations raised by Rule 6 parties indicate that planning permission should not be granted for the Applications;
- e) A draft set of conditions and a draft section 106 agreement has been consulted on with Rule 6 parties. A final draft of the conditions and the section 106 agreement will be submitted to the Inspector prior to the public inquiry.



## 12. Benefits of the Applications

- 12.1. The Secretary of State wishes to be informed about whether there are any other material considerations relevant to the Secretary of State's determination of the Applications.
- 12.2. In my view, a key material consideration associated with the Applications is the benefits that they will provide. These benefits should be given considerable weight in assessing the Applications.
- 12.3. In this Section, I set out what I consider to be the principal benefits of the Applications. After concluding that beyond reasonable scientific doubt there would not be an adverse affect on the integrity of the European sites and concluding that there would not be a significant adverse effect on the SSSI and other nationally and locally designated sites, these benefits were weighed up by Members in deciding to support the Applications.
- 12.4. I consider that following the environmental assessment, the weight given by Members to the benefits of the proposed development was appropriate. In my opinion, the benefits are significant.
- 12.5. In my view, the principal benefits of the Applications are as follows.

### **Ecological Enhancements**

- 12.6. In addition to mitigation measures, there will also be ecological enhancements as a result of the Applications which will otherwise not be delivered.
- 12.7. The implementation of the planning permission will result in the Airport being tightly controlled and monitored by the Council. This contrasts to the current situation, as the Airport is largely free to operate as it wishes (subject to the usual safety and operational controls by the aviation authorities and the legislation governing European Sites and SSSIs). The Airport will protect and enhance the wildlife within the Airport's boundary through an Airfield Biodiversity Action Plan, which proposes enhancement features (over and beyond what is required as mitigation and what is over and beyond what the Airport currently carries out by informal agreement with NE) including the provision of new wetland, new habitat for a range of bird species, along with other flora and fauna of conservation concern.
- 12.8. The Airport proposes to implement a Bird Control Management Plan (BCMP) which as currently drafted (Appendix 1 to LAA/6/A) is comprehensive and robust and far exceeds the detail provided at other UK airports of a similar size. The Airport will further develop the BCMP with stakeholders (such as the RSPB) and monitor the performance of the BCMP with the Council, updating it as necessary. I consider this to be a benefit as it exceeds UK

requirements for Airports of this size.

### **Employment Generation**

- 12.9. The Applications will generate significant socio-economic benefits.
- 12.10. The Applications will have significant benefits for Romney Marsh and the wider Shepway District in terms of employment and training opportunities. With the extended runway and the Airport handling 300,000 passengers a year, using Louise Congdon's (LAA/4/A) lower growth scenario set out in her Evidence, the Airport will support 130 direct and 70 indirect and induced jobs. This will be net increase over the jobs currently supported of 90 jobs.
- 12.11. With the addition of a new terminal and the Airport handling 500,000 passengers a year, the Airport will support 210 direct jobs and 100 indirect and induced jobs (in the high growth scenario). This will be a net increase over the jobs currently supported of 200 jobs.
- 12.12. These benefits are particularly important as Shepway is identified as a Priority Area for Economic Regeneration. Also, it is anticipated that a significant number of local jobs will be lost in the future as a result of the decommissioning of Dungeness Nuclear Power Station in 2018.
- 12.13. As set out in the Proof of Louise Congdon (LAA/4/A), the Airport would reach a throughput of 300,000ppa by 2023 and 500,000ppa in 2028. The creation of the additional employment will build up in this timeframe and compensate for the loss of employment through the closure of the Dungeness power stations.

### **Training and Development**

- 12.14. The Airport is committed to employing local people and has a strong track record of working with the local community and local schools. The Airport has committed to develop a targeted recruitment campaign aimed specifically at local men and women who need support and assistance returning to the job market. This will be delivered through the proposed section 106 agreement.
- 12.15. In addition to its existing relationship and commitments with the local community, the Airport will further work with local colleges and schools and develop an engineering apprenticeship scheme. The construction of the runway extension and terminal building will provide the opportunity for construction training for the local community.

### **Contribution towards Regeneration**

- 12.16. The Applications will provide a material contribution towards economic, social and physical regeneration.
- 12.17. Louise Congdon's Evidence (LAA/4/A) states that the Airport currently adds approximately

£4 million a year (Gross Value Added (GVA)) to the local economy. With the runway extension in place, Ms Congdon estimates that this will raise to around £7.4 - £7.5 million a year and between £11.5 to £11.7 million a year if the new terminal is added with a throughput of 500,000ppa. This will make a significant contribution to the local economy and help regenerate an area currently suffering from slow economic growth, high unemployment and long-term contraction of established local industries.

### **Contribution towards Tourism**

- 12.18. The Applications will boost the in-bound tourist industry in the sub-region. Tourism is recognised as being of crucial importance to the economic, social and environmental well-being of Shepway and the wider Kent region.
- 12.19. Ms Congdon confirms that the additional inbound tourist visits will themselves support additional local employment, in the range 33 to 96 jobs. This will be in addition to jobs created through the operational activity at the Airport. There will also result in significant expenditure in the local economy.

### **Catalyst for Inward Investment**

- 12.20. The Applications will act as a catalyst for other forms of inward investment by influencing companies' decisions on where they should locate. Ms Congdon notes that a local airport offering commercial air services is often a pre-requisite to enabling an area to reach the shortlist for potential investors. The expanded Airport will attract companies wishing to locate near an airport.

### **Accessibility Enhancements**

- 12.21. The Applicant will provide a shuttle bus service between Ashford International Station and the Airport. This will provide a sustainable means of travel to the Airport from Ashford International Station for both passengers and employees of the Airport and an alternative to accessing the Airport by car. Details of the shuttle bus are set out in Mr Keith Sowerby's Evidence (LAA/12/A).
- 12.22. The Airport will also result in reduced journey lengths both in terms of air travel and roads journeys as passengers will be able to use their local airport rather than travel to Gatwick or other more distant airports.
- 12.23. The Airport will improve the junction known as Hammonds Corner by constructing a roundabout. Lydd Town Council has long campaigned for a roundabout to be provided at Hammonds Corner. In my view, this is unlikely to be delivered other than through the expansion of the Airport.

## Noise and Night-time Flying Restrictions

- 12.24. At present, the Airport can operate 24 hours a day every day. As part of the Applications, there will be no flying between the hours of 23.00 and 07.00. This will have a benefit on the current noise and light pollution aspects of the existing Airport.
- 12.25. The Applicant will also develop a noise management plan which will include a financial penalty system for pilots using excessive thrust when arriving at or departing from the Airport. Any financial penalties will be placed into a fund for community and recreational projects. This is explained further in the Evidence of Mr Richard Perkins (LAA/5/A).

## The Fall-Back Position

- 12.26. In the event that planning permission is not granted for the Applications, these significant economic benefits will not be realised. Ms Louise Congdon (LAA/4/A) has presented Evidence of the Applicant's fall-back position. In summary, if the runway extension and new terminal building cannot go ahead, there would be no growth of commercial passenger services and the Airport would remain reliant upon General Aviation and the exploitation of market opportunities around maintenance and light freight. In turn this would result in:

- no significant increase in job numbers;
- there would be little increase in GVA to the local economy, nor would there be a catalyst for inward investments;
- there would be reduced opportunities for training and development opportunities at the Airport;
- the tourism boost to the local economy would not be realised;
- the improvements to the local infrastructure, including improvements to the Airport's accessibility, would not be delivered;
- there would be no incentive for the Airport to provide the ecological enhancements; and
- the Airport would continue to operate without any of the restrictions proposed such as banning night time flying. The Airport could continue to operate night time freight flights.

- 12.27. I consider that the implications of the 'no development/fall back' scenario is a material consideration that should be given due weight and that significant weight should be given to them in the determination of the Applications.

## Summary

12.28. There are significant benefits that will accrue should consent be granted for the Applications. These include:

- Providing ecological enhancements;
- Generating much needed employment;
- Providing training and development;
- Contributing towards regeneration;
- Contributing towards tourism;
- Providing a catalyst for inward investment;
- Enhancing accessibility; and
- Providing noise and night-time flying restrictions.

12.29. In contrast, if the Applications are refused consent, these benefits will not be delivered and in addition, the Airport would continue to operate without any of the restrictions proposed such as banning night time flying and a cargo weight restriction. .

## 13. Planning Conditions

- 13.1. The Secretary of State wishes to be informed about whether any planning permissions granted for the Applications should be subject to any conditions and, if so, the form that these should take.
- 13.2. Planning conditions are required to make the development acceptable. Following the resolution to grant planning permission for both Applications on 3 March 2010, the Council and the Applicant have been actively working on the draft conditions that were placed before the Special Committee of 3 March 2010. A draft set of conditions has been prepared and was circulated to the Rule 6 Parties for comment in October 2010. Following the conclusion of this consultation, the Council and the Applicant have met to discuss the comments received, and the draft conditions are currently being updated to reflect the consultation responses. It is expected that the draft conditions will be sent to the Inspectorate early in the new year incorporating the latest position.
- 13.3. The implementation of the following proposed mitigation measures will be secured by planning condition:

### **Runway Extension Planning Conditions**

- a. Time condition.
- b. Development to be carried out in accordance with approved drawings.
- c. Construction Environmental Management Plan (CEMP)
- d. Construction Health and Safety Plan (CHSP).
- e. Solid Waste Management Plan.
- f. Geomorphology Schedule and Programme of Works.
- g. Foundations and excavation.
- h. Surface water drainage.
- i. ground protection.
- j. hours of working (construction).
- k. Aircraft movements.
- l. No flying between the hours of 2300 and 0700, except for emergency and governmental activities.
- m. Highway improvement works to Hammonds Corner.

- n. A Lighting Scheme.
- o. Airfield Biodiversity Action Plan (ABAP).
- p. Bird Control Management Plan (BCMP).
- q. Air Quality Management Strategy (AQMS).
- r. Airport Annual Monitoring Report (AAMR).

### **Terminal Building Planning Conditions**

- a. Time condition.
- b. Development to be carried out in accordance with approved drawings.
- c. Materials.
- d. Hard and soft landscaping.
- e. Design standards - BREEAM rating.
- f. Construction Environmental Management Plan (CEMP)
- g. Construction Health and Safety Plan (CHSP).
- h. Solid Waste Management Plan.
- i. Programme of Archaeological works.
- j. Site investigations for contamination.
- k. Foundations and excavation.
- l. Surface water drainage.
- m. Ground protection.
- n. Foul water disposal.
- o. Hours of working (construction).
- p. Aircraft movements.
- q. Annual passenger numbers.
- r. No flying between the hours of 2300 and 0700, except for emergency and governmental activities.
- s. Highway improvement works to Hammonds Corner.
- t. A Lighting Scheme.
- u. Airfield Biodiversity Action Plan (ABAP).
- v. Bird Control Management Plan (BCMP).
- w. Air Quality Management Strategy (AQMS).

- x. Airport Annual Monitoring Report (AAMR).

### **Summary**

- 13.4. A proposed set of conditions have already been issued to the Rule 6 Parties for consultation in October 2010. Following the conclusion of this consultation, the Council and the Applicant have met to discuss the comments received, and the draft conditions are currently being updated to reflect the consultation responses. It is expected that a suggested set of draft conditions will be sent to the Inspectorate early in the new year for the Secretary of State's consideration.



## 14. Planning Obligations

- 14.1. The Secretary of State wishes to be informed about whether any planning permissions granted should be accompanied by any planning obligations under section 106 of the Town and Country Planning Act 1990 and, if so, whether the proposed terms of such obligations are acceptable.
- 14.2. Following the resolution to grant planning permission for both Applications on 3 March 2010, the Council and the Applicant have been actively working on the heads of terms for a section 106 agreement that were placed before the Special Committee of 3 March 2010. A draft section 106 agreement has been prepared and was circulated to the Rule 6 Parties for comment in October 2010. Following the conclusion of this consultation, the Council and the Applicant have met to discuss the comments received, and the draft section 106 agreement is currently being updated to reflect the consultation responses. It is expected that the draft section 106 agreement will be sent to the Inspectorate early in the new year incorporating the latest position
- 14.3. There is no CIL charging schedule yet progressed in the Council's area, and the proposed section 106 agreement, therefore, represents the complete planning obligation agreement with the Council in connection with the Applications.
- 14.4. This Section of my Proof provides a brief summary of the key planning obligations that will be entered into by the Applicant in the event that the Secretary of State grants planning permission for the Applications. Apart from two obligations, all the obligations will apply to both the Runway Extension and the Terminal Building.
- 14.5. The proposed obligations are material considerations in determining the Applications. However, the weight to be attached to each and the agreement as a whole is a matter for the Inspector and the Secretary of State.

### **Obligations in relation to the Runway Extension (even if the Terminal Building application is refused) and Terminal Building**

- a. Road Routing Plan for construction traffic.
- b. Travel Plan.
- c. Car Park Management Plan (CPMP).
- d. Shuttle Bus.
- e. Highway monitoring scheme and if necessary, improvement works to the airport access - the junction of the B2075 and the airport access road.

- f. Highway monitoring scheme and, if necessary, a contribution for traffic calming measures on the B2075 between Lydd and Camber.
- g. Road Signage Strategy.
- h. Noise Management Plan.
- i. Airport operational restrictions (flight paths).
- j. Employment and training Programme.
- k. Carbon Management Action Plan and Carbon Audit.
- l. Airport consultative committee.

**Obligations only in relation to the Runway Extension**

- a. Throughput restriction to 300,000ppa until the Terminal Building is operational.

**Obligations only in relation to the Terminal Building**

- a. Restriction on the occupation of the Terminal Building.
- b. Requirement to achieve 10% of energy from renewable sources.

**Summary**

- 14.6. I consider that the proposed terms of the draft planning obligations are acceptable and relevant to planning. I consider that the obligations are material considerations in the determination of the Applications.
- 14.7. I consider that the proposed planning obligations are necessary to make the proposed development acceptable in planning terms.
- 14.8. I consider that the proposed planning obligations are directly related to the proposed development. There are functional and geographical links between the Applications and the items being provided as part of the total contribution.
- 14.9. I consider that the proposed planning obligations are fairly and reasonably related in scale and kind to the development sought by the Applications, and are reasonable in all other respects.
- 14.10. By applying to extend the existing Airport, the Applicant will be accepting planning restrictions which do not currently apply to the Airport through planning obligations under section 106 of the Town and Country Planning Act 1990.
- 14.11. The proposed obligations are material considerations in determining the Applications. However, the weight to be attached to each of the obligations, and to the agreement as a whole, will be a matter for the Inspector and Secretary of State, taking in to account the

requirements under the Planning Obligations Circular 05/2005 (Core Document CD5.19).

- 14.12. A proposed draft section 106 agreement has already been issued to the Rule 6 Parties for consultation in October 2010. Following the conclusion of this consultation, the Council and the Applicant have met to discuss the comments received, and the draft agreement is currently being updated to reflect the consultation responses. It is expected that a proposed section 106 agreement will be sent to the Inspectorate early in the new year for the Secretary of State's consideration.

## 15. Conclusions

- 15.1. In this Section, I set out my conclusions.
- 15.2. The Applications seek planning permission for the construction of a 294m runway extension, a 150m starter extension, a new terminal building capable of processing up to 500,000 passengers per annum and associated parking facilities at London Ashford Airport (LAA).
- 15.3. There are a number of ecologically important designations within the vicinity of the Airport:
- a. Dungeness Special Area of Conservation (SAC);
  - b. Dungeness to Pett Levels Special Protection Area (SPA);
  - c. Proposed SPA Extension;
  - d. Proposed Ramsar; and
  - e. The Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI).
  - f. The Dungeness Local Nature Reserve, which includes the RSPB reserve.
- 15.4. I have considered the Applications against the range of national planning policy and guidance. I conclude that the proposals are in accordance with the aims and objectives of national planning policy and guidance for the following key reasons:
- a. The Aviation White Paper acknowledges that the Airport could play a valuable role in meeting local demand for air travel and could contribute to regional economic development. The White Paper supports the Airport's expansion in principle subject to relevant environmental considerations. The environmental constraints in respect of the Applications can be addressed.
  - b. Considerable regard has been given to the national, international and local designations of land. Evidence provided by a number of the Applicant's witnesses demonstrates that there will be no significant adverse impact on these important sites as a result of the Applications on the national and local designations and no adverse effects on the integrity of the SPA, pSPA, SAC and pRamsar would occur as a result of the Applications.
  - c. Assuming that passengers would otherwise use an alternative airport, by flying from the Airport there would be carbon emission savings because of the reduced car movements. Carbon emissions savings from flying from the Airport compared to flying

from Gatwick are greater than the entire carbon footprint of the operation of the Airport.

- d. The Applications will deliver sustainable economic development and contribute materially to the improvement of the economic performance of Shepway District and other areas of Kent. They accord with, and respond positively to, adopted economic and regeneration objectives for Shepway District.
- 15.5. Section 38(6) of the Planning and Compulsory Act 2004 states that Applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. This Section of my Proof of Evidence has demonstrated that the Applications comply with the development plan.
  - 15.6. The Development Plan documents of relevance to the determination of the Applications are the South East Plan and the Shepway District Local Plan Review 2006 (as saved).
  - 15.7. Little weight should be attached to the emerging development plan document policies.
  - 15.8. The Applications are supported by policies in the South East Plan, most notably Policy T9.
  - 15.9. The expansion of the facilities at the Airport is supported in local planning policy at Policy TR15 of the Shepway District Local Plan Review 2006 (as saved), subject to the impact upon sites of environmental and ecological value, and other special features, such as the Dungeness Nuclear Power Stations. I am satisfied that it has been demonstrated that the development proposals would not have an adverse affect on the integrity of the European sites and proposed European sites and that there would not be any significant adverse effects on the national and local designated or the locally important flora and fauna. I am satisfied that the impact upon the nuclear power stations and other special local features is minor and is acceptable.
  - 15.10. I conclude that the Applications are consistent with Government policies in Planning Policy Statement 9: Nature Conservation and Local Plan Policies CO8 – CO12 and CO14 in that the Applications would not have a likely significant effect on the SAC, SPA, pSPA and the pRamsar and, in any event, the Applicant's evidence shows that it is beyond reasonable scientific doubt that there would not be an adverse affect on the integrity of any of these sites. In addition, the Applicant's evidence shows that there would not be a significant adverse effect on the SSSI and other nationally and locally designated sites.
  - 15.11. Indeed, the enhancements that will follow from the implementation of the Airfield Biodiversity Action Plan (ABAP) will improve the biodiversity of the area.
  - 15.12. The Applications are not likely to have a significant adverse impact on a species protected under the Wildlife and Countryside Act 1981 or any other legislation.

- 15.13. Rule 6 parties have raised a number of issues that they considered to be material to the determination of the Applications. In respect of these, I conclude that:
- a. there are no grounds to refuse the grant of planning permission on the basis of concerns about flight paths;
  - b. the evidence of Mr Richard Perkins concludes that the noise impact of the proposed runway extension and the proposed new terminal would be minor and is considered to be acceptable and it is also a material consideration that the Applicant is prepared to restrict night time flying between 23:00 – 07:00, which is a significant concession on the part of the Airport and demonstrates willingness to minimise noise in the local area;
  - c. there is no basis to refuse the grant of planning permission for the Applications on the grounds of air quality concerns;
  - d. the Airport is accessible by a choice of means of transport;
  - e. traffic and accessibility concerns do not form a valid reason for refusing the grant of planning permission for the Applications;
  - f. flood risk does not constitute a reason for refusing the grant of planning permission for the Applications;
  - g. subject to appropriate flight path restrictions which will be controlled by planning obligation, the potential risk associated with an aircraft crashing into Dungeness power stations would be so low to ensure that there would be no grounds for refusal for the Applications on the risk to nuclear safety;
  - h. the Applications are consistent with relevant climate change policies and that there is no reasonable basis for refusing the grant of planning permission on carbon management or climate change grounds;
  - i. the Applications, including the operation of passenger aircraft out of the Airport, will have no material impact on the landscape character of the wider area; and
  - j. in 1992 the Secretary of State thoroughly considered the proposals for a runway extension at the Airport and granted planning permission for the runway extension. This illustrates a history of support and approval for the continued use and expansion of the Airport.
- 15.14. Furthermore, there are significant benefits that will accrue should consent be granted for the Applications. These include:
- a. Providing ecological enhancements;

- b. Generating much needed employment;
  - c. Providing training and development;
  - d. Contributing towards regeneration;
  - e. Contributing towards tourism;
  - f. Providing a catalyst for inward investment;
  - g. Enhancing accessibility; and
  - h. Providing noise and night-time flying restrictions.
- 15.15. In contrast, if the Applications are refused consent, these benefits will not be delivered and in addition, the Airport would continue to operate without any of the restrictions proposed such as banning night time flying and a cargo weight restriction.
- 15.16. By applying to extend the existing Airport, the Applicant will be accepting planning restrictions which do not currently apply to the Airport, through both planning condition and planning obligations under section 106 of the Town and Country Planning Act 1990.
- 15.17. The proposed planning controls to be secured by way of condition or section 106 agreement would result in a more restricted operation of the Airport than is currently the case.
- 15.18. I have addressed the matters raised by the Secretary of State drawing on my Evidence and on the Evidence given by other witnesses.
- 15.19. In my view, the Applications comply with both national policy and guidance and the development plan and there are no material considerations which indicate that planning consent should not be granted. In addition, as outlined above, the development will provide significant benefits for Shepway and its residents, contributing to both economic prosperity and environmental protection.
- 15.20. Having weighed all the factors, in particular, the potential environmental implications, as well as the benefits that will accrue, and the resolution of the Council to see the expansion of the Airport delivered, I believe that planning permission should be granted for both the runway extension planning application and the terminal building planning application.