

**Town & Country Planning Act 1990 - Section 77
Town & Country Planning (Inquiries Procedure)
(England) Rules 2000**

**Lydd Airport Action Group (LAAG)
Proof of Evidence**

**Changes since the Secretary of State's 1992 decision to grant
planning permission**

Applicant: London Ashford Airport Limited (LAAL)
Location: London Ashford Airport Limited, Lydd, Romney
Marsh, TN29 9QL
Applications: Y06/1647/SH and Y06/1648/SH
Proposals: 294m runway extension and a 150m starter extension
plus a new terminal to accommodate up to 500,000ppa
**Inspectorate
References:** APP/L2250/V/10/2131934
APP/L2250/V/10/2131936
**Document
Reference:** LAAG/6/A

Louise Barton, BSc (Ag), MCSI
Lydd Airport Action Group
The Hook
Madeira Road
Littlestone, Kent TN28 QX

December 22nd, 2010

Contents

1.0: Introduction and purpose	3
2.0: Planning history	3
3.0: Changes since the last planning application	
3.1: Ownership	3
3.2: Operational changes	4
3.3: Introduction of low cost operators	6
3.4: Changes in competition	7
3.5: Decline in passenger demand	7
3.6: Increased Protection for the Natural Environment	8
3.7: Changes in the nuclear Industry	9
3.8: The rise of terrorism	10
3.9: Tougher implementation of European Directives	10
3.10: Climate Change	10
3.11: Referendum	10
4.0: Conclusion	11
List of Appendices	11

1.0: Introduction and Purpose

1.1: My name is Louise Barton. I am the principal spokesperson for the action group opposing Lydd Airport's planning application, Lydd Airport Action Group (LAAG).

I have an Agricultural Science Degree (University of Melbourne). I worked for the Australian government's Commission of Inquiry into Rural Poverty and for the Institute of Applied Economic and Social Research on the Australian Economic Review. After moving to the United Kingdom in 1978 I became an investment analyst and spent over twenty years analysing companies and market sectors for fund managers, stock brokers/investment banks in London. Although retired, I remain a member of the Securities Institute and I am a non-executive director of a small financial software company.

1.2: In its Statement of Case (3.3) Lydd Airport maintains that the Secretary of State's 1992 decision to support the planning application for a similar development to that proposed today, illustrates the history of support at national and local level for the continued use and expansion of Lydd Airport. The purpose of this report is to demonstrate that the Secretary of State's 1992 decision to grant planning permission, cannot be taken as a material factor in determining the current planning application (Y06/1647/SH & Y0/1648/SH) due to the scale of change in the circumstances relevant to an expansion of capacity at Lydd Airport since the 1988 -1992 period.

2.0: Planning history

In 1992, following a prolonged period of consultation (original planning application filed in 1988) and a public inquiry, the then Secretary of State granted planning permission for a 296m by 37m concrete extension to the existing runway to facilitate growth in passenger numbers. For the extended runway proposal, passenger numbers were considered up to 600,000 passengers per annum (ppa). There was not an application for a new terminal. A renewal application was abandoned in 1997.

3.0: Changes since the last planning application

3.1: Ownership change

According to the land registry (title number: K534821) Lydd Airport was acquired for £4.1m on May 30th 2001. It was subsequently discovered through company house records that the ultimate owner of London Ashford Airport Ltd is Sheikh Fahad al Athel, a Saudi Arabian businessman. The ultimate holding company is FAL holdings Ltd, a company registered in Saudi Arabia.

The timing of the transaction is significant because of the operational changes that have occurred since the acquisition.

3.2: Operational Changes:

3.2.1: New non-standard flight procedures

On June 14th 2001, two weeks after Sheikh Fahad al Athel, acquired Lydd Airport, the height restrictions for aircraft movements above the Lydd (D044) and Hythe (D141) military ranges were increased from 3,200ft to 4,000ft at Lydd and from 2,000ft to 3,200 feet at Hythe.

As a direct consequence of the increase in the height restrictions above the Hythe military range, Lydd Airport was forced to introduce non standard flight procedures.

(a) In June 2006 the CAA formally approved a 5 degree offset Instrument Landing System (ILS) procedure for runway 21 (the runway direction towards the town of Lydd). This ILS procedure replaced the old ILS procedure which was not offset (See Appendices 1 & 2). Lydd Airport is the only civil airport in the UK to have a 5 degree offset ILS. The glideslope angle remained unchanged at 3.5 degrees (the steepest possible glidepath) compared to the standard 3 degrees.

The 5 degree offset ILS is less precise than a standard ILS - pilot must make a manual adjustment to bring aircraft to the centre line, unlike a standard ILS which brings pilots to the centre line. Go-arounds from the new ILS approach are more likely because it is offset from the runway centreline by the maximum allowed 5 degrees, as well as having the steepest allowable glidepath (3.5 degrees).

(b) On August 27th, 2009 the CAA formally approved new RNAV (GNSS) (Area Navigation (Global Navigation Satellite System)) instrument approach procedures (flight paths) to both runway 21 and runway 03. They are:

- 1) Landing procedure (flight path) for runway 03 for all categories of aircraft, (Appendix 3).
- 2) Landing procedure (flight path) for runway 21 for Category A & B aircraft (=up to Dash 8 turboprop size), (Appendix 4).
- 3) Landing procedure (flight path) for runway 21 for Category C aircraft (B737, A319 etc), (Appendix 5).

Again as a direct consequence of the increased height restrictions above the Hythe military range, the RNAV approach procedures for runway 21 are 14 degrees offset from the centre line compared to the existing 5 degree offset ILS procedure, necessitating almost 3 times the manual adjustment to align the aircraft with the runway centre line.

The runway 03 RNAV procedure for all aircraft types is offset 5 degrees west of the centre line to ensure aircraft stay outside the conventional 2nautical mile exclusion zone around the Dungeness nuclear power complex (R063). Note this procedure can only be used when the Lydd military range is shut (not active).

Lydd Airport maintains the RNAV procedure provides a back up to the ILS on runway 21. However, the RNAV approach to runway 21 has an advantage over an ILS in good weather as it has a more efficient arrival segment which cuts down miles and fuel so pilots may choose this procedure if weather permits.

These changes to the flight procedures since 1988-1992 necessitated by the increase in height restrictions above the military ranges, and particularly the Hythe military range, reduce the operational efficiency of the airport and increase the risk of aircraft crash damage at Dungeness relative to the position at the previous application. This is covered in more detail in LAAG/10/A.

3.2.2: Lydd Airport no longer has air traffic control radar

The Instrument approach chart in 1988 (see Appendix 2) clearly shows the existence of radar at the time of the last application. The airport has stated that it does not intend to introduce radar. In the October 2007 supplementary information¹ the airport states: *“Given the number of flight movements per annum in both the 300,000ppa and 500,000pa scenarios, it is not considered necessary to install radar service. A radar service will only be considered after the airport reaches a certain level of movements per annum.”*

It is interesting to note that this stance is at odds with the intentions stated at the Little Cheyne Court wind farm inquiry (see Appendix 5A: The Secretary of State’s decision to grant planning permission, 487, page 142 (October 18th 2005)).

It is anticipated that a replacement terminal building will be in place by the summer of 2006 and that radar will be installed and operational within a similar time frame. LAA says that no aspiring regional commercial airport can hope to be successful without radar to follow a faster and more expeditious approach control and to permit the handling of commercial aircraft regardless of weather.

Radar had an important role in assisting pilots to remain clear of restricted airspace as well as performing its principal role of ensuring separation between aircraft. It is relevant to the safety aspects of this airport. For example, the airport has no way of monitoring that pilots are conforming to the 2000ft height restriction above the nuclear power complex or are outside the 1.5nm restricted area around the Dungeness nuclear complex (see 3.2.3 below). It is entirely up to pilots to ensure they are above 2000ft and within 1.5nm.

3.2.3: New Restrictions around nuclear power stations

At the time of the last public inquiry there was a 2000ft height restriction above the Dungeness nuclear power complex but no formal airspace restriction surrounding the complex (see Appendix 2). There was an informal agreement to remain 1 nautical mile from the complex². At the time of its 1995 safety review, British Energy was only aware of a 1nm military aircraft exclusion zone. After September 11, 2001 formal flying restrictions were introduced around all nuclear power stations. The regulations apply to all aircraft whatever their size. The standard restriction has a 2 nautical mile radius, with a 2000 ft height restriction, but because a restriction of this radius would have curtailed operations at Lydd Airport, it was granted a special dispensation – aircraft taking off and landing from Lydd Airport can fly within 1.5 nautical miles

¹ Oct 2007 SEI (1) Vol.1 Ch.3 para 3.28

² According to the Officer’s Report for the old planning application, pilots were required to stay at least 1km from the power stations unless they had an altitude of more than 2000ft. This is believed to be incorrect as local knowledge indicates 1nm and aviation references are expressed in nautical miles, not kilometres

(nm) from the Dungeness nuclear power complex. The new regulations came into force on September 5th 2002 – see the original statutory instrument (Appendix 6) and the latest ILS and RNAV charts³ which show the restricted area as R063 (Appendix 1 and Appendices 3-5). A special exemption to fly within 1nm was also granted by the CAA to accommodate pilot training but was withdrawn on June 24th, 2005.

Both the 1.5nm and 2nm restriction made left hand turns on departure from runway 21 by larger aircraft physically impossible. Although restrictions were placed on aircraft making this procedure in the last planning application because aircraft were pointing at the power station, whether they were adhered to by larger aircraft in the period up to September 2002 is unknown as there was no formal mechanism for monitoring transgressions. In its current planning application Lydd Airport was still maintaining in its October 2007 submission⁴ that aircraft up to BAe 146 could turn left on departure from 21. In practice, it has not been an issue because activity at the airport since the last planning application has been dominated by light aircraft.

3.2.4: Changes in instructions to pilots about the military ranges

The 1988 ILS chart (Appendix 2) states the following with regard to the Lydd (D044) and Hythe (D141) military ranges: "Active 0800-2359 Local and When Notified". However, the official AIP entry for both ranges now gives the activity times as "H24", i.e. 24 hours a day (see Appendix 7 (Lydd)). This indicates, that although the official hours of the military today are slightly more contracted (0830-2300), the MOD has made it clear that it wants to have maximum flexibility should it choose to operate at night.

3.2.5: A new wind farm on Romney Marsh

A new wind farm has been established on Romney Marsh at Little Cheyne Court which was completed in 2009. There are 26 turbines (388ft high) located about 7.5km from the airport. Although the Little Cheyne Walk wind farm public inquiry concluded that the wind farm would not harm any proposed radar at Lydd Airport, it is another obstacle in the vicinity of the airport.

3.3: Introduction of low cost operators

Low cost scheduled airlines such as Ryanair, Easyjet and to a reduced extent, Flybe now dominate short haul air travel and today operate from most airports in the UK. Their influence over the last twenty years has improved labour productivity (number of staff employed per unit of throughput) at the airports that serve them as their business model of quick turn around with electronic check in, no frills cabin service and minimum luggage reduces the need for personnel on the ground (See LAAG/8/A).

At the time of the last planning application (1988) Ryanair, the instigator of low cost air travel in the UK and the most aggressive exponent of the low cost model, was only three years old and barely known outside Ireland. Today it is one of the world's most successful short haul airlines, carrying 66.5m passengers across 940 routes in its March 2010 financial year. Easyjet was established in 1995 and carried 45.2m

³ The charts show the 2nm radius around the nuclear power station not the 1.5nm dispensation

⁴ October 2007, Appendices 15.1 & 15.2 : - Existing Scenario South Operations only – Figure 2. Note, a BAe 146 aircraft type would be unable to conduct this procedure and stay outside the 1.5nm restricted zone.

passengers in its September 2009 financial year. It tends to fly from larger airports and at Gatwick has a 30% share of the airport's passengers. Flybe which incorporates both low cost and legacy elements in its business model, flies from smaller airports and established its current business model in 2007 when it acquired BA Connect. The airline carried 7.2m passengers in its March 2010 financial year.

The dominance of these airlines in the short haul market today means that job generation at regional airports per unit of throughput will be lower than it was at the time of the previous application. It is also worth noting that the low cost model is incompatible with an airport that intends to restrict night flying between 2300 hours and 0700 hours. Low cost operators require maximum utilisation of their fleet and therefore access to 24 hour flying. This suggests that the section 106 commitment to restrict flying at night is unsustainable and that if the airport's proposed plans are enacted it will be returning to Shepway District Council in the future to negotiate a relaxation.

3.4: Changes in Competition

3.4.1: Manston Airport

At the time of the last planning application Manston Airport (Kent International Airport) was still a combined RAF and civilian airport. The airport did not become a wholly civil airport until 1999 when the Wiggins Group (later renamed PlaneStation) applied for a licence for exclusive civil use – a year after they had acquired the airport. Despite being a wholly committed civil airport, Manston Airport has struggled. PlaneStation went into receivership in July 2005 after acquiring its major customer EUjet. The airport was acquired by Infratil for £17m in August 2005 and has remained loss making.

3.4.2: Introduction of the Channel Tunnel

The channel tunnel was officially opened on May 6th 1994 and the first train passed through the tunnel on June 1st 1994. Eurostar started its service on November 14, 1994 and at the time of its 15th birthday anniversary in November 2009, Eurostar had carried over 100m passengers, competing with both short haul airlines and cross channel ferries. It will continue to provide additional competition as other train operators (for example, Deutsche Bahn) are likely to provide services through the tunnel and expand the destination options.

3.5: Passenger demand has declined since the last planning application

Passenger demand at Lydd Airport has declined since the last planning application. The table below shows the steep decline in passenger numbers in the 10 year period before the 1988 planning application and the current planning application (first published in December 2006). Before the last planning application Lydd Airport supported over half a million passengers in the 10 year period leading up to its application. In the 10 year period prior to the current planning application there were only 25,000 passengers, a decline of 95% - the introduction of the channel tunnel in 1994 and to a reduced extent, the change in status of Manston Airport, contributing to this decline.

Table 1: Lydd Airport 10 Year Passenger History Prior to 1987/88 & 2006 Applications			
Year Previous Appl.	Passenger Numbers	Year Current Appl.	Passenger Numbers
1978	74,500	1996	303
1979	66,100	1997	2,596
1980	9,600	1998	2,370
1981	-	1999	3,430
1982	200	2000	1,522
1983	126,800	2001	65
1984	93,800	2002	3,088
1985	110,100	2003	4,498
1986	24,400	2004	4,018
1987	1,100	2005	2,817
Total passengers over 10 years	506,600		24707
Source: CAA			

3.6: Increased protection for the natural environment

3.6.1: Additional habitat designations

Since the 1987 -1992 period there has been an increase in the protection afforded the Dungeness peninsular in recognition of its unique natural habitats and supporting flora and fauna. The area designated for protection has increased and there are now multiple designations on certain parcels of land.

At the time of the last planning application (1988 -1992) there was an established Site of Special Scientific Interest (Dungeness SSSI) and the government had confirmed that Dungeness qualified for designation under the Ramsar convention on Wetlands of International Importance and was a candidate Special Protection Area (SPA) under the EC Directive on the Conservation of Wild Birds (79/409/EEC). Assessments were made for the SSSI and the proposed SPA although the latter (the Dungeness to Pett Level SPA) was not officially registered until May 2000. The proposed Ramsar did not progress due to other priorities and administrative constraints at Natural England, but its formal designation is now being proposed (see (c) below).

Since 1987-1992 there have been the following additions:

- (a) The creation of an entirely new European designation under EC Directive 92/43 on the Conservation of Natural Habitats and of Wild Fauna and Flora, called the Dungeness Special Area of Conservation (SAC). This designation was formally registered in June 2005.

(b) The amalgamation and expansion of the Sites of Special Interest in the Dungeness and Romney Marsh region to create the Dungeness, Romney Marsh and Rye Bay SSSI in 2006 - August 2006.

(c) Proposed designation: Ramsar site - in July 2010 there was official notification that parts of the Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI) and Hastings Cliffs to Pett Beach SSSI were recommended as a proposed Ramsar site (pRamsar site) because they are wetlands of international importance, for wetland habitats, threatened ecological communities and species, and water birds.

(d) Proposed designation: Extension of the SPA - At the same time (July 2010) there was official notification that the Dungeness to Pett Level Area (SPA) would be extended to include additional areas of wetland habitat.

3.6.2: Increase in area of the RSPB's Dungeness Bird Reserve

Since the last planning application the RSPB bird reserve at Dungeness has been expanded by 127.8ha to 991.2 ha, an increase of 15%.

3.6.3: New national nature reserve

The Dungeness National Nature Reserve was designated on June 16th 1998. It incorporates large tracts of the Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI) and is made up of land owned by Shepway District Council, Natural England, the RSPB and Veolia.

3.7: Changes in the nuclear Industry

3.7.1: Resuscitation of the nuclear power industry

The last planning application coincided with the building of Sizewell B - the UK's last new nuclear power station which was built and commissioned over the 1987-1995 period. It marked the decline in the industry but a shift in government policy over the last five years has resulted in support for the nuclear industry's revival and sites being earmarked for future new nuclear power plants. Although Dungeness has missed out in the current round, it remains a possible future new build site.

3.7.2: Changes at Dungeness

At the time of the last planning application both power stations, Dungeness A and Dungeness B, were generating power and owned by the government through the Central Electricity Generating Board (CEGB). Since then the industry has been nationalised, Dungeness A (now owned by British Nuclear Fuels) has ceased power generation (December 2006) and is being decommissioned while Dungeness B (now owned by EDF/British Energy) is scheduled to generate power until 2018, with a strong possibility that there will be a five year extension to its license.

3.7.3: Changes in the nuclear industry's response to the planning application

There has been a significant change in the response of the nuclear industry to the current planning application. At the time of the last planning application the Central Electricity Generating Board (CEGB) operated and owned Dungeness A & B.

In response to the last planning application, both the CEGB and the regulator, the Nuclear Installations Inspectorate (NII) raised no formal objections to the planning application on crash damage safety grounds (see point 3 of Secretary of State's decision to grant permission (September 24th, 1992) attached to Lydd Airport's Statement of Case).

In response to the current planning application, the new operator of Dungeness B, EDF/British energy has opposed the planning application on crash damage safety grounds and concerns over the development jeopardising a planning application for Dungeness C. In its letter of objection to Shepway District Council British Energy stated "*The large scale increase in air traffic around the site is a risk that should be sensibly avoided in the local and wider public interest and we maintain our strong objection to the proposed development*" (see Appendix 8). The NII has continued to raise no objections.

As a result we have an unusual, and possibly unprecedented, situation where the regulator is sanctioning higher levels of risk than the operator.

THIS IS A MATERIAL CHANGE IN THE PERCEPTION OF CRASH DAMAGE RISK PARTICULARLY WHEN IT IS SET AGAINST THE BACKGROUND OF ONE, RATHER THAN TWO ACTIVE REACTORS.

3.8: The rise of terrorism

The terrorist attack of September 11th, 2001 worldwide transformed governments and the public's awareness of terrorism and made it believable that a deliberate terrorist attack on installations such as Dungeness could occur. The regulations mentioned in 3.2.3 are a direct response to this heightened awareness.

3.9: Tougher implementation of European Directives

Sufficient time has passed for a number of loopholes in the implementation of European directives to be rectified as a result of a body of case work.

3.10: Climate Change

Climate change is now taken seriously by most governments around the world.

3.11: Referendum

In April 2007 Shepway District Council held a referendum which showed that 66% of the local population was opposed to Lydd Airport's expansion. Residents were asked: *Do you support the proposed expansion of Lydd (London Ashford) Airport including any runway extension? Yes or no?* This was a decisive NO result and reflects residents desire to preserve the unique environment of Romney Marsh.

No referendum was held at the time of the last planning application. This was the only valid measure of public opinion throughout 2006-2010 period. The results of the referendum are shown in Appendix 9.

4.0: Conclusion:

The Minister of State's previous decision cannot be regarded as a material factor in determining this planning application because of the scale of change in factors outside the airport's control which have implications for:

- (1) The airports operational efficiency and ability to compete and therefore its capacity to create the economic benefits it purports its development will produce;
- (2) The protection of the environment and the legal redress that is now possible under European law.
- (3) Nuclear safety and the welfare of residents and the environment.

The operator of Dungeness B has opposed the current planning application, whereas at the time of the previous application, the operator chose not to oppose the application. This is a material change in the perception of risk particularly as it is set against the background of one, rather than two active reactors.

Appendices:

Appendix 1:

New ILS flight procedure - 5 degrees offset from runway centre line (AD 2-EGMD-8-2 (14 Jan 10): The original chart dated June 2006. Appendix 1 is the latest version, updated to show the location of the Little Cheyne Court wind farm

Appendix 2:

Old ILS procedure chart dated May 5, 1988 showing no offset from the runway centre line

Appendix 3:

AD 2-EGMD-8-1 (14 Jan 10): RNAV (GNSS) landing procedure for runway 03 for all categories of aircraft (Cat.A.B.C.)

Appendix 4:

AD 2-EGMD-8-3 (14 Jan 10): RNAV (GNSS) landing procedure (flight path) for runway 21 for Category A & B aircraft (=up to Dash 8 turboprop size)

Appendix 5:

AD 2-EGMD-8-4 (14 Jan 10): RNAV (GNSS) landing procedure for runway 21 for Category C aircraft (B737, A319 etc)

Appendix 5A: The Secretary of State's decision to grant planning permission for the Little Cheyne Court wind farm, October 18th 2005, page 142

Appendix 6:

Statutory Instrument: SI 2002/2254: The Air Navigation (Restriction of Flying) (Nuclear Installations) Regulations 2002

Appendix 7:

UK AIP showing 24 hour operation for Lydd Ranges (D044)

Appendix 8:

British Energy's objection letter dated December 18th, 2007

Appendix 9:

Result of the referendum conducted by Shepway District Council