**LYDD AIRPORT, LYDD, ROMNEY MARSH, KENT**

**CALLED IN INQUIRY INTO APPLICAITONS BY LONDON ASHFORD AIRPORT LTD**

**ADDENDUM TO STATEMENT OF CASE ON BEHALF OF THE RSPB**

***It is not accepted that this is required but is provided in accordance with the request of the Inspector – this is very largely cut and pasted from the RSPB’s Opening Speech***

1. The proposals involve creating an airport to handle commercial passenger jets where there is currently a very low key airfield operation.

**The Ornithological Issues**

1. At present, the very substantial and important bird population of the SPA/pSPA and pRamsar and the surrounding areas lives alongside a low key operation at LAA:
	1. overwhelmingly small, non-jet planes which have limited off site impacts;
	2. a very limited number of larger planes (greater than 5700kg) amounting to at most about 2 a day in 2010: see Tim Maskin’s rebuttal appx 1;
	3. existing movements not being on the southern flight path over the firing ranges or at least if they are in a very low key, temporally limited way;
	4. no commercial passenger jets and no realistic prospect of any being attracted: see LC para 5.47;
	5. as a result of that mix of movements and the limited bird strike risk (“BSR”) to which it gives rise, very limited on-site bird control activity amounting to a handful of short vehicle runs each day to scare on airfield birds away;
	6. apparently non-existent (with the exception of pheasants) off site bird control activity;
	7. no buffer zone created;
	8. no safeguarding objections pursued;
	9. no significant need for habitat intervention in the surrounding area; and
	10. limited actual hours of operation.
2. Under the proposals, large, fully laden passenger jets will be able to use LAA for the first time. The number of movements (16/18 per day) will be in addition to all existing activity.
3. The use of the airfield by commercial passenger jets will necessitate a very substantial change in the intensity, extent and nature of bird control activity with the following new or significantly more intense activities for example:
	1. On site:
		1. continuous bird scaring activities throughout the day;
	2. Off-site:
		1. creation of a large buffer zone around the airfield;
		2. the implementation of a safeguarding regime;
		3. habitat interventions off airfield to an unspecified extent and without any proposals for mitigation for the effects; and
		4. unspecified possible further activities off airfield of an unexplained intensity, duration or impact.
4. The SoS cannot lawfully grant permission without grappling now with the fundamental issue as to whether the change in bird control activity causes or contributes to an adverse effect on the integrity of the SPA. Putting off that question to later assessment would be unlawful.

**Fallback**

1. Because the LAA is relying on a claimed fallback position in assessing impact on birds, the RSPB will examine the lawful extent of the claimed fallback in the airport operations and socio-economic sessions.
2. For factual and legal reasons, there is no fallback under which significant increases in activity at the airfield would occur in the absence of planning permission here.
3. LAA’s case on bird impacts (and particularly that of Mr Deacon) appears to be heavily predicated on a fallback position that absent a permission here, expansion will occur anyway and that will bring with it the same or worse impacts as those arising from these proposals (night flying, safeguarding, similar bird control; no s.106 and conditions to regulate activity; and no cap on movements).
4. On a correct analysis, it will be shown through cross examination and legal submissions that, factually and legally, there is no fallback under which existing operations may grow substantially to the point at which they could have anything like the same effects as these proposals.
	1. on the facts, because the physical infrastructure currently available has been in place and heavily marketed for a sustained period with no significant take up. No airlines have been attracted (and no case is put that they will be). The level of activity seen today is the best evidence of the level of demand for the facility. If there was additional demand (save for the parcel service referred to by LC) it would have materialised. There is no evidence of a lack of capacity to serve Kent and south east London’s business and general aviation requirements at the far more conveniently and centrally located Manston and/or Biggin Hill;
	2. Legally, because in the event of permission being refused here, LAA/NE/CAA and/or SDC as competent authority would have to subject any plan or project for a substantial intensification of aviation or bird scarring activity to the full rigour of the 2010 Habitats Regulations. If the fallback would have the same or worse impacts than these proposals, they would fail an appropriate assessment just as these proposals would.
	3. Further to the extent that any such proposals involved operational development, if they were to have significant environmental effects they would not benefit from GPDO rights and would require EIA which would have to assess the full implications of the potential those proposals released. Full legal submissions will be made in closing.