



Dear Councillor,

I understand that some Councillors have concerns regarding the legal tests associated with our applications. I have set out below a short summary of the relevant points.

The law protecting the European conservation sites is known as the 'Habitat Regulations'. In the case of Lydd Airport they apply to the Dungeness Special Area of Conservation (SAC) and the Dungeness to Pett Levels Special Protection Area (SPA). A development can be allowed if it does not 'adversely affect the integrity' of a site. An applicant must show this, 'beyond reasonable scientific doubt.' The legal test for Councillors in respect of this is not to be absolutely certain of the effects on birds, rather Councillors are *reasonably satisfied* from the variety of scientific evidence before them that the proposals would not adversely affect the integrity/coherence of the designated Special Protection Area across its *whole area*.

The 'integrity' of a site is taken to mean the way that a site functions across its *whole area*, in other words, its ability to support the wildlife it was designated for. In the case of the SAC, which is designated for a range of habitats, plants and animals, there is a consensus with Shepway District Council that the site's integrity would not be affected. In the case of the SPA, which is designated for birds (mainly species which like gravel pits, such as terns, ducks and swans), the airport's expert advisors in this area are very clear that there will be no adverse affect on the integrity of the Special Protection Area (or indeed the other candidate protection areas).

In plain terms, aerodromes and bird reserves can and do co-exist. A great deal of evidence has been tabled to support this. In brief, the evidence is based on research work specific to Lydd Airport, and experience drawn from other aerodromes around the world. The airport has engaged leading experts in this field.

The Officer's Report states that the integrity of the SPA would be affected. However, no evidence has been presented to support this. You are lawfully able to disagree with this view, if you find the evidence that the Airport has put forward makes you 'reasonably satisfied' that the integrity of the SPA would be preserved.

Councillors should consider all of the evidence before them on the potential impact on birds. Councillors do not have to accept the Officers' recommendation and are lawfully able to make up their own minds based on all of the evidence before them.

Kind regards,

Jonathan Gordon