From: Barry Gilbert

Dear Sir, Re: Lydd Airport proposals.

Case for modification of Lydd Airport proposals in alignment with UK and European Laws.

The Great Crested Newt is widespread in Europe but is threatened and in decline throughout much of its range. Britain, in particular, Romney Marsh, has probably Europe's largest population and is, therefore, very important to the continuing survival of the Great Crested Newt plus a number of other wildlife.

The species has been in decline for a number of years with Great Crested Newts becoming increasingly rare or absent in some areas.

The Great Crested Newt is fully protected under UK and European Law due to its decline and vulnerability due to loss of habitat and breeding ponds, which has initially been considered.

The Laws.

The Great Crested Newt is a European Protected Species by virtue of being listed under Annex IVa to the EU Habitats and Species Directive 1992. It is protected under UK law by the Conservation (Natural Habitats &c.) Regulations, which translates the Habitats Directive into UK legislation, and also under the Wildlife and Countryside Act 1981 (as amended).
It is also a UK BAP Priority Species.

Work within 500m of Great Crested Newt terrestrial habitat and breeding ponds requires a DEFRA development licence to be obtained prior to the commencement of works. A requirement of such a licence is that sufficient GCN presence/absence surveys and surveys to determine the populations of the GCN’s in the area have been completed. It is usual for such a DEFRA licence to include mitigation, habitat enhancements along with protective exclusion fencing. These measures normally satisfy PPS9 and all planning conditions, however, it would appear that such an exercise compliant with Lydd Airport proposals would need to be considerably extensive, expensive, disruptive to wildlife and ineffectual.

Failure to comply with EU legislation pertaining to EU Habitats and Species Directive, I believe, holds potential fine of £5,000 and/or imprisonment.

The following, from research, I believe

The Lydd Airport development proposals appear to require bringing themselves before the European courts, in order to lawfully proceed, certainly under EU law, as failure to comply is designated a criminal offence.

I cite recent measurements using Google Earth, whereby proposals appear to conflict with the 200 meter habitat, 500 metre DEFRA licence and 800 meter predatory range specifications> it is illegal to disturb or kill the Great crested newt.

Various laws protect other species on Romney Marsh in similar fashion. Licences can be raised for removal of amphibians and other
wildlife, however, in real terms this would appear to suggest complete removal of wildlife from Romney Marsh, due to the biographic and geological position of Romney Marsh. Such an exercise would certainly challenge the European Parliament's powers of legislation, therefore an explanation is required.

The laws are slanted towards small isolated habitats and ponds, upon which consultation and approval has been previously sought.

History.

Lake and ponds to the east of the present runway are the last remains of the River Rother before it changed course to exit through Rye. The area was formed by shingle banks created by storms, resulting in lakes that became fresh water. The Rother was responsible for development of shipping, transport of travellers, including several monarchs, bishops and others. We have records that show the river was in use by the Saxons in 700 AD. Therefore, the area is a prominent piece of English pre-medieval history, and within the area are the descendants of many creatures from that time: the area is a living bio-archeological time capsule. The wildlife are sustained via the matrix network across Romney Marsh. Diagram attached. It would be more appropriate to apply for a grant to protect the area through the EU, than to isolate or destroy a unique piece of living English history, with known connection to our own
Saxon ancestors by construction and disruption.

Proposed management of wildlife areas.
Lydd airport proposes a wildlife management scheme.

The scheme suggests management of moths, reptiles and insects, for example; the proposals are weak and vague.

Wildlife management proposals, even at professional levels, have a disastrous track record. Numerous scientific papers provide data and correlations pertaining to crises and disasters created by such schemes. Lydd airport has apparently failed to adequately consider the financial resources necessary to begin approaching such issues, which by nature are considerable.

The inspector’s report supports the belief that wildlife management has not been adequately considered at outset by example of proposals to construct ducting, appearing to destroy natural amphibian habitat at outset. Further, it appears such construction interferes with the wildlife network matrix, therefore the present plan and model for development appear inadequate, perhaps a crisis in the making.

In assessing proposals to extend a runway across an area prolific with established wildlife, even if laws were not to be broken, one must consider the following: do the benefits outweigh the harm, because there is always harm.

Any action taken causes change to an environment, any change effects some plant or animal. It is inevitable. There is no free lunch. Forays in to legislation cost. Forays in to legislation that is to be ignored, poorly managed or broken cost considerably more. (Case references in Sunstein, pp200-1).

Perhaps one of the most prominent examples to date of failure to sufficiently measure proposals and financial costs was published by The Harvard Centre for Risk Analysis: Tengs et al, 1995. For full
discussion, see Lomborg, p338ff. He concludes: When we ignore the cost of our environmental decisions...we are in reality committing statistical murder.

Example>

An abstract of a scientific paper by D.I. Beck.

The proliferation of citizen ballot initiatives to control wildlife management is a direct reaction to fundamental flaws in the organizations and culture of wildlife management agencies. Thus, agencies characteristically are reactive in nature, stifle employee initiative, punish critics, and are loath to change. Adherence to a model as an operating paradigm has strongly contributed to a variety of natural resource crises. Future success as a profession will require major changes in culture and organization. Internal agents of change are the least painful, but there is little evidence of such change occurring.

Reading reference>

Kirkwood J and Best (1998)

Treatment and rehabilitation of wildlife casualties, legal and ethical aspects.

Romney Marsh is not a single habitat. Romney Marsh is an interrelated ecosystem, a complex series of habitats, dykes, dew ponds, paths, 'roadways' and predatory zones, a matrix. Wildlife ‘commute’ along the
matrix of interconnected habitats, feeding and water sources, continuously.
Removal of any species from proposed development areas on Romney Marsh simply creates a vacuum for further members to fill, thus nullifying licence, section and removal procedures, in turn recreating an unlawful situation. The google photographs, I believe, show an initial outline of amphibian suitable areas that support the matrix corridor concerns highlighted by both Kent and Sussex wildlife society’s. This is crude and uncomprehensive, as Romney Marsh is a complete matrix of water sources, habitat and semi-wet areas, therefore an area attributable but unnecessary to include in total for our purposes.

As this is an area of prioritised conservation, SAC, RAMSAR, SPA, it is of first class international importance.

Therefore, an examination is required to be in the format of a test, set against conservation criteria as defined in EC legislation, as ratified by the UK government.

Unless matters are addressed accordingly, to hinge responsibility upon the opinions of a single inspector is clearly irresponsible, in that resounding ramifications and costs shall inevitably rise to the fore.

Romney Marsh, recorded in The Doomsday Book as ‘Asmanslant’, (which remains a legal reference in a court of law) is formed from Marshland, hence the wildlife, much of which has existed here for over 1,000 years, and therefore presumably enjoys a level of legal precedence, as does the horse, on a highway.

Conclusion.

Point one.

I believe, the apparent representation to advantage of a private company by a councillor, prior to vote, sits uncomfortably with very many members of the public. If I have been reminded correctly, the
inspector at the full council vote did not permit questioning procedure, a decision that would appear to suggest investigation may be required.

Point two.

Lydd Airport proposals for wildlife management would seem to have been selective with legal responsibilities, or at best, in over sight. We have seen no contractual commitments of financial resources to be placed available for wildlife management proposals or any workable plan, in documentation or function, it would appear, appropriate or acceptable in law. A proposed model already shows apparent faults.

In consideration of the wildlife laws that currently exist, it would appear that the airport runway has been granted extension approval without consideration of UK and EU laws; which might be in contravention of those laws, compounded with the position of point one.

If licence were obtained for intervention, the vacuum of wildlife created will draw other wildlife from across Romney Marsh.

Following a few years of depletion and removal, as per licence requirements, prior to construction, the population rate of GC Newts entering the runway extension proposal area will rise again, culminating in a higher rate of slaughter, which once again breaks UK and EU law, a repeat of prospects carrying potential criminal prosecution.

Therefore, I believe, point one requires satisfactory addressing, with a published result.

Point two, I believe, requires re-consideration and addressing in accordance with current UK and EU laws, with special reference to the unique history and biological status.
Best regards,

Barry Gilbert.