



In the High Court of Justice  
Queen's Bench Division  
Administrative Court

CO Ref:CO/8135/2010

In the matter of an application for Judicial Review

The Queen on the application of Laura Millard

versus Southend on Sea Borough Council

Interested Party London Southend Airport Company Ltd

**Application for permission to apply for Judicial Review  
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant [and the Acknowledgement(s) of service filed by the Defendant and / or Interested Party]

Order by the Honourable Mr Justice Cranston

1. **Permission is hereby refused.**
2. **Costs of the defendant to be assessed (if not agreed)**
3. **No order for costs for Interested Party.**

Reasons:

None of the claimant's grounds are arguable.

1. Grounds 1 and 2: Base case/EIA: In broad outline it is said that it was wrong for the Council to accept the base case as advanced as the true fall back position, when the latter is said to involve less activity/question marks over viability. But the base case was grounded, for example, on the expert report. It took into account matters such as the new railway station/terminal. The position in 2003, indeed 1999, cannot be determinative given the now different modes of airport management and operational measures. The officers' report explained the base case and treated it as a real possibility, for good reasons, including what the airport itself has said and done. There is no error of law, whether it be in relation to material considerations/error of fact.
2. Ground 3: Cumulative JAAP development. The case that the Council did not assess the cumulative impact fails because as a matter of planning judgment the Council was entitled to regard the JAAP process as inchoate.
3. Ground 4: Article 8 and night flights. The argument that the Council failed to strike the fair balance required by Hatton gets nowhere in the light, for example, of the planned s.106 agreement imposing noise controls/mitigation measures.

There is no need to address the nice issues raised by the claimant on delay.

Signed

\*delete where not applicable

- 1 FEB 2011

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date):

Solicitors:

Ref No.

**Notes for the Claimant**

If you request the decision to be reconsidered at a hearing in open court, you must complete and serve the enclosed FORM within 7 days of the service of this order – CPR 54.12