

From: [REDACTED]
To: [Manston Airport](#)
Subject: Urgent request of the Examining Authority
Date: 01 March 2019 13:17:01
Attachments: [CAA Air Freight Data.pdf](#)
[Eurotunnel Settlement.pdf](#)
[Irish Times.pdf](#)

Dear Sirs

In light of today's news with regards to the Seaborne Freight/Eurotunnel settlement and £33m cost to the public purse, (see attached, Eurotunnel Settlement.pdf), I have **urgent concerns** regarding key similarities between both the Seaborne case and the current DCO application for Manston Airport development, as follows:

- It is my understanding that a key factor in the Eurotunnel case has been a question regarding the need for additional freight capacity and how this might already be serviced - or could be serviced - by existing operators.
- It is my further understanding that similar issues exist with regards to questions of due diligence on a two year old startup company, (in this case), with no track record of airport operations and which - similar to Seaborne - has yet again failed to present any firm evidence of financial backing in its most recent responses to the ExA's written question, (TR020002-003366, Question F.1.4). I will remind the ExA that Seaborne had also relied on only reported conversations and expressions of interest from its backers, Arklow Shipping, which were subsequently withdrawn as no formal agreements or contracts were in place. (See attached, IrishTimes.pdf).

In light of the above, and of the extraordinary circumstances regarding the Eurotunnel settlement, **I respectfully request that the ExA might urgently consider the following:**

1) We note that under the revised list of Principal Issues at Annex B of the Rule 8 letter, **Need** now includes at item (iv) "*Competition with, and possible displacement from, other UK airports*".

2) I am aware that **Heathrow Airport Ltd** has registered its interest as an interested party, (RR-0660), stating only that it wishes "*to reserve the right to make representations on any matters arising during the course of the examination which may affect UK airspace and/or which may impact the current or future operation of Heathrow Airport*". Given Heathrow's preferential position in the Airports National Policy Statement and contradictory information from the Applicant regarding both the need for more air freight capacity and Heathrow's inability to service this need, the Eurotunnel ruling now makes it of paramount importance that Heathrow might be invited to comment on this issue as part of the Examination process and at the earliest opportunity. This might also be a consideration for the upcoming Issue Specific Hearing on Need and Operations, scheduled for 21 March 2019.

3) Similarly, although several other air freight servicing airport operators in the UK may not have yet registered as interested parties, under Principal Issue, **Need**, Item (iv), other UK Airports should be considered in the context of competition, displacement and **potential legal challenges similar to the Eurotunnel/Seaborne case**. As such, other **air freight servicing airports in the UK should also be invited to comment and set out their positions**, regardless of whether or not they have already registered as an interested

party. On this point, I would remind the ExA that part of the issue with the Eurotunnel case is that Eurotunnel was not considered or invited to comment during the Department of Transport's assessment. The CAA might be approached for a comprehensive list of all such airports and airport operators. I have attached current CAA data from January 2019, (CAA Air Freight.pdf), which might be of some initial assistance.

4) Whilst the Applicant has focused solely on the question of Need with regards to Air Freight, the ExA should **consider whether need and ability to service that need might be considered in a broader context of freight generally** and, as such, whether impact on existing freight carriers - including ferry, rail and road, might also be impacted or have a case on competition grounds. Again, this is highlighted in that the Eurotunnel case shows that alternative methods and routes of freight carriage - in this case rail - were not given due consideration in the narrow scope of ferry freight operations.

5) In its response to S51 Advice on Funding submitted at Deadline 1, (TR020002-002881, Enclosure 1), the Applicant stated its intention to provide details of restructuring, including full transparency with regards to its corporate structure, *"further evidence funds will be available to enable the Compulsory Acquisition of land and rights within the relevant time period"* and *"further information in respect of RiverOak Strategic Partner's (RSP) accounts, shareholders, investors and proof of assets"* at Deadline 3. To the best of my knowledge, the applicant has again failed to do so. Its answers to the ExA questions at F.1.4 suggest only discussions with potential investors - without any supporting evidence - who have merely *"expressed interest"*. Again, there are stark similarities with the Seaborne/Arklow Shipping case and, given the subsequent collapse of that contract and significant cost to the public purse, it is surely of paramount importance that a high bar is set in the DCO examination. I respectfully request that the ExA should **issue a swift judgement on whether or not it is satisfied** that regulation 5 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 have been met in as to the question of whether the Applicant has provided *"as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required"*. Further, whether or not the ExA is satisfied that the information provided sufficiently answers its question at F.1.4.(ii) as to providing *"evidence to demonstrate that there is a reasonable prospect of the requisite funds for constructing and operating the project becoming available"*.

Kind Regards
Jason

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Jason Jones-Hall
Director
Five10Twelve



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Freight 2006 - 2016 Tonnes

Table 13.2

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Percentage change on past year
London Area Airports												
GATWICK	211 857	171 078	107 702	74 680	104 032	88 085	97 567	96 724	88 508	73 371	79 588	9
HEATHROW	1 263 129	1 310 987	1 397 054	1 277 650	1 472 988	1 484 351	1 464 390	1 422 903	1 498 906	1 496 537	1 541 029	3
LONDON CITY	-	-	-	-	-	-	-	-	28	24	69	188
LUTON	17 993	38 095	40 518	28 643	28 743	27 905	29 635	29 074	27 414	28 008	25 426	-9
SOUTHEND	70	134	16	-	3	6	9	1	6	5	-	-
STANSTED	224 312	203 747	197 738	182 810	202 238	202 580	214 160	211 952	204 725	207 996	223 203	7
Total London Area Airports	1 717 360	1 724 040	1 743 028	1 563 783	1 808 005	1 802 926	1 805 761	1 760 654	1 819 587	1 805 941	1 869 314	4
Other UK Airports												
ABERDEEN	4 022	3 434	4 006	3 822	4 211	5 311	6 166	7 102	6 278	6 545	5 731	-12
BARRA	36	35	34	30	29	28	26	22	20	15	15	-3
BELFAST CITY (GEORGE BEST)	827	1 057	168	138	155	457	581	527	491	551	476	-14
BELFAST INTERNATIONAL	38 417	38 429	36 115	29 804	29 716	31 062	29 095	29 288	30 073	30 389	7 597	-75
BENBECULA	245	240	235	224	195	172	134	42	6	6	5	-15
BIRMINGHAM	14 681	13 585	12 192	13 070	21 605	16 626	19 088	21 067	5 119	7 164	30 010	319
BLACKPOOL	55	41	47	46	41	3	-	-	-	-	-	-
BOURNEMOUTH	5 068	253	17	4	304	-	1 121	1 818	1 888	1 565	-	-
BRISTOL	32	20	3	-	-	-	-	-	-	-	-	-
CAMBRIDGE	45	129	18	15	11	-	-	-	-	-	-	-
CAMPBELTOWN	2	1	1	1	-	-	-	-	-	-	-	-
CARDIFF WALES	2 212	2 391	1 334	178	28	377	66	48	36	26	5	-82
COVENTRY	7 785	7 469	5 921	2 440	-	564	2 500	2 355	2 303	2 259	2 032	-10
DONCASTER SHEFFIELD	167	1 602	1 350	344	216	102	276	354	858	3 201	9 341	192
DURHAM TEES VALLEY	457	786	290	298	-	3	-	-	2	-	8	-
EAST MIDLANDS INTERNATIONAL	272 303	274 753	261 507	255 121	273 669	264 595	264 292	266 968	277 413	291 689	300 101	3

EDINBURGH	36 389	19 292	12 418	23 791	20 357	19 332	19 115	18 624	19 369	19 322	20 369	5
EXETER	63	68	47	25	10	15	4	1	1	-	-	-
GLASGOW	6 289	4 276	3 546	2 334	2 914	2 430	9 497	11 837	15 411	13 193	12 921	-2
HUMBERSIDE	144	144	168	241	600	1 132	621	153	129	148	123	-17
INVERNESS	652	568	526	452	144	-	-	-	-	-	-	-
ISLAY	245	272	275	229	213	209	168	207	218	233	231	-1
ISLES OF SCILLY (ST.MARYS)	164	174	180	143	140	115	90	67	78	59	76	28
ISLES OF SCILLY (TRESKO)	350	37	38	29	30	24	18	-	-	-	-	-
KIRKWALL	102	108	106	89	84	58	33	38	36	38	35	-9
LANDS END (ST JUST)	85	21	18	19	22	12	16	61	57	69	71	3
LEEDS BRADFORD	101	109	334	359	235	194	282	324	68	8	22	167
LIVERPOOL (JOHN LENNON)	5 724	3 709	3 740	264	265	168	130	278	236	197	270	37
MANCHESTER	148 957	165 366	141 781	102 543	115 922	107 415	96 822	96 373	93 466	100 021	109 630	10
MANSTON (KENT INT)	20 841	28 371	25 673	30 038	28 103	27 495	31 078	29 306	12 696	-	-	-
NEWCASTLE	306	785	1 938	2 597	3 650	3 059	2 956	3 701	4 450	3 717	4 574	23
NEWQUAY	-	-	-	-	-	-	-	-	12	-	2	-
NORWICH	126	188	239	339	266	330	213	160	247	346	407	18
OXFORD (KIDLINGTON)	-	-	-	-	-	-	-	-	16	-	6	-
PENZANCE HELIPORT	196	217	190	156	159	135	95	-	-	-	-	-
PRESTWICK	28 537	31 517	22 966	13 385	12 163	11 846	10 314	9 526	12 540	11 242	10 822	-4
SCATSTA	730	765	723	752	765	808	873	849	788	702	456	-35
SOUTHAMPTON	195	297	264	209	116	132	359	133	133	185	173	-7
STORNOWAY	520	558	551	475	192	115	154	114	114	101	94	-7
SUMBURGH	86	104	144	53	268	315	362	329	335	382	306	-20
TIREE	25	24	23	21	19	25	19	21	11	13	8	-36
WICK JOHN O GROATS	5	2	2	1	-	-	-	-	1	1	-	-73

Freight 2006 - 2016 Tonnes

Table 13.2

Total Other UK Airports	597 186	601 198	539 125	484 078	516 817	494 662	496 566	501 695	484 897	493 387	515 917	5
Total All Reporting UK Airports	2 314 546	2 325 238	2 282 153	2 047 861	2 324 822	2 297 588	2 302 327	2 262 348	2 304 485	2 299 328	2 385 231	4
Non UK Reporting Airports												
ALDERNEY	281	290	323	275	216	182	161	128	119	109	95	-13
GUERNSEY	3 582	3 420	3 309	2 901	2 132	2 194	1 940	2 026	2 027	1 911	1 865	-2
ISLE OF MAN	897	533	595	500	404	424	433	447	358	314	262	-17
JERSEY	4 875	4 416	4 332	3 672	3 027	2 634	2 478	2 823	2 876	2 667	1 895	-29
Total Non UK Reporting Airports	9 635	8 659	8 560	7 348	5 778	5 434	5 013	5 425	5 380	5 001	4 116	-18

Please note that figures may change overtime as each new version is produced. Information relating to an airport that has ceased to handle regular traffic/closed will be excluded from this table completely. For data concerning historical years it is recommended that you use earlier produced versions of this table.

The Guardian



Grayling reaches £33m settlement over Brexit ferry fiasco court case

Transport secretary agrees deal with Eurotunnel, which was suing government

Lisa O'Carroll *Brexit correspondent*

Fri 1 Mar 2019 10.59 GMT

The government has settled a high court case over the Brexit ferry fiasco after reaching an agreement worth up to £33m with Eurotunnel, which was suing it after the award of a contract to a company with no ships.

The out-of-court settlement led to immediate calls for the transport secretary, Chris Grayling, to be sacked.

Grayling, said in a statement: “The agreement with Eurotunnel secures the government’s additional freight capacity, helping ensure that the NHS has essential medicines in the event of a no-deal Brexit.”

Eurotunnel was suing after Grayling awarded a contract for a ferry service to Seaborne Freight from the disused port of Ramsgate. Two other companies, DFDS and Brittany Ferries, were awarded contracts worth £108m.

The intention was to use the route between Ramsgate and Ostend in Belgium for emergency medical supplies in the event of no deal.

“While it is disappointing that Eurotunnel chose to take legal action on contracts in place to ensure the smooth supply of vital medicines, I am pleased that this agreement will ensure the Channel tunnel is ready for a post-Brexit world,” said Grayling.

Labour said the latest development showed Grayling should go. “His conduct as a minister is one of serial failure and routine incompetence. In any other sphere of life he would have been sacked long ago. I say yet again: this trail of destruction has gone on long enough. It’s time for Chris Grayling to go,” said Andy McDonald, the shadow transport secretary.

He pointed out that the settlement fell on the same day that a National Audit Office report showed “disastrous decisions by Chris Grayling at the Ministry of Justice have wasted nearly half a billion pounds of public money” and a public accounts committee report on Wednesday on his “mismanagement of the railways”.

In a statement, the government said: “As part of the agreement, Eurotunnel has also withdrawn its legal claim against the government, protecting the vital freight capacity that the government has purchased from DFDS and Brittany Ferries.”

The out-of-court settlement has been combined with a new £33m deal with Eurotunnel to provide freight capacity for transit of medical supplies in the absence of a Brexit deal.

The government said the primary reason it decided to come to an out-of-court agreement with Eurotunnel “was to ensure these vital goods would not be put in jeopardy in a no-deal scenario”.

Grayling was being sued by Eurotunnel over the allegedly unlawful award of a government contract to the companies, in a case due to start on Friday.

It argued that the government had breached public procurement rules by not putting the contracts out to tender.

Seaborne’s contract was worth £14m but was cancelled last month after it emerged that its supposed backer, Arklow Shipping, had no written deal with either the ferry company or the port.

On Monday, Grayling was accused of trying to conduct large parts of a trial over the £14m Brexit ferry fiasco in private, against the principle of open justice, the high court has heard.

The Brexit secretary, Stephen Barclay, said: “Our focus is firmly on delivering a deal but it is important we prepare for all scenarios. We are taking steps to ensure supply chains continue to function, whatever the circumstances of our departure, and that mitigation is in place to avoid disruption at borders.”

The health secretary, Matt Hancock, said: “As set out to parliament this week, securing additional transport routes is a key component of our no-deal preparations so I’m pleased this case has been settled amicably and we can count on these extra supply routes as an important part of that contingency.

“While we never give guarantees, I’m confident that, if everyone - including suppliers, freight companies, international partners, and the health and care system - does what they need to do, the supply of medicines and medical products should be uninterrupted if we leave without a deal.”

The settlement is the latest sorry chapter in the ferry fiasco and the high court trial, which was due to start on Friday, would have potentially heaped more embarrassment on Grayling.

Four days after the contract was awarded, questions were being asked about the readiness of Seaborne Freight to handle the £13.8m contract after it turned out that terms and conditions on its website appeared to be intended for a food delivery firm.

Eurotunnel said the settlement would “ensure that the Channel tunnel remains the preferred route for vital goods to travel between the EU and the UK”.

It added that under its deal with the government, “the development of infrastructure, security and border measures ... will guarantee the flow of vehicles carrying urgent and vital goods and ... will keep supply chains essential to both industry and consumers moving”.

Government sources claimed the decision to settle the case was made collectively. With the UK due to leave the EU at the end of the month, ministers felt they could not take the risk that crucial medical supplies were jeopardised while legal wrangling continued, the source added.

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Wicklow shipping company 'had no contract' with UK no-deal Brexit firm

Arklow Shipping had numerous talks about ferry service but had 'no formal agreement'



Mon, Feb 11, 2019, 13:19 | Updated: Mon, Feb 11, 2019, 14:38

Simon Carswell Public Affairs Editor

An Irish shipping business that the UK government claimed pulled support from a company contracted to provide ferries in the event of a no-deal Brexit had “no contractual agreement” with the firm, a well-placed source has said.

The British Department of Transport said it had decided to cancel a contract with Seaborne Freight to provide additional ferries across the English Channel to ease post-Brexit pressure on Dover after Arklow Shipping, which it described as the company’s “backer”, decided to “step back from the deal.”

The awarding of the £13.8 million (€15.7 million) contract to Seaborne to run ferries from Ramsgate in England to Ostend in Belgium caused a storm of controversy when it emerged that the company had no ships and that the terms and conditions on its website appeared borrowed from a food delivery firm.

The Co Wicklow firm declined to comment on the department’s statement when contacted by *The Irish Times*. However, a source close to the firm said that while it had discussions with Seaborne about providing ships, it was never “a backer” or had “any formal agreement” with Seaborne, nor was it “a contract partner.”

Arklow Shipping, a long-established shipping business owned by the Tyrell family, “stepped away” from further talks with Seaborne “for commercial reasons,” said a source with knowledge of the firm’s dealings with Seaborne.

Arklow Shipping owns and operates a fleet of 55 dry bulk vessels from two bases, its home base in Co Wicklow and Rotterdam in the Netherlands.

The company’s managing director James A Tyrell wrote to UK transport secretary Chris Grayling last month, saying the firm had talks with Seaborne over the previous 12 months. He said it intended to finance the purchase two vessels to operate a route between Ramsgate and Ostend and to buy a stake in Seaborne.

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The letter, sent by Mr Tyrell to Mr Grayling on January 18th, was published on social media on Saturday after the UK department released its statement.

“I consider that Seaborne’s plans to deliver a new service to facilitate trade following from the UK’s departure from the EU are both viable and deliverable,” Mr Tyrell told the British secretary in his letter.



“I will be working closely with the team at Seaborne to ensure that they have appropriate support from Arklow Shipping to deliver on their commitments to Her Majesty’s Government.”

The source with knowledge of Arklow’s dealings said that it had “numerous discussions” with Seaborne but that the firm “never came to any formal agreement.”

It was now “puzzled and a bit annoyed” for being blamed for the cancellation of the contract and believed the matter had been “blown out of proportion,” the source said.

The company is also said to have reacted with surprise at pro-Brexit Conservative MP Jacob Rees-Mogg questioning whether the Irish Government encouraged the Wicklow firm to withdraw its support.

Minister of State for European Affairs Helen McEntee said over the weekend there was “absolutely no truth” to Mr Rees-Mogg’s claim.

Arklow Shipping has had no contact with the Government, said the source.

The cancellation of the contract has led to calls from both Conservative and Labour MP for Mr Grayling to step down as transport secretary amid increasing concern within British business community that the UK is not prepared for a no-deal scenario with 46 days until Britain is due to leave the EU.

The Conservative MP and former business minister Anna Soubry said Mr Grayling “should be quietly considering his position.”

Labour MP Andy McDonald, the UK’s shadow transport secretary, called on Mr Grayling to resign. “While Theresa May needs the few friends she has right now, we cannot have this incompetent transport secretary heaping humiliation after humiliation on our country. He has to go,” he said.

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