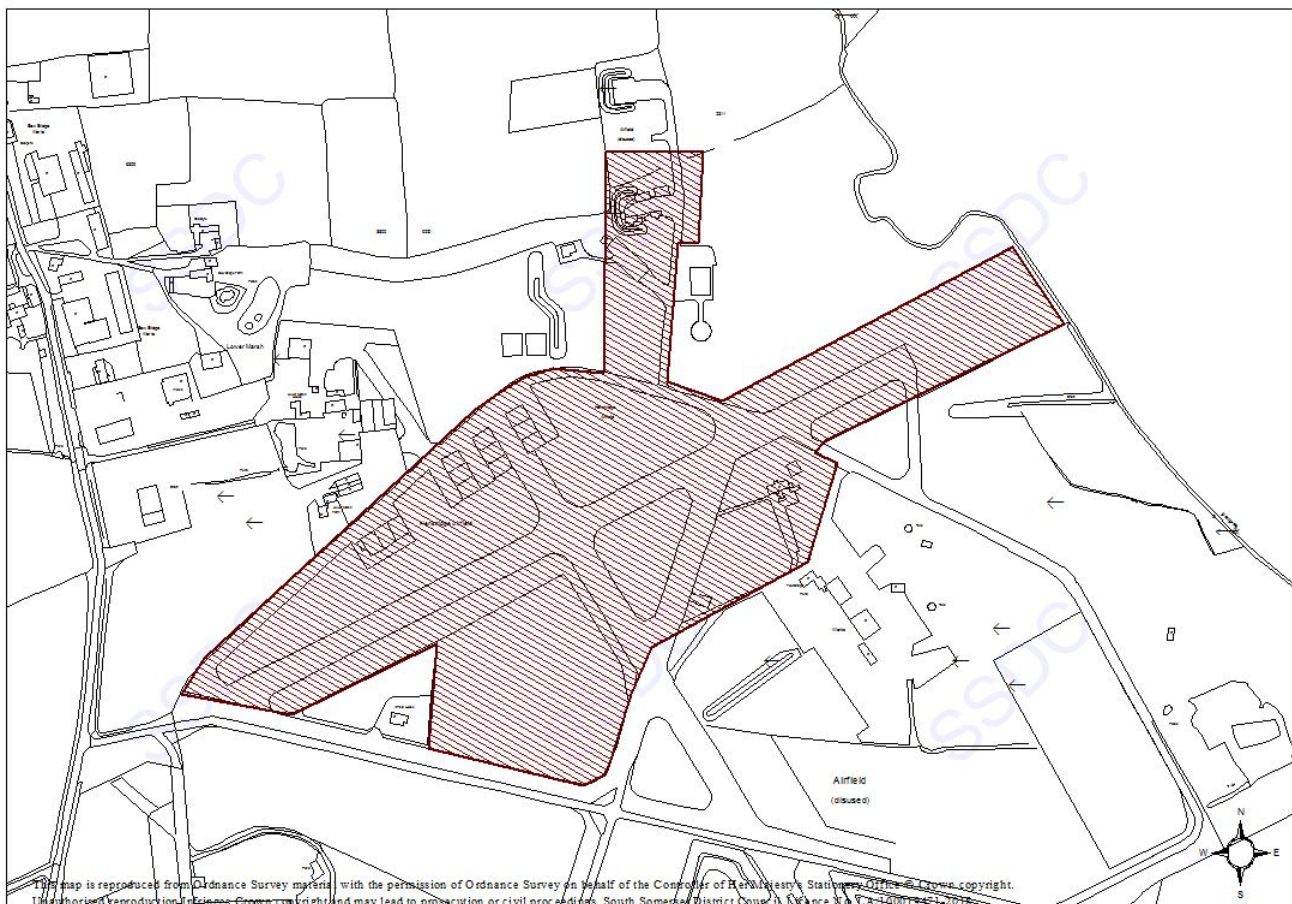


Officer Report On Planning Application: 18/01687/DPO

Proposal :	Application to modify a Section 106 agreement between Losan Limited, Henstridge Airfield Partnership No. 2 LLP, EGHS Limited, Mr Geoffrey Charles Jarvis and South Somerset District Council dated 05.12.2017
Site Address:	Henstridge Airfield The Marsh Camp Road
Parish:	Henstridge
BLACKMOOR VALE Ward (SSDC Member)	Cllr W Wallace Cllr Hayward Burt
Recommending Case Officer:	Dominic Heath-Coleman Tel: 01935 462643 Email: dominic.heath-coleman@southsomerset.gov.uk
Target date :	5th July 2018
Applicant :	Geoff Jarvis
Agent: (no agent if blank)	
Application Type :	Non PS1 and PS2 return applications

The application is before the committee, as it seeks to impose a condition that the committee intended to impose on the original permission as a clause of a legal agreement. However, it seeks to do this on slightly different terms to the wording of the condition originally requested by the committee and, as such; it must be a committee decision as to whether this is appropriate.

SITE DESCRIPTION AND PROPOSAL



This application is seeking to modify a section 106 agreement between Losan Ltd, Henstridge Airfield Partnership No. 2 LLP, EGHS Ltd, Mr Geoffrey Charles Jarvis, and South Somerset District Council dated 5th May 2017, which is an agreement relating to the following planning permission;

15/04069/FUL - The continued use of Henstridge Airfield, for both recreational and business use subject to conditions and a 106 agreement to cover that which cannot be lawfully conditioned against - Application permitted with conditions 19/12/2017

The legal agreement covers a number of control issues, which could not be satisfactorily controlled through planning conditions. The current application seeks to modify the agreement by adding an additional restriction to prevent flying training in helicopters.

RELEVANT HISTORY

In terms of the use of land as an airfield the following applications are relevant:

18/01688/S73A - S73A application to vary conditions 1, 2, 6, 12 and 13 and remove condition 14 of approval 15/04069/FUL - Pending consideration

15/04069/FUL - The continued use of Henstridge Airfield, for both recreational and business use subject to conditions and a 106 agreement to cover that which cannot be lawfully conditioned against - Application permitted with conditions 19/12/2017

12/04023/FUL Application to "Use of land at Henstridge Airfield as an airfield for both business and recreational use" approved at a committee subject to S106 to:-

- Require adherence to the existing Flight Protocol to the satisfaction of the Council's Environmental Protection Officer, in particular compliance with defined flight paths and circuits
- The continued running of the Henstridge Consultative Committee with agreed terms of reference
- Prohibit aerobatic flying within 5 miles of Henstridge Airfield
- Require the keeping of records of all aircraft movements on a daily basis to the satisfaction of the Development Manager
- Require the implementation of a testing regime with regard to aircraft that do not hold a noise certification from either the ICAO, the CAA or the FAA to the satisfaction of the Council's Environmental Health Officer.
- Revoke the current permission 01/00717/FUL as amended by 09/01845/FUL and associated Section 106 agreement.

Subsequently the applicant could not accept the prohibition of aerobatic flying within 5 mile of the airfield and withdrew the application.

11/01554/COL - Certificate of lawfulness refused for use of airfield without compliance with conditions of 09/01845/S73A (22/06/11).

10/00637/DPO - Approval granted for amendments to S106 agreement attached to 01/00717/FUL to reflect variations to conditions agreed by 09/01845/S73A and 05/02049/FUL (24/05/10).

09/01845/S73A - Approval granted for variation of 10 of 01/00717/FUL to impose a restriction on the use of the airfield by jets, vertical take-off aircraft (other than helicopters) and aircraft certificated at greater than 79Dba (03/07/09).

08/00402/COL - Certificate of lawfulness issued for the continued use of airfield by gyrocopters (10/04/08). This reflects the provisions of 01/00717/FUL, which allow gyrocopters to use the airfield and

the fact that the approval of 03/03310/FUL was unnecessary.

08/00378/COU - Planning permission approved for change of use of land to former use as part of an operational airfield (27/03/08).

04/00368/FUL - Approval granted for variation of condition 11 of 01/00717/FUL to allow total number of aircraft based at airfield to be increased from 30 to 45.

05/02049/FUL - Approval granted for variation of condition 13 of 01/00717/FUL to allow increase of helicopter movements from 500 to 1,000 of the total movements

03/03310/FUL - Planning permission granted for the continued use of Henstridge airfield by gyrocopters up to 28/02/09 (02/02/04)

01/00717/FUL - Planning permission granted for the continuation of the use of land as an airfield (23/09/02). An associated S106 agreement places the following obligations on the applicant:-

- a) Not to apply to the CAA for an airfield licence;
- b) To establish a consultative committee;
- c) To maintain accurate records of aircraft movements
- d) Not to enlarge the runway or erect buildings without planning permission;
- e) Not to install runway or airfield lighting;
- f) To enforce the hours of operation set out in the Second Schedule;
- g) Not to allow the airfield to be used as a base for a flying or gliding club;
- h) Not to allow the air field to be used by any prohibited aircraft as set out in the First Schedule (as varied by 10/00637/DPO);
- i) To adhere to the maximum aircraft movements
- j) Not to allow more than 500 helicopter movements per year (subsequently varied to 1,000 by 05/02049/FUL and 10/00637/DPO))
- k) Not to allow more than 2 open days and 3 fly-ins per year.

840356 - Planning permission granted for the use of land at Lower Syles Farm as an airfield.

Prior to 2001 there is a long and complex planning history; however, the approval of 01/00717/FUL is viewed as starting a fresh chapter in the planning history of the site. The current situation is that the operational permission is 15/04069/FUL and the related section 106 agreement (the subject of this application).

Within the airfield the following developments are pertinent:

08/01618/FUL - Planning permission granted for the erection of an extension to aircraft hangar permitted by 07/03239/FUL (27/05/08).

07/03239/FUL - Planning permission granted for the erection of an aircraft hangar with airfield maintenance equipment storage bay (26/11/07).

07/01491/FUL - Planning permission granted for formation of car park adjacent to permitted Airfield Control Building (03/07/07). Not implemented.

06/04576/FUL - Planning permission granted for erection of airfield control building (09/01/08). Not built

06/01131/FUL - Planning permission granted for installation of taxi way and 2 refuelling hardstandings (07/08/06). Only the taxi way has been installed.

06/01034/FUL - Planning permission granted for temporary siting of aircraft shelter (07/08/06). This

should have been removed by 31/08/11.

05/03073/FUL - Planning permission granted for erection of hangar (15/02/06)

04/02359/FUL - Planning permission granted for the erection of aircraft hangar (04/10/04).

02/01623/FUL - Planning permission granted for the erection of an airfield control building and a hangar for aircraft storage (17/10/02). The hangar has been built but not the control building.

Adjacent to the Airfield the following aircraft related approvals have relevance:

08/04350/COL - Certificate of lawfulness issued for use of aircraft production facility (04/02229/FUL) for aircraft maintenance or manufacturing (06/11/08).

08/00203/FUL - Planning permission granted for the erection of a facility for the air ambulance on land to the north east of the airfield (21/02/08).

04/02229/FUL - Planning permission granted for the erection of an aircraft production facility (27/07/06).

Other development

07/05297/COL - Certificate of lawfulness issues on appeal for the use of land to east of airfield for the recreational riding of motorbikes and quad bikes for 28 days a year with no more than 14 of these days constituting a motorsport event (02/12/08)

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF state that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006 2028 (adopted March 2015).

Policies of the South Somerset Local Plan (2006-2028)

Policy SD1 - Sustainable Development

Policy SS1 - Settlement Strategy

Policy EQ2 - General Development

National Planning Policy Framework

Paragraphs 203-206 - Planning Conditions and Obligations

CONSULTATIONS

Parish Council - Recommends approval

REPRESENTATIONS

One letter received from the occupier of a property in Stalbridge raises no objection but questions the lack of information contained within the application.

Two letters of objection were received from the occupiers of properties in Fifehead Magdalen, one from the occupier of a property in Nyland, one from the occupier of a property in Kington Magna, and three from the occupiers of properties in Marnhull. Objections were raised in the following areas:

- Various concerns relating to the concurrent application 15/04069/FUL
- Concern over "allowing" helicopter training
- Concern over increased noise levels
- Changes to conditions so soon after the original approval would be unreasonable
- The relevant condition should not have been missed from the decision notice
- There is no evidence that the condition is unenforceable

CONSIDERATIONS

The resolution to approve application 15/04069/FUL was subject to a variety of conditions, one of which was:

No helicopter shall land on or take-off from the land for the purpose of pilot training.

Reason: In the interests of amenity and to accord with policies EQ2 and EQ7 of the South Somerset Local Plan 2006-2028 (adopted March 2015).

Unfortunately, along with a number of other drafting errors, this condition was not included on the decision notice that was finally issued.

In order to regularise the situation, the applicant has voluntarily submitted the current application in order to have this restriction imposed. There are some question marks over the enforceability of such a condition, hence he has sought to have the restriction included in the legal agreement rather than as a condition. This approach is considered to be perfectly reasonable in the circumstances and in no way objectionable.

However, the applicant has indicated that he wishes the clause in the legal agreement to be more precise than the intended condition and that it should achieve the following restriction:

"No Helicopter shall take off from the land for the purpose of, or after pilot training within a 5 mile radius of the Airfield"

It is considered that, with a slight variation to cover landing as well as taking off, the difference between the intended condition and the proposed legal agreement clause is a sensible and practical translation of the intentions behind the intended condition. It would serve to prevent any helicopter pilot training at the airfield or within a five mile radius of the airfield, but would not prevent, for example, a helicopter taking off from Henstridge Airfield for pilot training to be conducted at a different airfield.

The concerns raised by neighbouring occupiers are noted, but all appear to have fundamentally misunderstood the nature of the application being considered, or have made comments relevant only to the consideration of the concurrent application to vary the conditions of the original permission.

On this basis, it is considered that section 106 agreement should be varied in accordance with the request of the applicant.

RECOMMENDATION

To modify the section 106 agreement between Losan Ltd, Henstridge Airfield Partnership No. 2 LLP, EGHS Ltd, Mr Geoffrey Charles Jarvis, and South Somerset District Council dated 5th May 2017, by including a restriction with the following effect:

No Helicopter shall take off from, or land on, the land for the purpose of, or after, pilot training within a 5

mile radius of the Airfield.