

**Planning Committee 23 February 2016
Report of the Chief Planning and Development Officer**



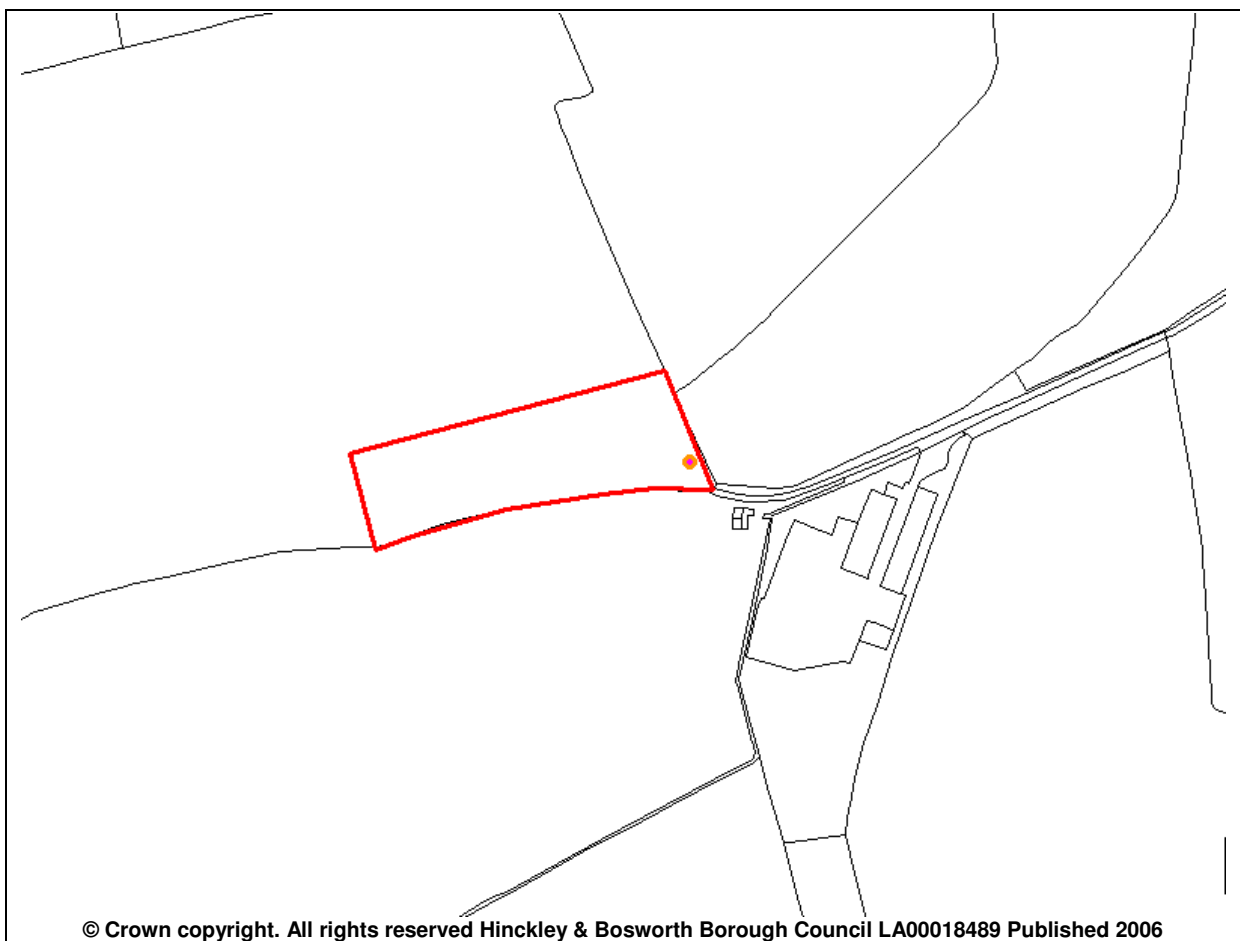
Hinckley & Bosworth
Borough Council

A Borough to be proud of

Planning Ref: 15/01171/CONDIT
Applicant: Barton In The Beans Model Flying Group
Ward: Cadeby Carlton M Bosworth & Shackerstone

Site: Land To The Rear Of Sycamore Farm Main Street
Barton in the Beans

Proposal: Variation of conditions 4 and 7 of planning permission 13/00978/COU
to alter flying times and restrictions on silent flight times



1. Recommendations

1.1. Grant planning permission subject to:

1. Planning conditions outlined in section 10 of this report.

1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

2. Planning Application Description

- 2.1. This application seeks planning permission for the variation of condition 4 and 7 of planning permission 13/00978/COU. The previous planning permission was granted for the "Use of land for flying model aircraft and use of derelict building for shelter".
- 2.2. The applicant seeks to vary two of these conditions. Condition 4 of the 2013 permission stated the following:
- 2.3. "The flying time for internal combustion engine model aircraft shall be limited to Monday to Saturday 10:00 to 16:00 and Sunday 10:00 to 14:30". The applicant is seeking planning permission to alter the Sunday hours to be in line with the Monday to Saturday operating hours and therefore finishing at 16:00.
- 2.4. The second condition the applicant is seeking approval for is to vary condition 7 of the 2013 permission. The original condition stated the following:
- 2.5. "Internal combustion engine models shall be fitted with an effective silencer at all times and no model should be operated which gives a noise measurement at 7 metres of more than 82db the method of measurement of noise emitted by model aircraft as detailed on page 10 of the Code of Practice on Noise from Model Aircraft 1982 shall be used to determine the noise emitted". The applicant is seeking planning permission to fly silent model aircraft unlimited and therefore, this condition will not be applicable to silent model aircraft.
- 2.6. The applicant originally applied to fly both days at the weekend and therefore varying condition 5 of the 2013 permission. However through consultation and discussions with the owner this is no longer being applied for. Following the amended changes a re consultation has taken place.

3. Description of the Site and Surrounding Area

- 3.1. The application site relates to a strip of land within a field to the south of Sycamore Farm with the disused building in the south east corner of the site. The vehicular access from Main Street to the site is consistent with the route of footpath S90.
- 3.2. The site is located outside of the settlement boundary of Barton in the Beans, as defined by the adopted Hinckley and Bosworth Local Plan 2001.

4. Relevant Planning History

12/00615/COU	Use of land for flying model aircraft and use of derelict building for shelter	Approved	03.12.2012
13/00978/COU	Use of land for flying model aircraft and use of derelict building for shelter	Approved	18.03.2014

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

- 5.2. Five letters of objection have been received with the main concerns as follows:
1. Nuisance to residents
 2. No issue arose in regard to the silent flying
 3. The flying club makes considerable noise and prevents peaceful use of the footpaths in the area.
- 5.3. Received one comment in support of the application stating that the hours they have asked for is reasonable; we cannot put unreasonable conditions relating to noise when people make noise with lawn mowers in adjacent properties. Most of these activities allow people to enjoy the countryside which should be encouraged and not discouraged.

6. Consultation

- 6.1. Conservation Officer raised no objection to the proposal.
- 6.2. Shakerstone Parish Council raised concerns about the impact and disturbance on local residents and that the flying club's activities have been intrusive at times to local residents.
- 6.3. Environmental Health (Pollution) raised no objection to the proposal.
- 6.4. Leicestershire County Council (Highways) has no comments to make.
- 6.5. Carlton Parish Council have made comments in support of the application and stated that there should be appropriate worded conditions to limit the flying in accordance with the approval.
- 6.6. Environmental Health (Drainage) have no comments.
- 6.7. Leicestershire County Council (Public Rights of Way Officer) have no objection to the proposal but have suggested some notes to applicants be added to ensure the right of way is still protected.
- 6.8. This is neither a type of application where the Civil Aviation Authority require to be consulted nor one where they would wish to be consulted.

7. Policy

- 7.1. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)
- 7.2. Hinckley and Bosworth Local Plan (2001)
- Policy NE5: Development in the Countryside
 - Policy BE1: Design and Siting of Development
- 7.3. Emerging Site Allocations and Development Management Policies DPD Submission Version (Dec 2014)
- Policy DM1: Presumption in favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon neighboring amenity

Assessment against strategic planning policies

8.2. The application site lies outside of the settlement boundary of Barton in the Beans, as defined on the proposals map of the adopted Local Plan 2001 and is therefore within an area designed as countryside and as such falls to be considered in terms of Policy NE5 of the Local Plan. Saved Local Plan Policy NE5 states that the countryside will be protected for its own sake and planning permission will be granted for built and other forms of development provided that the development is either:-

- a) Important to the local economy and cannot be provided with or adjacent to an existing settlement or
- b) For the change of use, re-use or extension of existing buildings, particularly those of historic value; or
- c) For sport and recreation purposes

8.3. It is considered that the use of land for flying model aircraft is for recreation purposes and as such satisfies criterion c) of Saved Policy NE5. The NPPF is supportive of social, cultural and recreational facilities and is therefore considered consistent with this criterion.

8.4. The NPPF also encourages multiple benefits from the use of land, recognising that some open land can perform many functions of mixed use development of land.

8.5. In summary, there is specific policy support at national and local level for development within the countryside for sport and recreation purposes and for the change of use for recreational purposes, subject to satisfying design criteria i-iv within Policy NE5. Accordingly there is no-in principle objection to this proposal, subject to all other planning matters being adequately addressed.

Impact upon Neighboring Residential Amenity

8.6. Criterion i of the saved Policy BE1 of the adopted Local Plan and Policy DM10 of the Emerging Site Allocations and Development Management Policies DPD Submission Version (Dec 2014) are considered to have limited conflict with the intentions of the NPPF and as such should be given weight in consideration of this application.

8.7. The nearest residential properties would be those approved under application ref: 08/01001/FUL which at the closest point would be approximately 650 metres away.

8.8. Objections have been received from members of the public concerned with the additional noise that maybe generated. The applicant is applying for an extra 1.5 hours on a Sunday and still wishes to fly only on one day at the weekend. The extra operating hours will have little effect on the neighbouring amenity as the hours will be the same as permitted from Monday to Saturday. The operating of silent flying

will be unrestricted and will have very little impact on the neighbouring residential amenity. Therefore it is considered that the proposed variation of conditions will be in accordance with Policy BE1 (criterion i) of the adopted Local Plan and Policy DM10 of the Emerging Site Allocations and Development Management Policies DPD Submission Version (Dec 2014).

Other Issues

- 8.9 The conditions imposed on the previous planning approval of 13/00978/COU are applicable to be added to this application as this is to ensure that residential amenity is protected and so that the use does not become a source of annoyance to neighbouring residents.
- 8.10 Leicestershire County Council (Public Rights of Way) has recommended some notes to applicants to be included to ensure that the adjacent public footpaths are protected. Adding these notes is feasible as it ensures that the longevity of the footpath is protected for future users.

9. Conclusion

- 9.1 The proposal to alter hours on a Sunday to operate until 16:00 and to have unlimited silent flying will have very little effect on the neighbouring amenity and therefore the proposal is considered to be in accordance with Policy BE1 and NE5 of the adopted Local Plan and Policy DM4 and DM10 of the Emerging Site Allocations and Development Management Policies DPD Submission Version (Dec 2014).

10. Recommendation

10.1. Grant subject to conditions

- 10.2. In dealing with the application, through ongoing negotiation the local planning authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

10.3. Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: *To comply with requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.*

2. All take off and landings shall be undertaken within the red edge of Ordnance Survey received by the Local Planning Authority on the 6 November 2015.

Reason: *To define the permission.*

3. The flying time for internal combustion engine model aircraft shall be limited Monday to Sunday 10:00 to 16:00.

Reason: *To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with Policy BE1 (criterion i) of the adopted Hinckley and Bosworth Local Plan 2001.*

4. The flying times shall be limited to four days per week (Monday to Friday) and one day per weekend (Saturday to Sunday).

Reason: *To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with Policy BE1 (criterion i) of the adopted Hinckley and Bosworth Local Plan 2001.*

5. A log shall be kept of the models flown, dates and time in the air which will be available for inspection by the Local Planning Authority.

Reason: *For the avoidance of doubt.*

6. Internal combustion engine models shall be fitted with an effective silencer at all times and no model should be operated which gives a noise measurement at 7 metres of more than 82db the method of measurement of noise emitted by model aircraft as detailed on page 10 of the Code of Practice on Noise from Model Aircraft 1982 shall be used to determine the noise emitted. This does not include silent model aircraft, all silent model aircraft have unlimited flying times.

Reason: *To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with Policy BE1 (criterion i) of the adopted Hinckley and Bosworth Local Plan 2001.*

7. The shelter shall be used for purposes ancillary to the use of the site for the flying of model aircraft and only at times when flying takes place.

Reason: *To ensure that the use remains commensurate to the scale and need of the primary uses and does and is not used to the detriment of residential amenity to accord with Policy (criterion i) of the adopted Hinckley and Bosworth Local Plan 2001.*

10.4. Notes to Applicant

1. The applicant will be under a statutory obligation to ensure that users of footpaths S90 and S68 continue to have safe and uninterrupted access along those routes at all times while the model aircraft are being flown.
2. The public footpaths must not be re-routed, encroached upon or obstructed in anyway without prior authorisation. To do so may constitute an offence under the Highways Act 1980.
3. No new gates, stiles, fences or other structures affecting a Right of Way, of either a temporary or permanent nature, should be constructed without the written consent of the Highway Authority having been obtained. Unless a structure has been authorised, it constitutes an unlawful obstruction of a Right of Way and the County Council may be obliged to require its immediate removal.