

AGENDA

Committee Administrator: Democratic Services Officer (01609 767015)

Wednesday, 13 February 2019

Dear Councillor

NOTICE OF MEETING

Meeting **PLANNING COMMITTEE**
Date **Thursday, 21 February 2019**
Time **10.30 am**
Venue **Council Chamber, Civic Centre, Stone Cross, Northallerton**

Yours sincerely

J. Ives.

Dr Justin Ives
Chief Executive

To: Councillors
P Bardon (Chairman)
J Noone (Vice-Chairman)
R A Baker
M A Barningham
D M Blades
S P Dickins

Councillors
D B Elders
Mrs B S Fortune
K G Hardisty
B Phillips
C Rooke
D A Webster

Other Members of the Council for information

PLEASE NOTE THAT THERE WILL BE NO MEMBER TRAINING

AGENDA

Page No

1. MINUTES
To confirm the minutes of the meeting held on 7 February 2019 (P.23 - P.24), attached.
1 - 4
2. APOLOGIES FOR ABSENCE.
3. PLANNING APPLICATIONS
Report of the Deputy Chief Executive.
Please note that plans are available to view on the Council's website through the Public Access facility.
5 - 138
4. MATTERS OF URGENCY
Any other business of which not less than 24 hours prior notice, preferably in writing, has been given to the Chief Executive and which the Chairman decides is urgent.

Agenda Item 1

Minutes of the meeting of the PLANNING COMMITTEE held at 1.30 pm on Thursday, 7th February, 2019 in the Council Chamber, Civic Centre, Stone Cross, Northallerton

Present

Councillor P Bardon (in the Chair)

Councillor	J Noone	Councillor	D B Elders
	R A Baker		Mrs B S Fortune
	M A Barningham		K G Hardisty
	D M Blades		B Phillips
	S P Dickins		D A Webster

An apology for absence was received from Councillor C Rooke

P.23 MINUTES

THE DECISION:

That the minutes of the meeting of the Committee held on 10 January 2019 (P21 - P.22), previously circulated, be signed as a correct record.

P.24 PLANNING APPLICATIONS

The Committee considered reports of the Deputy Chief Executive relating to applications for planning permission. During the meeting, Officers referred to additional information and representations which had been received.

Except where an alternative condition was contained in the report or an amendment made by the Committee, the condition as set out in the report and the appropriate time limit conditions were to be attached in accordance with the relevant provisions of Section 91 and 92 of the Town and Country Planning Act 1990.

The abbreviated conditions and reasons shown in the report were to be set out in full on the notices of decision. It was noted that following consideration by the Committee, and without further reference to the Committee, the Deputy Chief Executive had delegated authority to add, delete or amend conditions and reasons for refusal.

In considering the report(s) of the Deputy Chief Executive regard had been paid to the policies of the relevant development plan, the National Planning Policy Framework and all other material planning considerations. Where the Committee deferred consideration or refused planning permission the reasons for that decision are as shown in the report or as set out below.

Where the Committee granted planning permission in accordance with the recommendation in a report this was because the proposal is in accordance with the development plan the National Planning Policy Framework or other material considerations as set out in the report unless otherwise specified below. Where the Committee granted planning permission contrary to the recommendation in the report the reasons for doing so and the conditions to be attached are set out below.

THE DECISION:

That the applications be determined in accordance with the recommendation in the report of the Deputy Chief Executive, unless shown otherwise:-

- (1) 18/02545/MRC - Variation of conditions 8 & 11 attached to planning permission 17/02422/OUT (Outline application for the construction of three dwellings with access from Bedale Road) to alter position of access for Mr G E Harrison at land adjacent to Peacehaven, 93 Bedale Road, Aiskew

PERMISSION GRANTED

- (2) 18/02584/FUL - Change of use of former agricultural land to facilitate extension to warehouse, with associated HGV parking, landscaping and formation of infiltration pit for Mr Andrew Cawthray - Cawingredients Limited at North of Cawingredients, Conygarth Way, Leeming Bar Business Park, Aiskew

PERMISSION GRANTED

(The applicant's agent, Mark Eagland, spoke in support of the application).

- (3) 18/01596/REM - Application for approval of reserved matters (to consider appearance, landscaping, layout and scale) following outline approval ref: 17/01532/OUT for Outline application with all matters except access reserved for 2 dwellings with garages and associated infrastructure for Mr and Mrs M and S Hutchinson and Harrison at land to rear of Village Farm, Alne

PERMISSION GRANTED

- (4) 18/01354/FUL - Construction of dwelling and detached garage for Mr and Mrs P Tomlinson at The Croft, Main Street, Alne

PERMISSION GRANTED

(The applicant's agent, Jonathan Saddington, spoke in support of the application).

(Dr Gudrun Gaudian spoke on behalf of Alne Parish Council objecting to the application.)

(Tim Axe spoke objecting to the application.)

- (5) 18/02161/OUT - Outline Planning Application with some matters reserved (considering access and layout) for a small development of 2 detached dwellings for Addis Charles at Ingram Grange Farm

PERMISSION GRANTED

(The applicant's agent, Joe O'Sullivan, spoke in support of the application).

(Linda Breckon spoke objecting to the application.)

- (6) 18/00016/FUL - Construction of 2no dwellinghouses for Penny Home Specialists Ltd at Bancroft, 9 Firby Road, Bedale

PERMISSION GRANTED because the Committee felt that use of the access would not be harmful or prejudicial to highway safety.

The decision was contrary to the recommendation of the Deputy Chief Executive.

(The applicant, Mark Edmondson, spoke in support of the application.)

Councillor M A Barningham disclosed a pecuniary interest and left the meeting prior to discussion and voting on this item.

- (7) 18/00597/FUL - Construction of a one bedroom bungalow for Mr and Mrs Thornton at 32 Crabmill Lane, Easingwold

PERMISSION REFUSED subject to a change in reasons to delete reference to the National Described Space Standard and to add reference to residential character and inadequate parking.

(The applicant, Mrs Angela Thornton, spoke in support of the application.)

Note: The meeting adjourned at 3.25pm and reconvened at 3.35pm.

- (8) 18/02120/OUT - Outline application with some matters reserved (access, landscaping & layout included) for the construction of 5 dwellings, domestic garages and the formation of a separate access and car park for the adjacent public house for Mr George Howie at Land adjacent Green Dragon Inn, Exelby

PERMISSION GRANTED subject to an additional condition controlling the lighting of the pub car park.

(The applicant's agent, Jonathan Saddington, spoke in support of the application).

(Margaret Curry spoke on behalf of Exelby, Leeming and Londonderry Parish Council objecting to the application.)

(Leanne Ross spoke objecting to the application.)

- (9) 18/01695/HYB - Hybrid Planning Application:
- (1) Full planning application for the construction of a visitor centre building, pavilion, formation of associated car park and provision of new access
 - (2) Retention of the roadside building (former farmhouse/outbuilding range) for ancillary office and meeting purposes
 - (3) Outline planning application for the construction of a replacement workers dwelling at Heck Food Limited, Lime Lane, Kirklington for Heck Food Ltd

PERMISSION GRANTED

(The applicant's agent, David Boulton, spoke in support of the application).

- (10) 18/02589/FUL - Construction of an extension to existing food production facility for Heck Food Ltd at Heck Food Limited, Lime Lane, Kirklington

PERMISSION GRANTED

(The applicant's agent, David Boulton, spoke in support of the application).

- (11) 18/02646/REM - Reserved matters application for the 7 dwellings for Park Quadrant Homes at D Oakley Limited, 68 Romanby Road, Northallerton

PERMISSION GRANTED

(The applicant's agent, Katherine Jukes, spoke in support of the application).

Note: Councillor K G Hardisty left the meeting after item 11 and did not return.

- (12) 18/02371/OUT - Demolition of Shipton Methodist Church and Hawthorn Cottage and the construction of two dwellings with associated infrastructure (access and layout to be considered) for The Methodist Church York Circuit at Methodist Church, Main Street, Shipton by Beningbrough

PERMISSION GRANTED

(Mark Danter spoke on behalf of Shipton Parish Council objecting to the application.)

(Emma Castle spoke objecting to the application.)

- (13) 18/02433/FUL – Demolition of existing stable block, feed store and tack room to be replaced with the construction of new house, detached double garage, outbuilding and car parking for Mrs Caroline Mann at Bank Top West Rounton

PERMISSION GRANTED

(The applicant's agent, Richard Stephenson, spoke in support of the application).

(Alison Richards spoke objecting to the application.)

The meeting closed at 5.20 pm

Chairman of the Committee

PLANNING APPLICATIONS

The attached list of planning applications is to be considered at the meeting of the Planning Committee at the Civic Centre, Stone Cross, Northallerton on Thursday 21 February 2018. The meeting will commence at 10.30am.

Further information on possible timings can be obtained from the Democratic Services Officer, Louise Hancock, by telephoning Northallerton (01609) 767015 before 9.00 am on the day of the meeting.

The background papers for each application may be inspected during office hours at the Civic Centre. Documents are available to view at www.planning.hambleton.gov.uk. Background papers can include the application form with relevant certificates and plan, responses from statutory bodies, other interested parties and any other relevant documents. Any late submission relating to an application to be presented to the Committee may result in a deferral decision

Members are asked to note that the criteria for site visits is set out overleaf.

Following consideration by the Committee, and without further reference to the Committee, the Deputy Chief Executive has delegated authority to add, delete or amend conditions to be attached to planning permissions and also add, delete or amend reasons for refusal of planning permission.

Mick Jewitt
Deputy Chief Executive

SITE VISIT CRITERIA

1. The application under consideration raises specific issues in relation to matters such as scale, design, location, access or setting which can only be fully understood from the site itself.
2. The application raises an important point of planning principle which has wider implications beyond the site itself and as a result would lead to the establishment of an approach which would be applied to other applications.
3. The application involves judgements about the applicability of approved or developing policies of the Council, particularly where those policies could be balanced against other material planning considerations which may have a greater weight.
4. The application has attracted significant public interest and a visit would provide an opportunity for the Committee to demonstrate that the application has received a full and comprehensive evaluation prior to its determination.
5. There should be a majority of Members insufficiently familiar with the site to enable a decision to be made at the meeting.
6. Site visits will usually be selected following a report to the Planning Committee. Additional visits may be included prior to the consideration of a Committee report when a Member or Officer considers that criteria nos 1 - 4 above apply and an early visit would be in the interests of the efficiency of the development control service. Such additional site visits will be agreed for inclusion in consultation with the Chairman or Vice-Chairman of the Planning Committee.

PLANNING COMMITTEE
Thursday 21st February 2019
10:30am

Item No	Application Ref/ Officer/Parish	Proposal/Site Description
1	16/02240/FUL Mr T Wood Bagby Page no: 9	<p>Change of use and external alterations of the engineering building to be used as a clubhouse and control tower, erection of a new tractor shed, erection of a new hangar, formation of a new access drive, the introduction of hard and soft landscaping and amended on 14 March 2018 to include the creation of a fixed fuel facility and the use of Hangar B for aircraft maintenance. Works include the demolition of the existing clubhouse, control tower, hangars and storage buildings and partial demolition of one other hangar. Air Movements to be capped at a maximum of 8,440 per annum as advised on 12 June 2018. Application is accompanied by an amended Environmental Statement</p> <p>For: Mr Martin Scott At: The Airfield, Bagby</p> <p>RECOMMENDATION: GRANT</p>
2	18/00524/FUL Mr T Wood Bagby Page no: 133	<p>Retrospective application for the temporary siting of a portable aircraft engineer's office and document storage cabin</p> <p>For: Mr M Scott At: The Airfield, Bagby</p> <p>RECOMMENDATION: GRANT</p>

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Parish: Bagby
Ward: Bagby & Thorntons
1

Committee Date: 21 February 2019
Officer dealing: Mr T J Wood
Target Date: 10 February 2017

16/02240/FUL

Change of use and external alterations of the engineering building to be used as a clubhouse and control tower, erection of a new tractor shed, erection of a new hangar, formation of a new access drive, the introduction of hard and soft landscaping and amended on 14 March 2018 to include the creation of a fixed fuel facility and the use of Hangar B for aircraft maintenance. Works include the demolition of the existing clubhouse, control tower, hangars and storage buildings and partial demolition of one other hangar. Air Movements to be capped at a maximum of 8,440 per annum as advised on 12 June 2018. Application is accompanied by an Environmental Statement.

**at The Airfield, Bagby, North Yorkshire YO7 2PH
for Mr Martin Scott**

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 Bagby Airfield occupies a piece of land to the south and south west of the village of Bagby. The land lies above the A19 and is currently accessed via an unmade track that leaves the Main Street of Bagby within the village and passes close to two residential properties. The site is within 200m of the edge of the village of Bagby and about 1km from Great Thirkleby. Bagby is a Secondary Village in the Settlement Hierarchy 2014; the settlement does not have Development Limits defined in the Local Development Framework Proposals Map December 2009 as at that time the settlement was not identified in the Settlement Hierarchy at Policy CP4. A site location plan (Plan 1 Annex 1) and a plan setting out the features of the site (Plan 2 ("Proposed block plan 1452-10 Rev A") Annex 2) are appended to this report.
- 1.2 The Airfield occupies 15.6 hectares. The land was originally in agricultural use, it is in use now for the purposes of operating an airfield, some of the surrounding land is fallow and other parts of the application site continue to be used for arable agricultural purposes and the proposals do not seek to change the use of any of the remaining arable land.
- 1.3 Boundaries to the land around the Airfield are formed by hedges of varied species and heights, the north, south and west boundaries have substantial hedges, the

eastern end of the airfield is not fully bounded by hedgerows. Local landform allows some views of the central and western end of the airfield from viewpoints to the west but hedgerows and trees shield the remainder of the airfield from view.

- 1.4 There are dwellings to the south west, south and south east of the application site and notably in the vicinity of the village of Great Thirkleby that are potentially affected by activities at the airfield (in particular noise). Flying activities arising from the operation of the airfield also impact upon a wider area of villages within the Vale of York particularly to the south of Thirsk in reports from neighbours as set out in the papers of previous applications and appeals relating to the Airfield.
- 1.5 Beyond the boundaries of the application site of the Airfield the land is in agricultural use except for the children's play area which is located to the northern edge of the site. The play area incorporates fixed pieces of equipment some of them raised above ground level as well as seats and landscaped grounds to provide a high quality of visual as well as recreational amenity to the play area. The recreational facilities include equipment and facilities to cater for a range of ages from the young child to teenager.
- 1.6 The application was submitted with an accompanying Environmental Statement. Additional information relating to matters of noise, the layout of the proposals and fuel facilities as set out at 6.2 of this report has been received since the submission of the application, this has been publicised for consultee and public comment.

The Proposal

- 1.7 The proposal seeks full planning permission to modernise and extend the facilities at the airfield to replace old and somewhat dilapidated buildings.
- 1.8 The proposal includes a new vehicular access across agricultural land to the south west of the village, to be single track with passing places (the general alignment is shown on the appended Plan 1). The scheme seeks to provide an extended "Hangar A", new hangar "Hangar C1", new clubhouse (including room with 28 covers, bar, kitchen toilets and store and above 3 double guest bedrooms with en-suite and balcony at first floor level) and attached control tower, new tractor shed and the conversion of Hangar B to an aircraft maintenance building. The proposal is indicated to create 14 additional jobs (some part time and some full time) mainly in engineering and hospitality. The northern section of the existing access track is proposed to be retained only for pedestrian access to the village. A limit on the

number of aircraft movements at the airfield to 8,440 per annum is proposed. (A movement is a take-off or a landing.)

1.9 The Environmental Statement Non-Technical Summary states:

2.9 As part of the scoping process a cap on AMs is suggested as 8,787 [later reduced to 8500, then 8,440] per annum. This figure is based on the recorded movements over the last 10 years which date back to 2006 and includes both very low years and very high years of movements. With regards to the Development, an increase in flight movements is not anticipated. Therefore, an assessment of the effects of an uplift in flight movements has not been undertaken.

1.10 The details of the proposed changes are reproduced from the Environmental Statement Non-Technical Summary paragraph 3.5: (refer to Plan 2, the “Proposed block plan 1452-10 Rev A”)

Demolition of:

*The existing clubhouse and control tower;
Hangar I and the storage building located at the eastern edge of the Site;
The single storey extension on hangar B; and
Hangars C and D on the southern boundary of the Site.*

Change of use relating to:

*External alterations of the existing Maintenance Building to be used as a clubhouse and control tower; and
The large storage hangar in the north of the Site to be used as the new Maintenance Building.*

Construction of:

*A new tractor shed on the northern boundary of the Site;
A new hangar on the southern boundary of the Site (Hanger C1) in place of hangars C and D; and
A new access road.*

Creation of:

New hard and soft landscaping which will require no significant engineering works, earth or soil movements. Typical works are expected to involve the laying of access roads and the planting of trees/shrubs; and

Taxiways linking the hangers to the runway which will widen the apron onto the runway but not the runway itself.

1.11 The Environmental Statement Non-Technical Summary provides the following details:

- Existing Gross internal floor area (GIA) of building 3,215sqm;
- Demolition 581sqm GIA;
- Conversion and new floor space 773sqm GIA; and
- Increased floor area 273sqm GIA.

1.12 A corrected existing and proposed floor space document states that the existing floor space is 3,215sqm and the resulting total floor space in the proposed scheme is 3,488sqm.

1.13 The most significant change in floor space relates to the Club House and Maintenance facilities. The net changes in floor areas are given in Table 1 below:

Table 1

	Existing sqm	Proposed sqm	Net change sqm
Club house	89	309	+201
Maintenance facility	201	902	+701
Hangar space (Extended Hangar A, replacement Hangar C1, converted Hangar F, demolished Hangars C and D)	2,876	2,187	-689

1.14 The replacement of existing hangars with a new larger hangar would increase the capacity of modern hangars, portal frame insulated hangars, in place of timber framed uninsulated hangars, notwithstanding the overall reduction in floor space. Current levels are 30 - 33 aircraft (noted to not be at capacity) to around 35 - 40 (depending on the aircraft size, owners' requirements and the efficiency of storage layout).

1.15 A community consultation event was held on 9 December 2015 at The Airfield with the offer of further meetings to Parish Councils. The consultation documents state 80 people are estimated to have attended the event.

1.16 A second planning application described as a “Retrospective application for the temporary siting of a portable aircraft engineer’s office and document storage cabin” 18/00524/FUL has also been made. The second application is reported to the Planning Committee for decision alongside this application. In consideration of each application regard will be required to be had to the matters in the other application, i.e. to consider both the individual and cumulative impacts of the planning applications.

1.17 An Environmental Statement has not been submitted in respect of the second planning application. The second application falls below the EIA threshold, however in determining the applications their cumulative impact must be considered for EIA purposes.

1.18 The application is supported by the following documents:

- Application forms and plan;
- Planning, Design and access statement;
- Statement of community involvement;
- Business case and business case addendum;
- Landscape and visual impact assessment;
- Ground investigation report;
- Drainage report and flood risk report;
- Bat survey; and
- Environmental Impact Assessment including appendixes and non-technical summary (including noise and vibration statement and transport statement).

1.19 The application is also accompanied by a draft planning obligation to (i) regulate circuit training; (ii) regulate helicopter approach routes, hover practice and circuits; (iii) allow quiet periods to be requested; and (iv) limit aerobatics. The Head of Terms are set out at the end of this report.

1.20 A glossary of the terminology used in this report is set out below:

AvGas	A petroleum aviation fuel
Fly-in Day	A day on which incoming leisure flights are encouraged
Hot refuelling	Refuelling with engine running
JetA1	A non-petroleum aviation fuel
UL91	A petroleum aviation fuel

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 The extent of land used at the airfield has changed over time.
- 2.2 The land was first used as a base for flying activity around the beginning of the 1970s. On 29 July 1976 a planning permission was granted for: *“Increased use of an existing grass airstrip for private flying”*. The permission was restricted to individuals, Mr Whiting and Mr J P Lassey, and placed restriction on the number of movements. This was replaced by a further personal permission granted to Mr Lassey in 1980 (2/80/009/0015A) allowing no more than 40 take-off and 40 landings per week (2/9/15A/PA). That condition was breached in the change of control from Mr Lassey to Mr Dundon in 1997, leading to a loss of planning control.
- 2.3 Planning application records show how the extent of the airfield has changed from the area granted in 1976, following which a western extension was added, then later removed when an eastern extension was formed. The central area of the airfield has been used as an airfield since the 1970s. Subsequent approvals in the 1980s and actions by the owners have consolidated the use of the land as an airfield by the addition of hangars and facilities for refuelling and club house.
- 2.4 More recently there have been three applications submitted for comprehensive redevelopment of the airfield. The first (the “2008 scheme”) was withdrawn, the second (the “2009 scheme”) and third (the “2010 scheme”) were both refused planning permission.
- 2.5 The “2009 scheme” was a *“Revised application for the construction of replacement clubhouse with leisure facilities and accommodation, construction of a workshop, 6 hangars with associated works, extension to existing hangar, siting of 4 No 3 metre diameter hangar roof mounted wind turbines, new vehicular access and landscaping works.”*
- 2.6 By 2010 the Airfield and surrounding farm land that was within the same ownership had grown and occupied a larger site than that of the 1970s and 1980s permissions. The “2010 Scheme”, 10/01272/FUL, was a revised planning application comprising an airfield clubhouse with three bedrooms new/extended hangars with concrete aprons, new workshop/maintenance hangar artificial matting area on main runway relocated fuel line, access and car parking . The scheme was a comprehensive redevelopment and was refused for the following reasons:
1. *The proposal is contrary to PPG24 and the Local Development Framework Policies CP1, DP1, CP4, CP21 and DP44 as the proposed development would*

give rise to a number of aircraft movements at the airfield that would fail to adequately protect or enhance the amenity of the population, particularly with regard to noise and disturbance as required by Policy DP1.

2. *The proposal is contrary to PPS4 and the Local Development Framework Policies CP1, CP2, CP4, CP1 and DP25 as it has not been supported by a business case that demonstrates that support will be provided to the local economy which in turn would help sustain rural communities.*
3. *The proposal is contrary to PPS1 and PPS7 and the Local Development Framework Policies CP16 and DP30 as the proposal would have a harmful impact on the visual amenity of the landscape.*

2.7 An appeal against this (the “2010 scheme”) was heard at appeal in March 2011, (the “2011 Appeal”) and led as noted in the planning appeal history at Table 2 essentially to maintaining the status quo, i.e. (i) works for development that had been undertaken and were the subject of an Enforcement Notice were granted planning permission to be retained; but (ii) the appeal against the refusal of further development in the “2010 scheme” was dismissed.

2.8 The 2010 Enforcement Notice related to the following:

1. *The unauthorised construction of an aircraft hangar (Hangar E).*
2. *The unauthorised concreting of the apron to Hangar E.*
3. *The unauthorised concreting of the apron to Hangar A.*
4. *The unauthorised concreting of part of the main east west runway.*
5. *The unauthorised installation of plastic geo-textile matting on the main east west runway.*

2.9 The appeal against the service of the Enforcement Notice was allowed and the Inspector granted planning permission for the development identified in the notice, which related to the construction of Hangar E, the aprons to Hangar E and geo-textile matting to the parts of the east-west runway extended from the central concrete section of the runway.

2.10 The 2012 appeals were considered at a Public Inquiry following the issue of Enforcement Notices (ENs) in respect of a range of operational developments and changes of use. The Council was overwhelmingly successful in defending appeals against the ENs as details in items 1 to 14 in Table 2, overleaf. A north-south runway was formed and then in 2012, following consideration of the Enforcement Notice appeal, required to cease. In 2013 further appeals relating to the use of the east–

west runway and fuel facility were heard at Public Inquiry. The Enforcement Notice appeal was allowed and the Enforcement Notice quashed relating to the east–west runway. The fuel facility enforcement notice appeal was dismissed and the Notice, as varied, upheld. A Public Inquiry in 2017 considered appeals following enforcement notices on (i) the allegation of the widening of taxiway and allowed the appeal, varied and quashed the enforcement notice; and (ii) at the same Public Inquiry also heard the Enforcement Notice appeal relating to an allegation of operational development relating to two fuel facilities, Inspector Murray allowed the appeal and quashed the Enforcement Notice.

2.11 The outcomes of the appeals are summarised in Table 2.

Table 2 – Appeal cases and summary of outcome

LPA short Enforcement Notice No:	LPA full Enforcement Ref	Summary of Breach:	Effective Date	Appeal Decision
Three section 78 appeals and one section 174 appeal	09/00120/ENGOP 09/00121/ENGOP 09/00122/ENGOP	Construction of Hangar E and aprons to hangars and geo-textile matting to the east west runway		Enforcement appeals allowed.
1	09/00119/COU	Use of the North/South Runway	25-Nov-2011	Dismissed
2	11/00209/CAT3	Change of Use to Storage (Hangar A)	20-Dec-2011	Dismissed
3	09/00123/COU	Use for the Siting of Caravan	20-Dec-2011	Dismissed
4	11/00210/CAT3	Septic Tank	20-Dec-2011	Dismissed
5	11/00181/CAT3	Packaged Treatment Works	20-Dec-2011	Appeal withdrawn
		Flight Crew Room, Toilet		

6	11/00182/CAT3	Block and Wet Room	20-Dec-2011	Appeal withdrawn
7	09/00241/CAT3	Change of Use to Air Ambulance Base	20-Dec-2011	Appeal withdrawn
8 Withdrawn	09/00127/COU Withdrawn	Use for Hire of Aircraft (Hangar N)		Notice withdrawn
9	09/00127/COU(2)	Use for Helicopter Air Taxi (Hangar E)	20-Dec-2011	Allowed on legal grounds Ground C
10	09/00128/COU	Change of Use to Repair, Service and Renovation of Aircraft (Hangar B)	20-Dec-2011	Dismissed
11	09/00128/COU(1)	Change of Use to Repair, Service and Renovation of Aircraft (Hangar P)	20-Dec-2011	Dismissed
12	11/00183/CAT3	Construction of Lean-To (Hangar P)	20-Dec-2011	Dismissed
13	09/00018/UDC	Change of Use to Storage of Materials	20-Dec-2011	Notice varied and Upheld
14	09/00127/COU(1)	Use for Hire of Aircraft (Hangar D)	20-Dec-2011	Appeal withdrawn
15	12/00272/CAT3	Use of east west runway	8-Feb-2013	Allowed on legal grounds
16	11/00240/CAT3	Jet A1 fuel facility	8-Feb-2013	Notice varied and Upheld
17	14/00237/CAT3	Taxiways	7-Dec-2014	Notice varied and quashed
18	14/00269/CAT3	Fuel facility	12-Jun-2015	Notice quashed

19	18/00090/CAT2	Storage	3 Jan 2019	
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- 2.12 A breach of planning control relating to the siting of a portable office building for the aircraft engineering business was recorded on 31 July 2017 (enforcement reference 17/00253/CAT3). The location of the portable building was recorded to have been moved to a position close to Hangar B on 2 January 2018. An enforcement report considered and concluded that taking enforcement action against the siting of the portable office building was not expedient. The application (reported separately under reference 18/00524/FUL) for the siting of the portable office building is to be determined. If the application (18/00527/FUL) is refused the council can review the need for appropriate and proportionate enforcement action. The time limit for enforcement action to be taken is prior to January 2028.
- 2.13 A breach of planning control was recorded on 2 January 2018 as a fixed fuel facility had been formed, comprising, in short, a new concrete base and siting of fuel tanks and subsequent additional works to provide fixed dispensers with pay-at-pump facilities (18/00002/CAT3). The works are operational development requiring planning permission. A report considered and concluded that it was not expedient to issue an enforcement notice at that time. The current application now includes a retrospective application for planning permission for the fixed fuel facility. If planning permission is refused for this application, the council can review the need for appropriate and proportionate enforcement action for the fuel facility at that time. The time limit for enforcement action is 1 January 2022.
- 2.14 A breach of planning control in respect of the use of Hangar B for the purposes of the operation of commercial aircraft engineering business was recorded on 9 January 2018 (18/00012/CAT3). An Enforcement Notice (item 10 in Table 2 above) prohibits such use. An enforcement report considered the matter and concluded that it was not expedient to pursue enforcement action at the time, but upon decision of this application if planning permission is refused the council can review the need for further action on the matter. The development is part of this amended application.
- 2.15 A breach of planning control in respect of storage on land to the west of the Airfield Clubhouse on land in agricultural use and within the Airfield application site boundary was recorded on 13 April 2018. An Enforcement Notice was issued on 23 November 2018 requiring the cessation of the storage use and clearance of the land by 3 February 2019. However, an appeal was lodged prior to the Notice coming in to effect and the appeal has the effect of placing the requirements of the Enforcement Notice 'on-hold' until the appeal is decided.

Lawful Use

- 2.16 The evidence of the existing lawful use of the airfield is not comprehensive and is the subject of dispute, particularly from local residents. Some evidence of use can be found in the records and evidence of the planning applications and appeal proceedings. It can be concluded that some parts of the airfield are lawful due to the passage of time and immunity from enforcement action (including long standing breaches of condition), some from planning permissions granted by the Local Planning Authority and upon appeal. Most notably the decision of Inspector Diane Lewis, dated 22 January 2014, following an appeal against an enforcement notice, as amended, that alleged:

“Without planning permission, the material change of use of the site from an airfield with annual aircraft movements of 4,371 (including 330 jet helicopter movements) to an airfield and heliport with annual aircraft movements of 7,288 (including 567 jet helicopter movements). The use of the site as an airfield has intensified to such a degree to amount to a material change in the character of the use”.

Inspector Lewis found that:

“Conclusion

83. The essential aspect of the allegation is intensification to such a degree as to amount to a material change in the character of the use of the airfield (as defined by the Land). There was general agreement in closing submissions at the end of the inquiry that the quantitative information is only part of the evidence. The change in character has been associated primarily with the development on the surrounding land outside the planning unit of the airfield. My conclusion is that, on the balance of probability and all the evidence available, the matters stated in the notice do not constitute a breach of planning control.”

- 2.17 The Inspector on the evidence at the Inquiry found that annual aircraft movements of 7,288 (including 567 jet helicopter movements) was not a breach of planning control and was therefore lawful.
- 2.18 The Inspector could only consider the lawfulness of the number of movements presented to her. Another way to determine whether a number would be lawful would be through consideration of a Certificate of Lawful Use or Development

(CLEUD) but no such application has been made and the Council cannot compel the owner to submit such an application in order to establish the extent of the lawful use of the site.

- 2.19 The Council has a statutory power to enforce against alleged breaches of planning control. The Enforcement Notice served in December 2012 was the Council's attempt to enforce against a claimed unlawful material change in use. It was premised on the basis that the use of the planning unit for an airfield (a mixed use) was lawful. This was not contested by any party at the Inquiry. Rather, it was premised on the basis of evidence from local residents that the use of the airfield had increased over time such that there had been a material change of use by way of intensification. The Appellant successfully appealed against that Notice.
- 2.20 It is therefore the conclusion of the Planning Officers of the Council that the use of the land included in the red line of the 2012 Enforcement Notice as an airfield (and specifically relating to the east-west runway) must therefore be lawful.
- 2.21 There must, therefore, also be a level of aircraft movements (AMs) which is lawful. The precise level of such use has, however, been contested by local residents. One cannot, therefore, be certain about the baseline level of lawful use against which to test this application. It would however follow from the 2014 Appeal Decision that a use of 7,288 AMs (including 567 jet helicopter movements) at least would be lawful.
- 2.22 The Applicant's position is, however, clear. The Applicant considers that there is no restriction on the lawful number of AMs which can take place on a daily, weekly, monthly or annual basis. They consider that the number of AMs can, therefore, increase from the existing providing there is not a material change in the character of the use as a result. Officers of the Council agree to the extent that a cap on the number of AMs could only be identified at the point where exceeding that number would result in a material change in the character of the use of the Airfield. It is therefore considered that, exercising a planning judgment based on a detailed knowledge of how AMs impact on the character of the use from numerous public inquiries, the number of AMs could lawfully increase above 7,288 per annum (including a change in the mix of AMs) before there would be a material change of use.

3.0 RELEVANT PLANNING POLICIES:

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the Development Plan in any determination, that determination

shall be in accordance with the plan unless material considerations indicate otherwise. Section 38(5) requires that where policies in the Development Plan conflict, that conflict must be resolved in favour of the last adopted document.

3.2 The Development Plan for Hambleton District comprises the Local Development Framework: the Core Strategy Development Plan Document (adopted April 2007) and the Development Policies DPD (adopted February 2008) and the Allocations DPD (adopted December 2009).

3.3 The relevant policies of the Development Plan are as follows:

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 - Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP15 - Rural Regeneration

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Core Strategy Policy CP17 - Promoting high quality design

Core Strategy Policy CP21 - Safe response to natural and other forces

Development Policies DP1 - Protecting amenity

Development Policies DP3 - Site accessibility

Development Policies DP4 - Access for all

Development Policies DP6 - Utilities and infrastructure

Development Policies DP9 - Development outside Development Limits

Development Policies DP25 - Rural employment

Development Policies DP30 - Protecting the character and appearance of the countryside

Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation

Development Policies DP32 - General design

Development Policies DP33 - Landscaping

Development Policies DP42 - Hazardous and environmentally sensitive operations

Development Policies DP44 - Very noisy activities

3.4 National policy and advice is contained in the following documents:

National Planning Policy Framework July 2018

Aviation Policy Framework published 22 March 2013

Noise Policy Statement for England March 2010 from the Department for Environment, Food and Rural Affairs

National Planning Practice Guidance

General Aviation Strategy published by the Department for Transport March 2015
Noise Considerations at General Aviation (GA) Aerodromes published by the CAA
(Civil Aviation Authority) November 2012

3.5 Other non-Governmental guidance:

General Aviation Awareness Council - General aviation sector-led guidance on planning in relation to aerodromes for local planning authorities, aerodrome owners and aerodrome operators, prepared by the GAAC, April 2015.

3.6 The Local Development Framework is the Development Plan for Hambleton and contains policy that is pertinent to the determination of the application. The NPPF and the Aviation Policy Framework, the Noise Policy Statements, the Planning Practice Guidance, CAA guidance and General Aviation Strategy and GAAC guidance are material considerations.

4.0 SUMMARY OF RELEVANT POLICIES

4.1 The policies in the LDF Development Plan Documents are inter-related and need to be considered as a package. The Core Strategy policies CP1, CP2 and CP4 state how local development needs can be met sustainably by building upon the spatial strategy of the Core Strategy. They seek to achieve sustainable development by reference to a range of characteristics that will be encouraged, protected and enhanced. Policy CP4 identifies forms of development that will be supported as exceptions to the Spatial Principles that focus new development on the Service Centres, Service Villages and Secondary Villages.

4.2 Supporting prosperous communities whilst protecting the quality of the environment is considered by Core Strategy policies CP15, CP16 and CP17. These policies acknowledge that development can have impacts and states that development should not conflict with environmental protection policies, but should seek to enhance the environment and provide any necessary mitigation and compensatory measures to address harmful implication.

4.3 Core Strategy policy CP21 requires that development must seek to ensure that communities and the environment are not adversely affected by natural or other forces.

4.4 The Development Plan policies add detail to the Core Strategy policies. Policy DP1 requires development proposals to adequately protect amenity. DP3 and DP4

require developments to provide for sustainable forms of access that is safe and easy for use by all.

- 4.5 Policy DP6 requires the provision of infrastructure to meet the needs of the development.
- 4.6 Policy DP9 allows for development on sites outside of the Settlement Hierarchy defined at Policy CP4 in exceptional circumstances.
- 4.7 Policy DP25 promotes appropriate rural employment opportunities in locations outside development limits provided that they are small in scale; involve the conversion or re-use or replacement of buildings and extensions to buildings and uses that are appropriate in terms of the other LDF policies; not capable of location within the Development Limits of a settlement; supported by a business case that demonstrates the support for the local economy, which in turn would help sustain rural communities; and not harmful to the economy of the Service Centres.
- 4.8 Policies DP30, DP31, DP32 and DP33 require high quality developments that will not result in harm to the qualities of the landscape of the District, not harm bio-diversity and in which landscaping proposals are an integral part of the development.
- 4.9 Policies DP42 and DP44 are to protect the public from hazardous or polluting activities, to protect health, safety and amenity and to direct development likely to generate harmful levels of noise to appropriate locations away from known noise sensitive locations.

NPPF (2018)

- 4.10 The NPPF provides policy on matters relevant to the proposal including transport and the role of general aviation airfields (paragraph 104 f). It states that planning policies should:

“Recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy”

- 4.11 Under the topic heading ‘Ground conditions and pollution’ states at paragraph 180 that:

“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment.”

4.12 Decisions should also (paragraph 180 a):

“Mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.” {Footnote reference to the Noise Policy Statement for England}

Noise Policy Statement for England

4.13 The Noise Policy Statement for England was published by the Department for Environment, Food and Rural Affairs in March 2010 and sets out the long term vision of government noise policy to promote good health and a good quality of life through the management of noise, within the context of Government policy on sustainable development.

General Aviation Strategy 2015

4.14 The General Aviation Strategy addresses a wide range of topics but is specific to general aviation (GA), recognising the economic importance and wider benefits and provides overall support in policy terms towards strengthening the GA sector. The key aims of the General Aviation Strategy may be summarised as:

“Stimulating employment in GA in terms of how many people are involved and how much they participate;”

“Supporting infrastructure that is appropriate in its extent, capability and location to deliver a mixed, modern fleet of aircraft flying between appropriately equipped aerodromes across well-defined airspace.”

The Strategy is also intent on reducing the burden of red tape to enable the value of GA to the national economy to be realised.

Noise Considerations at General Aviation (GA) Aerodromes 2012

4.15 The document is an examination of some of the environmental issues associated with general aviation focussed aerodromes, concentrating upon noise impact and local Noise Abatement Procedures (NAP). The document includes explanatory detail that is pertinent to the operation of an unlicensed aerodrome with particular focus on

the means to abate noise through voluntary compliance where compliance with the procedures are enforced by the aerodrome operator. Bagby Airfield is an unlicensed aerodrome. Licences are issued by the Civil Aviation Authority. Unlicensed aerodromes are restricted in the range of activities that can be undertaken.

Aviation White paper (unpublished)

- 4.16 The Aviation White Paper has yet to be published in its final form by the Department for Transport (DfT). However, a precursor document published in April 2018, *“Beyond the horizon: the future of UK aviation”*, sets out recognition of the economic benefits of the sector in the UK. This document highlights:

“The government believes that it is important to ensure a long term strategic vision for the GA sector that helps it to realise its full economic potential.” (Para 5.38)

5.0 CONSULTATIONS

- 5.1 Bagby Parish Council – Recommends refusal. Representations from the Parish Council are made over a wide range of concerns around the operations of the airfield most notably relating to noise (The full representations are at Annex 3), they are identified in summary as

1. Comparison of this application is drawn to the rejected proposals from 2010; noting the increased flight numbers;
2. Concerns regarding more, larger helicopters and helicopter training and hot-refuelling [hot refuelling is refuelling of helicopters whilst the rotors continue to turn];
3. More fuel tanks are proposed at the Airfield;
4. Increased size of the maintenance facility;
5. The maintenance facility is nearer to the village than the current workshop;
6. The development will result in greater noise;
7. Loss of amenity to residents will result;
8. Overflying of homes occurs;
9. Flying circuits for long periods causes great loss of amenity over areas previously to be excluded (reference Peter Kember evidence Plan “PK21”) [PK21 was an Inquiry document tabled by the Airfield to illustrate a flying circuit for the Airfield];
10. Disturbance to wildlife;

11. Stunt flying takes place (note recent Jet Provost low pass over the airfield at the August 2017 Fly-In day);
12. Unacceptable noise levels have resulted in the refusal of planning permission and three appeal Inspectors have found noise unacceptable;
13. Ombudsman findings that harm had been caused due to the loss of planning control;
14. Lack of management controls at the airfield;
15. Lack of safety management and history of accidents;
16. The position of proposed access is too close to the children's play park with a risk of accidents;
17. The emergency (north-south) runway is in line with the proposed vehicular access;
18. Highway safety concerns on Bagby Lane and the A19 due to increased traffic;
19. G. Fox Aviation could expand at other aerodromes and is not a justification for development at Bagby;
20. Concern at the size of the red line boundary and increased size of the Airfield;
21. The development does not promote energy efficiency, reduce the need for travel or reduce climate change impacts contrary to Local and National Policy;
22. Doubt over the viability of the proposed café and reference Fishburn Airfield in Co. Durham as a larger but comparable airfield where a café is alleged to have ceased to trade due to lack of business;
23. Doubt over the validity of acoustic test;
24. Doubt over the effectiveness of monitoring proposals;
25. Concern that an unmanned airfield is a potential target for unlawful activities; and
26. Doubt over the business case for growth of staffing due to the reputational harm arising from suspension of licences and reduced staffing following the redundancy of the airfield manager.

5.2 Thirkleby Parish Council – Objection received referring to a wide range of concerns around the operations of the airfield most notably relating to noise from overflying of the village by aircraft; many of the comments repeat those raised by Bagby Parish Council. (The full response is at Annex 4) The Parish Council response itemises the major concerns as in the response to the application prior to amendment:

1. Peak noise levels are unacceptable;
2. Over-flying of homes causes nuisance to residents, livestock and wild animals;
3. Larger noisy helicopters are now arriving more frequently;
4. Repetitive and annoying low level circuit training flying continues;

5. Helicopter training appears to have started again;
6. Continued hot-refuelling of helicopters;
7. Stunt flying has resumed;
8. Serious criminal drug activity was very disturbing which caused Thirkleby to be in “lock down” for three hours during a man hunt for a pilot;
9. Lack of, or no control of, airfield activity by HDC or the airfield management;
10. No control on air traffic by composition, time of day, noise creation, numbers per day/week/month/year. After dark landing is very disturbing as aircraft circle very low trying to find the airfield;
11. Number of air movements now 8787 a number which has no legal historic validity and with no control, is a meaningless number. How will this be enforced or monitored?; and
12. The aircraft movements are unrealistic; they have been based on inaccurate figures.

Additional comments identify that:

13. The noise survey cannot be used to represent the true background noise level for Thirkleby;
14. The Code of Conduct should not allow the use of the north-south runway for any purpose, it should exclude emergency use. Fly-in days (days on which the Airfield promotes itself to and encourages visits from non-regular users) should be excluded from the annual total; and should allow for quiet periods relating to Thirkleby Church and requests from Thirkleby Parish Council;
15. Clarification should be provided of the penalties to be imposed if the provisions of the conditions or Code of Conduct are breached;
16. The background noise survey for Thirkleby is not a true representation;
17. Runway 15/33 does not have planning permission and should not be used;
18. The Code of Conduct does not consider the needs of Thirkleby residents;
19. The Code of Conduct is unenforceable;
20. The aircraft movements are unrealistic; they have been based on inaccurate figures; and
21. Accidents have occurred when a qualified manager was in place. The Airfield owner is now quite happy for untrained people to run it showing a clear disregard for safety.

- 5.3 Highway Authority – Recommends conditions relating to discharge of surface water from the access road, construction requirements of the new verge crossing, visibility splay requirements at the new Airfield access road and construction management to be attached to any approval.

- 5.4 NYCC Rights of Way – No response.
- 5.5 Ramblers Association – No response.
- 5.6 Environmental Health Officer – Makes the following response:

Flight movements

There is a disagreement as to whether this application increases the number of aircraft movements on the airfield. I do not believe I am in a position to make that assessment. However, the recordings suggest that air movements can be heard in the village to varying degrees above the background noise level. The impact of noise disturbance is quantified by the duration, frequency and level, so the number and type of events is very important and therefore an increase in the number of aircraft movements would be significant.

It may be difficult to distinguish noise events from aircraft from other activities in and around the village as stated in the WSP Parsons Brinkerhoff report dated 28th February 2017 but it appears that aircraft movements do influence noise levels in the village, therefore an increase in the number will have a corresponding increase in noise levels.

Ideally the recordings taken in Bagby Village would have been made at the nearest noise sensitive residential property, which, looking at the plan provided by KP Acoustics showing their measurement positions would have been in the order of 100m closer to the landing strip than Monitoring Position 1. This would clearly have an influence on the measured noise levels.

The average noise level has been given as 45 – 55dB L_{Aeq} and is used to assess the impact of noise from the airfield. However, this is not the same as assessing against the background L_{A90} . The analysis by WSP Parsons Brinkerhoff in the report dated 28th February 2017, states the $L_{A90, 15min}$ is 41/42dB at Position 1. As I have advised previously I view background noise levels as being the noise level when there are no aircraft movements or other ground based airfield activities taking place and I am not convinced this has been achieved.

Therefore, in my opinion an increase in the number of aircraft movements would have a proportional impact on the noise levels residents are exposed to and if indeed this does amount to a significant increase in numbers this is more important than the other changes that are part of the application.

Demolition / construction

Noise and disruption to local residents will occur during the demolition and construction phase of the development, if approved. Peak noise levels at the residential properties are somewhat obscured in the assessment when noise levels are given as 10 hour average over the working day (L_{Aeq} , 10 hour).

However, this can be minimised by limiting the working days to the following, which is stated in the Noise and Vibration chapter of the environmental assessment:

*08:00 to 18:00 hours Monday to Friday,
08:00 – 13:00 Saturdays
No working on Sundays or Bank Holidays*

These restrictions also apply to deliveries/collections to the site.

By utilising set working hours for activities on site as well as deliveries to the site, respite is provided for local residents near to the development.

In addition following best practice guidance for the Code of Practice for noise and vibration control on construction and open sites and the adoption of Best Practicable Means in Section 72 of the Control of Pollution Act as specified in the environmental assessment should satisfactorily control noise and vibration.

Ground and Maintenance Operations

The new maintenance building will be approximately 50m closer to residential properties in Bagby and significantly larger than the existing one, which may lead to an increased level of maintenance work.

There have been two complaints of noise from engines revving connected to maintenance work made to this department. To avoid complaints in the future there should be no openings on the north east and north west facing elevations of the maintenance building or the roof, to minimise noise breakout in the direction of Bagby and doors to the maintenance building are to be kept shut during maintenance operations.

The environmental assessment states that 'engine run-ups are conducted at the end of the runway' and future engine testing other than where the engine is at low / tick-over speed. This should continue so that it is further away from Bagby village.

Entertainment Noise

There is little information provided on the number and type of events that might be held in the clubhouse. Live music events can be well in excess of the 55dB used for this assessment and I would recommend a condition requiring windows and doors to be kept closed during live music, except when used for access and egress, to limit noise breakout from the clubhouse.

- 5.7 Environment Agency – No objection. Notes that the Local Lead Flood Authority is to comment upon surface water disposal and that checks should be made to confirm that there is adequate spare capacity in the foul drainage system.
- 5.8 NYCC Local Lead Flood Authority (LLFA) - No objection; recommends that detailed surface water drainage design proposals are required by planning condition, to be provided for approval prior to construction.
- 5.9 Historic England – Does not wish to offer any comment.
- 5.10 North Yorkshire Fire and Rescue Service – No response.
- 5.11 NYCC Trading Standards (Petroleum Enforcement Authority for North Yorkshire) -

“Our statutory purpose is to issue petroleum storage certificates under the Petroleum (Consolidation) Regulations 2014 certification scheme. As such, this Authority would only be able to comment on matters relating to petroleum storage and dispensing.

Having reviewed the application and taking into account our previous certification of this site for the storage and dispensing of AvGas, we have no objection to the proposal for the creation of a fixed fuel facility on the site. However we would like to offer the following advice regarding the design and construction of any new petroleum storage facility.

Storage of petrol on dispensing premises:

Before a storage certificate can be issued, the operator of the facility must ensure that the containment systems at dispensing premises may reasonably be used to store 'petrol' without creating an unacceptable risk to the health and safety of any person.

With this in mind, this Service would expect the operator and developers to take account of the following when designing and constructing any new storage facility.

(Reference is then made to the design standards and the advice to consult with the Petroleum Enforcement Authority.)

Further advice notes that a temporary bund meets the requirements of the regulations. The matter is subject to on-going review of the condition and use of the temporary bund.

- 5.12 National Air Traffic Services - NATS (En Route) Public Limited Company ("NERL") - No safeguarding objection.
- 5.13 Health and Safety Executive – The application site does not cross any consultation zones.
- 5.14 Ministry of Defence (Safeguarding) – No safeguarding objection to the proposal.
- 5.15 North Yorkshire Police Designing out Crime Officer – no concerns or issues to raise.
- 5.16 Howardian Hills AONB Advisory Group – The site is outside the AONB and the works would not have any impact on the setting of the AONB. Accordingly there are no comments to make.
- 5.17 Natural England – Advises that the development is not likely to have a significant effect on the interest feature of the North York Moors Special Area of Conservation and the North York Moors Special Protection Area or the Gormire or North York Moors Sites of Special Scientific Interest.
- 5.18 Yorkshire Water – No objection.

- 5.19 Swale and Ure Internal Drainage Board – The proposal is outside the drainage board area but drains in to it. The drainage assessment indicates that there will be no increased discharge in to the land drainage but the details of this have not been established. A condition requiring submission of the drainage details to the LPA prior to commencement should be made.
- 5.20 National Grid – No response.
- 5.21 Yorkshire Wildlife Trust – No response.
- 5.22 NYCC Archaeology – No objection; there are no known archaeological sites in the area indicated or within the immediate vicinity.
- 5.23 Council for the Protection of Rural England – No response.
- 5.24 North York Moors National Park Authority – No objection providing that there is no significant increase to the air movements currently permitted.
- 5.25 Welcome to Yorkshire – No response.
- 5.26 Public comments - Letters of notification of the application were sent to 111 addresses, comprising those who had previously corresponded with the Council on the previous cases.
- 5.27 Representations have been received of which 87 object, 134 support and 2 make representations neither supporting nor objecting. Where the contribution has been made via the Public Access function on the website the ‘stance’ (support or objection) of the contribution has been selected by the contributor, where representations have been sent by other means the ‘stance’ has been identified by officers of the Council.
- 5.28 Comments of those 87 opposed to the development:
- Noise from aircraft causes harm and air pollution;
 - No benefit to the local community;
 - Rail and road links are good, so there is no need for air links;
 - More infrastructure will lead to more flights and more helicopters;
 - The figure of 8,787 AMs is too high;
 - A limit of 4,000 AMs should be imposed;
 - Controls on numbers cannot be enforced;
 - A voluntary code cannot be enforced;
 - Limit flight numbers by limiting the infrastructure; and

- Increased flights will impact on wildlife, particularly nesting and over-wintering birds.

5.29 Detailed representations have been made on behalf of the local campaign group Action 4 Refusal in respect of the Environmental Statement and the business case. Copies of the representations are appended to this report, as Annex 5. In summary the representations set out:

- The consultation on the application is inadequate;
- Resolution must be achieved of all enforcement cases before considering the planning applications. Consideration of the enforcement cases must not result in “salami slicing”, it must be taken in the round;
- Aviation engineering businesses are subject to change and the business model is flawed as it cannot rely upon the stability of the businesses;
- Aviation businesses have different client groups with differing impacts and will cause harm to the amenity of neighbours;
- The changes to the businesses are not reflected in the business case and as such the business case is flawed and cannot be relied upon in the application. The business case lacks details of the financial and contractual arrangements of the businesses;
- The revisions to the planning application should not have been accepted;
- Planning conditions cannot be relied upon to regulate the use of the airfield as they will fail the six tests for condition particularly as the conditions are unenforceable;
- The Code of Conduct is unenforceable and the voluntary Code of Conduct has been ineffective failing to gain any control;
- Breaches of planning control have occurred at the Airfield and continue to occur and the Council fail to enforce controls; and
- An assertion that the decisions taken by the Council on various alleged breaches of planning control are flawed and that cases have been closed that should have resulted in formal action.

5.30 134 submissions have been made in support of the development, summarised as:

- It will secure employment at the airfield (7 jobs are based in the engineering facility);
- It will support the rural economy;
- It will control movements in future and encourage responsible flying;

- It will enhance transport links (particularly for the horse racing industry) to form a hub;
- It will provide training in both aviation and engineering (including apprenticeships);
- The facilities are in need of upgrade, they are thermally inefficient;
- It will not generate additional noise and noise concerns are over-stated;
- The scheme will improve the appearance of the Airfield;
- It will stop the waste of money used in enforcement;
- A better new access would be beneficial to local residents;
- The existing facilities are shabby, refurbished it will be a tourist attraction
- The scheme can lead to the end of the lack of harmony in the village; and
- The development is an appropriate scale in the rural location, commercially viable and NPPF compliant.

5.31 The comments neither supporting or objecting to the application state that a full time flight controller is required.

6.0 ANALYSIS

6.1 This application falls to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The main issues in the consideration of this application fall in to three main areas:

- Noise and amenity
- Local economy – and the applicant's business case
- Controls over activity at the airfield

These three aspects are to be considered in the following sections 7, 8 and 18 of this report.

The development is subject to an Environmental Statement and consideration is first given to the application of the Regulations to this development.

6.2 Environmental Impact Assessment

6.2.1 An Environmental Statement (ES) has been submitted with the planning application 16/02240/FUL. This followed a screening report by Barton Willmore for Martin Scott of 25 January 2016 and the decision on 1 March 2016 by Hambleton District Council (16/00151/SCR) and subsequently on 12 May 2016 by the Secretary of State that the proposal was Environmental Impact Assessment development and that an ES was required to be prepared and submitted with this planning application. The Screening

Direction of the Secretary of State identifies that the development falls within Schedule II of the EIA Regulations 2011 and amended in the 2015, Paragraph 11 (e) the construction of airfields (Annex 6).

6.2.2 A Scoping Request (seeking to identify the scope of the ES) was made by Barton Willmore for Martin Scott on 30 June 2016. The proposal at that time was for development of “new hangars, maintenance facility and tractor shed, together with alterations and extensions to airfield buildings, runway, apron and hard surfacing areas, new access, landscaping and demolition works including an increase of Aircraft Movements to 9500AMs per annum.” A Scoping Opinion was issued by Hambleton District Council on 3 August 2016. The Scoping Opinion included a greater range of factors than had been included in the scoping report (Annex 7).

6.2.3 The preparation and submission of the ES occurred during the period when the Environmental Impact Assessment Regulations 2011 were in place. The transitional provisions of the EIA Regulations 2017 are such that the 2011 Regulations continue to apply to this application and the development is to be considered under the earlier Regulations.

6.2.4 The Scoping Opinion identified matters that should be included in the ES. The ES submitted comprises 9 chapters. The main topic areas are contained in the following chapters:

- 3 - Climate change, energy and sustainability
- 4 - Construction method and programme
- 5 - Land contamination
- 6 - Air quality
- 7 - Noise and vibration
- 8 - Transport and access

6.2.5 On 14 March 2018 the Applicant's agents supplied what they described as “non-significant information towards the submitted environmental statement” as an update to the ES September 2016 (that has been submitted with the planning application). The applicant sought to amend the details of the proposal to include a fixed fuel facility, to remove Helipad 1 and to create a new helipad to the west of the new fuel facility. The proposal also sought to amend the proposal to relocate the maintenance facility to Hangar B on the south side of the Airfield. The proposal also was revised to reduce the annual number of aircraft movements.

- 6.2.6 In summary, the scoping request had stated 9,500 movements per annum. This was reduced to 8,787 at the submission of the planning application and revised down to 8,500 on 14 March 2018 then to 8,440 on 12 June 2018.
- 6.2.7 Consideration was given to the power of the Council to accept an amendment to the application at this stage and secondly to consider whether an amendment should be accepted in this case. An officer report was prepared which concluded that (1) the Council may in principle accept an amendment to the scheme, and (2) noting the history of the Airfield and the nature of the amendments proposed that in this case the amendments should be accepted. The authorisation of the Head of Service of 7 June 2018 agreed to accept the amendments and undertake re-consultation in accordance with the EIA Regulations and the Council's Statement of Community Involvement (Annex 8).
- 6.2.8 Consultation was issued as required by the EIA Regulations 2011 on 15 June 2018 providing a 30 day consultation period. 30 comments were received following the issue of the consultation, 11 in support, 18 objecting and one neutral comment. Relevant comments are summarised above. It is concluded that the amendment to the application can be lawfully accepted. It is the application, as amended, which is for determination.
- 6.2.9 The ES does not address heritage, ecology and cumulative impact of other aircraft operations.
- 6.2.10 The issues of heritage, ecology and cumulative impact of other aircraft operations are considered in the following sections of this report. The information contained in the ES, together with the information submitted as a consequence of consultation during the processing of the application and from information available from public sources including information within the planning history of the Airfield is used to make assessment of the impacts of the development.

6.3.1 Heritage

- 6.3.2 Heritage as a topic area was not included in the ES. Detailed evidence on heritage matters has therefore not been provided by the applicant other than in the Environmental Scoping Opinion prepared by the Council and included in the applicant's Planning Statement.
- 6.3.3 Consideration has been given to the distance from the site to designated and non-designated heritage assets. There are no heritage assets within the application site and/or in the area abutting the Airfield or below the immediate approaches to the

east-west runway. The circuit that is identified for aircraft approaching to land or undertaking practice approaches to the Airfield and departing has also been considered. There are Grade II Listed Buildings to the north of the Airfield at Smithy Farm, and Smithy Farm Cottage, and Bagby Hall on the south side of the village street of Bagby. North of the village street Split Farthing Hall, (also shown as Hall Garth), St Mary's Church and East Farm House in Bagby all Grade II; to the south west Griffin Farm, Stockhill Green Farm and The Barn at Stockhill Green Farm, and Thirkleby Lodge and Hall (former stables) all Grade II. Thirkleby Church Grade II* lies about 1.3km southeast of the Airfield. There are no other heritage assets within 1km of the site. A Scheduled Monument, a medieval moated grange is about 1.4km to the east of the easternmost extent of the east-west runway.

6.3.4 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining a planning application for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6.3.10 As noted above there are heritage assets in or close to the villages of Bagby and Thirkleby. These are small villages in an agricultural landscape. Griffin Farm, Stockhill Green Farmhouse, Thirk Lodge are in open countryside close to the A19. Thirkleby Hall Stables are close to a large caravan park. The tranquillity of each of these places is effected by the proximity of the A19 road and the businesses of farms, holiday and recreation uses. The Church of All Saints, Thirkleby stands in open countryside away from the village or a major road and has a significantly greater level of tranquillity. The Church of St Mary's in Bagby is also away from the road and the village street and has a more tranquil setting. The church is a notably important building. Both churches benefit from tranquillity of their locations.

6.3.11 There are no other heritage assets within 1km of the site. A Scheduled Monument, a medieval moated grange at Balk is east of Bagby and about 1.4km east of the easternmost extent of the runway.

6.3.12 The significance of each of the heritage assets is architectural and historic relating to traditional village life of farms and churches and grand houses with associated stables and lodges. The settings of the heritage assets are varied and relate to historic patterns of development.

6.3.13 The heritage assets have settings that fall in to three distinct types:

- (i) The settings of the buildings that sit within the built form of a village, with other buildings in close proximity and views of the heritage assets within the context of the village street;
- (ii) The setting of a farm house that forms part of a group of farm buildings that is in a rural setting, away from a settlement. The building is in a farmland setting close to a major road these are the factors that contribute to the setting of the heritage asset; and
- (iii) A parish church building that is within a countryside setting isolated from other buildings. The open setting allows long range views and the tranquillity of the setting in an undeveloped agricultural landscape is significant to the asset.

6.3.14 The development proposal would not result in discernible visible change from positions that are within the setting of any of the heritage assets due to the relatively low built form of the proposal and the absence of significant change to the land form of the application site.

6.3.15 Any impact on the setting of the heritage assets must therefore arise from the impact of the use, mostly as a consequence of noise from aircraft. The proposal does not seek a material change of use of the land other than in respect of the formation of the new access road from Bagby Lane across agricultural land. Any change in the impact on the setting of any heritage asset is therefore a matter that could be controlled through the use of planning controls relating to the number and character of aircraft movements.

6.3.16 The proposal has no physical impact upon any heritage asset. The use of the Airfield, mainly through noise of aircraft on the ground or in the air, currently has an impact upon the tranquillity of the heritage assets. The proposal may have an impact upon the tranquillity of the settings of the heritage asset as a consequence of a change in the character of the aircraft movements (for example, a shift from fixed wing aircraft to helicopters or from twin engine aircraft to single engine), the number of the movements, the noise levels of aircraft, and the time of aircraft movements. Ground based activities may also have an impact through noise.

6.3.17 However, the interest and significance of each of the identified assets (including the setting as a component of the asset's significance) can, in principle, be preserved by the use of planning controls to limit the impact upon the tranquillity of the heritage assets through noise generating AMs.

- 6.3.18 Special regard has been given to the desirability of preserving listed buildings and their setting and any features of special architectural or historic interest which they possess. Consideration has been given to the characteristics and setting of each of the heritage assets (designated or non-designated, noting that no potential non-designated heritage assets have been identified). The setting of a heritage asset is not fixed and how the elements of a setting may make a positive or negative contribution to the significance of each asset, the ability to appreciate that significance or may be neutral.
- 6.3.19 A conclusion of whether the LDF policy and that of the NPPF is met requires a balanced judgement where great weight and importance is given to the conservation of the heritage asset. That assessment requires consideration of whether this is consistent with the conservation of the significance of the feature which in turn requires consideration of the ability to control (possibly by planning condition and or planning obligation) the impacts of the development and enforceability of those controls to ensure that any necessary mitigation be secured. The planning balance will consider these factors.
- 6.3.20 The development proposal in terms of both the buildings to be altered and constructed and the activity associated with the use of the developments is not likely to have any significant effects on the historic environment provided that it can be adequately controlled by the use of planning conditions and/or a planning obligation so that the relative tranquillity of the heritage assets is preserved and the statutory test is met. Council officers consider that sufficient information is available as to the significance of relevant heritage assets and the likely impact of the proposals in order for a view on the application to be reached which takes full account of the potential impact on these assets. Council officers are of the view that there are no likely significant effects and therefore the Environmental Statement is not deficient for failing to include assessment of the heritage impacts.
- 6.3.21 The proposal is considered to comply with the requirements of the Act (Section 66(1)), local policy in the LDF CP16 and DP28 and the national policy of the NPPF as the proposal would, subject to the mitigation by way of the imposition of planning conditions and planning obligation, cause no harm to significance of any heritage asset.

6.4.0 Ecology

6.4.1 The Development Plan policies relating to ecology are found within CP1, CP16 and DP31; these require that permission is not granted for development that would have a detrimental impact (Policy CP16) or cause significant harm to sites and habitats of nature conservation value or harm species that are protected or under threat (Policy DP31). The policies also state support will be given to the enhancement and increase in number of sites and habitats of nature conservation value particularly those identified in a Biodiversity Action Plan.

6.4.2 The NPPF at paragraph 170 sets a requirement at a) to protect and enhance sites of biodiversity value, and at d) minimising impacts on and providing net gain for biodiversity including by establishing coherent ecological networks that are more resilient to current and future pressures. Further the NPPF at paragraph 175 states:

When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

6.4.3 Ecology as a topic area was not included in the Environmental Statement. Evidence on ecological matters has therefore not been provided by the applicant other than a document "Bat and Proposed Access Road Survey" by Brooks Ecological, which finds that

A combination of building inspections, a semi-destructive search and a dusk emergence survey has confirmed occasional roosting by two pipistrelle bats in the control tower. A licence will be required to demolish this building and further surveys are required to support the application to Natural England.

The adjoining clubhouse has inactive swallow nests present; recommendations are made in relation to nesting birds.

The remainder of the buildings are considered to afford limited to no bat roost potential; proposed demolition of these buildings can proceed with little risk of impacting upon bats.

The new access route crosses habitats of largely low ecological value but dissects two hedgerows route crosses habitats of largely low ecological value.

6.4.4 There are no recorded sites of importance for nature conservation within the vicinity of the Airfield that that may be affected by the development now proposed.

- 6.4.5 There has been opinion submitted in respect of earlier planning applications and in appeal proceedings that increased aircraft movements at the Airfield has resulted in a loss of biodiversity. Account has been made by a resident of the loss of cuckoo and that over-wintering birds and migratory patterns can be interrupted by the aircraft activity. It is acknowledged elsewhere that aerial activity can disturb wildlife particularly during critical periods such as nesting.
- 6.4.6 There has been no objective evidence submitted by other parties to support the alleged impact of the Airfield on bio-diversity previously. These matters have been considered in the appeals, and have not been found to be determinative. No additional evidence of the proposals on bio-diversity has been submitted as part of this application. Natural England has raised no concerns and no response to the consultation was received from Yorkshire Wildlife Trust. There is no evidence or suggestion of protected species within the application site or impact to protected sites. Accordingly there is no evidence to conclude that the omission of ecology from the Environmental Statement has resulted in the Environmental Statement being materially deficient such that the application cannot be determined.
- 6.4.7 The impacts of the development have been considered in the light of the policy requirements. The removal of a section of the Bagby Lane hedgerow to form the new vehicular access would break the connection in a green corridor although it is considered that this would be a relatively short break and would not result in the loss of a high quality or significant quantity of green infrastructure. Continued disturbance through noise generated by the development would detract from the quality of the environment for some forms of wildlife; however this is not a change as a consequence of the proposal. As such no significant harm to biodiversity has been found to arise from the proposal. No proposal has been made that would result in a significant potential improvement to biodiversity.
- 6.4.8 The requirement of the NPPF at paragraph 170 d) is to seek “net gains for biodiversity”. Landscaping proposals can be required to by planning condition to the provide detail for, and implementation of, appropriate measures to promote bio-diversity. Compliance with a condition for landscaping that promotes biodiversity would accord with the Development Plan and NPPF policies.
- 6.4.9 On balance it is considered that the development would not give rise to any significant effects that would cause any harm to nature conservation and therefore the Environmental Statement is not deficient for failing to include this environmental information.

6.4.10 The LDF policies are in general accordance with the NPPF policy tests. It is concluded that an adequate level of evidence has been submitted and that on balance there is compliance with policy in the development plan and NPPF.

6.5.0 Cumulative aircraft activity

6.5.1 The applicant's response to the Scoping Opinion states in respect of the cumulative effects:

14. Cumulative effects would normally be assessed in each technical chapter of the ES. However, the Applicant is not aware of any proposed developments or operations that should be considered. Paragraph 6.59 of the Scoping Opinion requested that the ES take account of military activity at Alanbrooke Barracks at Topcliffe, gliding activity at Sutton Bank and flight operations of RAF Leeming and RAF Linton-on-Ouse. As these are existing operations rather than proposed operations they would be captured, where relevant in the baseline data obtained for the assessments. The RAF bases are approximately 19km from the site. Therefore, it is considered that they are too distant for there to be likely significant cumulative effects with the proposals with the exception of noise. Aircraft noise from the RAF operations would be captured by baseline noise monitoring when aircraft fly over Bagby.

6.5.2 Since the preparation of the Scoping Opinion the Government has announced changes in the use of RAF Linton-on-Ouse initially moving the fast-jet training to RAF Valley in Anglesey in 2019 and subsequently reported in The Times (24 July 2018) the intention to dispose of the site completely. However, at the time of writing there is no statement of a change of operations. Other than the change at RAF Linton-on-Ouse there are no known proposed changes to other aerodromes in the area or changes to the activities from those places.

6.5.3 The 'second application' for temporary siting of a portable office building that stands close to and associated with the on-site aircraft engineer does not generate aircraft movements but facilitates the efficient operation of the engineer's business. The 'first' application shows that the engineer's office is to be accommodated within the Hangar B, in time. As such the temporary portable office building would become redundant if the first application is approved and implemented to provide office space within Hangar B.

6.5.4 There is therefore no need for additional evidence to that which has been supplied on the cumulative impacts.

6.5.5 The Environmental Statement assesses noise in respect of:

- Demolition and construction work;
- Operational activities;
- Traffic on the site access road;
- Ground and maintenance activities; and
- Related to the relocated clubhouse

6.5.6 The ES does not assess noise from airborne aircraft at Bagby. However WSP Parsons Brinkerhoff, acting for the applicant, has provided a supplementary report to the Environmental Statement that gives interpretation of the data gathered in research by KP acoustics, also for the applicant. The position of the applicant (as set out in the ES) states that:

7.47 There are no proposed changes as part of the Development to the current level of aircraft use of the Site, fleet mix, or changes in flight paths using the airfield. Therefore, there can be no noise impacts from aircraft noise in the air associated with the Development. (Renumbered 7.58 in the updated Chapter 7 dated March 2018)

6.5.7 Assessment has been undertaken in the ES of aircraft noise data to inform assessment and prediction of noise levels arising from the proposed ground activities. The ES notes the following under the heading “Other Mitigation Measures”:

7.119 Whilst not a mitigation measure driven by the outcome of the assessment, the proposed cap on aircraft movements should provide some confidence to residents that their exposure to aircraft noise from the airfield will not increase beyond current levels. (Renumbered 7.149 in the updated Chapter 7 dated March 2018)

7.120 In addition to this, the new Code of Conduct dated February 2018 (See appendix 7.6) is proposed, which will assist in the on-going control and management of aircraft noise from the airfield. (Updated to new Code of Conduct and Renumbered 7.150 in the updated Chapter 7 dated March 2018)

6.5.8 The Bickerdike Allen Partners (BAP) report prepared for the Council has given consideration to the matters of aviation noise as well as noise from other sources. The BAP report notes that impact analysis of the larger helicopters appears necessary unless the applicant seeks only to operate single engine types. BAP consider noise levels arising from larger helicopters movements are significant and

justify controls over the permissible noise, these appear in Annex 4 of the BAP report to control the impact upon residential amenity. BAP subsequently have provided clarification that it is desirable but not essential that additional detail relating to noise from larger helicopters was included in the ES. BAP acknowledge that if the large helicopter movements are not affected by the proposal then strictly no formal assessment is required. BAP note that the resident B429 twin engine helicopter refuels on the south east side of the airfield, additional noise data would have provided a basis to establish and advise on the whether it is necessary (to safeguard amenity) for the noisier helicopters to operate at or near to (40 m distant) the new refuelling facility. Without the additional noise data a precautionary approach is taken in setting controls for the location of refuelling to safeguard the amenity of the population.

6.5.9 The information supplied in the application is that environmental noise occurs from the operation of the Airfield. The environmental information finds that without restriction on the operation of the Airfield the noise would continue to harm the amenity of people in the locality, particular residents of Bagby, Thirkleby and intervening properties. Despite failing to include noise information on the cumulative impacts of aircraft noise the information is sufficient and the requirements of the EIA process are respected and the application can be considered.

6.6 Representations from Action 4 Refusal on the Environmental Statement

6.6.1 Representations have been made by Action 4 Refusal (amongst others) which contends that the EIA is deficient, such that consent cannot lawfully be granted (See Annex 5 letter and attachments annexes 5.1, 5.2 and 5.3 from A4R dated 31 August 2017).

6.6.2 The A4R objection makes *inter alia* the following points:

- (i) This application closely resembles the 2010 application which was refused planning permission by the LPA and an Inspector on Appeal;
- (ii) The 2010 application could not have been legally sustained because (a) no business plan had been submitted contrary to policy DP 25; and (b) no EIA was carried out;
- (iii) Inadequacies in the ES are so substantial that it might as well not exist;
- (iv) The EIA has been produced on the flawed premise that there will be no proposed change to the current level of aircraft using the site (whether fleet mix or aircraft numbers). The proposed cap on aircraft movements (AMs)

would amount to a material change of use by reason of intensification, especially by reason of helicopter movements;

- (v) A proposed change to flight paths will concentrate noise levels, the impact of which has not been assessed;
- (vi) Heavier noisier planes could be permitted as a result of the abandonment of a previously proposed weight restriction, which is not assessed in the EIA;
- (vii) The description of the scheme is wholly insufficient to enable the main effects to be assessed, contrary to schedule 4 EIA Regulations (2011);
- (viii) A safety assessment has not been carried out contrary to the applicable EIA Regulations;
- (ix) The on-site engineer has been suspended; and
- (x) The Airfield's sole employee has been made redundant.

6.6.3 It is helpful to address each point in turn.

6.6.4 Firstly, this application is materially different to the 2010 planning application. For example, this proposal does not include a hotel element, as acknowledged by A4R. Further, this application is supported by materially different evidence. There is an Environmental Statement and evidence of a business plan. This differs from the previous planning appeal. Accordingly, whilst the decision of Inspector Braithwaite is a material consideration (as there should be consistency in administrative decision-making), it is a material consideration of limited weight to the determination of this application.

6.6.5 Secondly, whether the 2010 application could have been legally granted on appeal is immaterial to the determination of this application.

6.6.6 Thirdly, the adequacy of environmental statements has been considered in a number of cases over the years. In **R (Blewett) v Derbyshire CC** [2003] EWHC 2775, Sullivan J held *inter alia* that:

38. The Regulations envisage that the applicant for planning permission will produce the environmental statement. It follows that the document will contain the applicant's own assessment of the environmental impact of his proposal and the necessary mitigation measures. The Regulations recognise that the applicant's assessment of these issues may well be inaccurate, inadequate or incomplete. Hence the requirements in Regulation 13 to submit copies of the environmental statement to the Secretary of State and to any body which the local planning authority is required to consult. Members of the public will be informed by site notice and by local advertisement of the existence of the

environmental statement and able to obtain or inspect a copy: see Regulation 17 of the Regulations and Article 8 of the Town and Country Planning (General Development Procedure) Order 1995 .

39. This process of publicity and public consultation gives those persons who consider that the environmental statement is inaccurate or inadequate or incomplete an opportunity to point out its deficiencies. Under Regulation 3(2) the local planning authority must, before granting planning permission, consider not merely the environmental statement, but “the environmental information”, which is defined by Regulation 2 as “the environmental statement, including any further information, any representations made by any body required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development”.

40. In the light of the environmental information the local planning authority may conclude that the environmental statement has failed to identify a particular environmental impact, or has wrongly dismissed it as unlikely, or not significant. Or the local planning authority may be persuaded that the mitigation measures proposed by the applicant are inadequate or insufficiently detailed. That does not mean that the document described as an environmental statement falls outwith the definition of an environmental statement within the Regulations so as to deprive the authority of jurisdiction to grant planning permission. The local planning authority may conclude that planning permission should be refused on the merits because the environmental statement has inadequately addressed the environmental implications of the proposed development, but that is a different matter altogether. Once the requirements of Schedule 4 are read in the context of the Regulations as a whole, it is plain that a local planning authority is not deprived of jurisdiction to grant planning permission merely because it concludes that an environmental statement is deficient in a number of respects.

*41. Ground 1 in these proceedings is an example of the unduly legalistic approach to the requirements of Schedule 4 to the Regulations that has been adopted on behalf of claimants in a number of applications for judicial review seeking to prevent the implementation of development proposals. The Regulations should be interpreted as a whole and in a common-sense way. The requirement that “an EIA application” (as defined in the Regulations) must be accompanied by an environmental statement is not intended to obstruct such development. As Lord Hoffmann said in *R v North Yorkshire County Council ex parte Brown* [2000] 1 AC 397 , at page 404, the purpose is “to ensure that planning*

decisions which may affect the environment are made on the basis of full information". In an imperfect world it is an unrealistic counsel of perfection to expect that an applicant's environmental statement will always contain the "full information" about the environmental impact of a project. The Regulations are not based upon such an unrealistic expectation. They recognise that an environmental statement may well be deficient, and make provision through the publicity and consultation processes for any deficiencies to be identified so that the resulting "environmental information" provides the local planning authority with as full a picture as possible. There will be cases where the document purporting to be an environmental statement is so deficient that it could not reasonably be described as an environmental statement as defined by the Regulations (Tew was an example of such a case), but they are likely to be few and far between.

42. It would be of no advantage to anyone concerned with the development process — applicants, objectors or local authorities — if environmental statements were drafted on a purely "defensive basis", mentioning every possible scrap of environmental information just in case someone might consider is significant at a later stage. Such documents would be a hindrance, not an aid to sound decision-making by the local planning authority, since they would obscure the principal issues with a welter of detail.

- 6.6.7 A4R also relies upon advice of Daniel Kolinsky QC dated 20 September 2017; however, the proposed Aircraft Movement cap has since changed from the 9,500 and the advice has therefore been overtaken by events. It is in this context that A4R's criticisms of the ES must be addressed.
- 6.6.8 The noise evidence submitted as part of EIA is considered further below. Whilst there is some merit in the criticisms of the noise assessment by A4R and its consultant, it is concluded that the evidence is nonetheless adequate to satisfy the EIA Regulations 2011 and a lawful consent can be granted.
- 6.6.9 Further, concerns over the business case are considered by York Aviation in the appended report (see Annex 9). York Aviation addresses the particular criticisms raised by A4R over the adequacy of the evidence contained in the business case. As a result, York Aviation concludes that limited weight can be attached to the economic benefits of this proposal. Nonetheless, for the reason set out below, it is concluded that the evidence submitted as part of the business case is adequate for the purposes of the regulations and the proposal complies with development plan policy (a specific failure of the a previous proposal on the site).

- 6.6.10 Fourthly, it is agreed that the proposal has the potential to increase the number of AMs from the current level of use. This is addressed further below. However, what is important is the assessed impact of the proposal on the amenity of local residents. This is addressed in the evidence submitted by Bickerdike Allan and Partners on behalf of the Local Planning Authority.
- 6.6.11 A4R claims that the proposed cap on AMs would amount to a material change of use by reason of intensification, especially by reason of helicopter movements. However, the key issue is not the number, but whether that number would result in a change in the character of the use. This is a full application that seeks permission for operational development and the use of the land as described in the application, as controlled by conditions and section 106 agreement. Any change of use in the land has, therefore, been assessed as part of the determination process. Further or alternatively, it is not accepted that any increase to the proposed limits from currently assessed levels would constitute a change in the character of the use. This would apply well known principles discussed at length in the third Public Inquiry.
- 6.6.12 Fifthly, any change in the flight paths is assessed below. It is not considered that any omission in the noise section of the ES on this point has any implications for the adequacy of the ES as a whole.
- 6.6.13 Sixthly, there are not and never have been any weight restrictions on aircraft permitted at the airfield. The 2017 Planning Appeal Inquiry heard evidence that the length, gradient and surface of the runway are a restriction on the size and weight of aircraft. The proposal does not seek to alter the length, gradient or surface of the runway. Accordingly the limiting factors will be unchanged. Further the weight of aircraft is not the sole determinant of the noise generated on take-off, flight or landing. The York Aviation report also addresses the issues of fleet mix, and the controls appropriate to safeguard the interests of the local community.
- 6.6.14 Seventhly, for the reasons given above, it is concluded that the description of the development and impacts of the development are adequate and that there is compliance with schedule 4 of the EIA Regulations 2011.
- 6.6.15 Eighthly, the EIA Regulations of 2011, that apply to this application, differ in terms of the requirement to assess safety compared to the EIA Regulations 2017, irrespective of the change in the regulations, safety is a material consideration and is addressed at section 17 of this report.

6.6.16 The ninth point has been addressed in the report of York Aviation. The suspension referred to by A4R was not of the on-site engineer but of his licence. York Aviation concluded that the suspension of the licence, which has since been restored, does not have any implications for the adequacy of the Environmental Statement and/or the legality of any decision that may be taken by the Local Planning Authority. The application does not seek approval for a personal permission.

6.6.17 Tenthly, the implications of the departure of the former Airfield Manager are that alternative arrangements have been made for management of the airfield. This is not a matter that should be addressed in the Environmental Statement; however it is considered in the report of York Aviation and elsewhere in this report.

6.7 Conclusion on the adequacy of the ES

6.7.1 It has been concluded that the details of heritage and biodiversity can be assessed from the information available through publicly held records and that the number of aircraft movements and other matters operating from the Airfield can be controlled by planning conditions and obligation. There is no evidence of a change in the number or character of aircraft operating in the area around the Airfield as a consequence of changes at other aerodromes and therefore no change in the cumulative impact of aviation noise can be reasonably anticipated. Thus despite the reduced scope of the ES it is considered that the proposal in the light of both the EIA Regulations 2011 (the Regulations under which this application was submitted and due to the transitional arrangements the Regulations under which the application must be determined) and noting that even if the 2017 Regulations applied, in paragraph 26.(1)(b) they require the decision maker to:

Reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph (a) and, where appropriate, their own supplementary examination.

That approach is considered consistent with the approach taken in this report. Therefore the application is valid and can progress to determination.

6.7.2 The information contained in the Environmental Statement, together with the information submitted as a consequence of consultation during the processing of the application and from information available from public sources including information within the planning history of the Airfield allow a full assessment of the impacts of the development. For the reasons set out above it is found that the ES is satisfactory

because notwithstanding the potential for effects the Council has sufficient information from other sources to allow the key likely effects to be assessed in line with the EIA Regulations 2011 regime.

- 6.7.3 In all the circumstances, therefore, the contentions of A4R have been carefully considered. On balance, it is considered that the application can lawfully be determined and, without prejudice to the planning merits, can legally, be granted.

7.0 Noise and amenity

Noise policy

- 7.1 The policy in respect of noise and amenity is contained within the LDF Policies CP1 and DP1. Policy CP1 sets out that:

Proposals will be supported if they promote and encourage or protect and enhance (amongst other things):

- iii. *the health, economic and social well-being, **amenity** and safety of the population.” (Emphasis added.)*

- 7.2 Development Policy DP1 requires that:

*“All development proposals must adequately protect amenity, particularly with regard to privacy, security, **noise and disturbance**, pollution (including light pollution), odours and daylight” (emphasis added)*

- 7.3 The NPPF at paragraph 180 states:

Planning policies and decision should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wide area to impacts that could arise from the development. In doing so they should:

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁰.*

⁶⁰ See Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food and Rural Affairs, 2010).

- 7.4 The Noise Policy Statement for England (NPSE) states the Noise Policy Vision to:

Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development.

Further it states:

2.1 Noise is an inevitable consequence of a mature and vibrant society. For some the noise of city life provides a desirable sense of excitement and exhilaration, for other noise is an unwanted intrusion that adversely impacts on their quality of life, affecting their health and well being.

- 7.5 The NPSE notes the key phrases “*Significant adverse*” and “*adverse*” are established concepts that are applied by the World Health Organisation (“WHO”) to noise impacts and sets out further terms:

NOEL – No Observed Effect Level. This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.

LOAEL – Lowest Observed Adverse Effect Level. This is the level above which adverse effects on health and quality of life can be detected.

SOAEL – Significant Observed Adverse Effect Level. This is the level above which significant adverse effects on health and quality of life occur.

- 7.6 Further the NPSE notes that:

It is not possible to have a single objective noise-based measure that defines the Significant Observed Adverse Effect Level that is applicable to all sources of noise in all situations. Consequently the SOAEL is likely to be different for different noise sources, for different receptors and as different times.

- 7.7 The NPSE sets three aims: 1) to avoid significant adverse impacts on health and quality of life; 2) to mitigate and minimise adverse impacts; and 3) where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise with the context of Government policy on sustainable development.

- 7.8 The Aviation Policy Framework March 2013 (APF) addresses noise impacts noting that the aviation industry brings significant benefits to the UK economy but that there are costs associated with its environmental impacts. The policy addresses all types of aviation. It particularly addresses matters of civil aviation but does not provide

significant specific additional detail on the matter of noise impacts from General Aviation (GA).

General Aviation Awareness Council Guidance 2015

- 7.9 The General Aviation Awareness Council (GAAC) in a note entitled “General aviation sector-led guidance on planning in relation to aerodromes for local planning authorities, aerodrome owners and aerodrome operators”, prepared by the (General Aviation Awareness Council (GAAC)) April 2015 states that:

4. NOISE There is widespread concern that the introduction of new noise sensitive development (such as housing) in close proximity to long-established noise generating sites (such as flying sites) may in future force the latter to alter their operations or even close down due to new (and foreseen) complaints. Planners need to be aware of the extent to which certain levels of noise may be unavoidable consequences of maintaining levels of commercial activity at aerodromes and that this may constrain options for nearby developments.

- 7.10 The commentary refers to the issue of new housing near airfields and cross references guidance in the NPPF. However the circumstances at Bagby relate to proposed airfield development near existing housing. The GAAC guidance adds at paragraph 32:

Planners need to be aware of the extent to which certain levels of noise may be unavoidable consequences of maintaining levels of commercial activity at aerodromes and that this may constrain options for nearby developments.

- 7.11 Although neither the Airfield nor the housing are new uses being introduced to the area it is considered that the interest in preserving the economic benefits associated with the airfield is still a material consideration. The Aircraft Noise and Control Report December 2018 by the Council’s consultant Bickerdike Allen Partners (BAP) sets out in further detail the policy with reference to the underlying advice from the World Health Organisation and sets out guidance in the section Aircraft Noise Impact Evaluation pertaining to the noise impact of General Aviation as distinct from Civil Aviation.

Assessment of noise impacts

- 7.12 The assessment of noise and amenity issues starts from the position that the use of the site as an airfield is lawful. The use includes the runway, taxiways, fuel facilities, hangar space, maintenance facilities, pilot and visitor facilities and control tower.

- 7.13 The lawful use generates noise that has an impact upon the local environment. The noise impacts arise from taking-off, landing and overflying. The take-off of all aircraft and the take-off and landing of helicopters (particularly larger helicopter movements early in the morning) remains an occasional source of complaint.
- 7.14 The operation of the airfield has been noted throughout its history to give rise to noise that has caused a loss of amenity, complaints of noise pre-date the change of ownership to Mr Scott. The loss of amenity has been reported by local residents, particularly of the villages of Bagby and Thirkleby and surrounding areas. These matters are noted within the BAP report “*Aircraft Noise and Control – December 2018*” prepared for the Council and attached at Annex 10. They are also documented in the consultee responses. They have been very well ventilated at three Public Inquiries. This report takes full account of all the issues raised.
- 7.15 The BAP report further notes (consistent with evidence from residents in writing and at Inquiries) that the most pronounced noise associated with the Airfield is reported to arise from helicopter movements and the movement of fixed wing aircraft on the ground, during take-off, whilst flying a circuit and during ground testing. Helicopter movements are reported to cause noise and a loss of amenity during all operations including refuelling with rotors running.
- 7.16 The loss of amenity to the area is noted in the appeal decisions of Planning Inspectors in 2011, 2012 and 2013.

Inspector Braithwaite in 2011 stated:

42. Helicopters landing are as noisy as when they are taking off. The noise of a helicopter is clearly heard in the surrounding area from the moment its engine is started until it leaves the vicinity of the airfield and the same noise in reverse is heard when it lands.

Subsequent Inspectors have not differed from the views expressed by Inspector Braithwaite, which is consistent with the views expressed by local residents.

- 7.17 The noise is reported to impact most upon the residents of the villages of Bagby and Thirkleby that lie close to the airfield and under the path of aircraft that are flying the circuit that is defined by the Airfield to extend to the west, south and east of the east-west runway.

- 7.18 The Ombudsman report (12 April 2012) stated that the Local Planning Authority had lost control of the airfield in terms of numbers of aircraft movements and operating times.
- 7.19 In evidence of Mr Bondar to the Enforcement appeal before Inspector Murray in 2017, it was stated that there is currently no planning constraint on the numbers of aircraft movement by type of aircraft or by time of day, month or by year. Mr Bondar found the attributes of the airfield, such as the runway length, gradient, and surface, are the controlling factors. The Inspector did not hear evidence to contradict his evidence, which was therefore accepted.
- 7.20 BAP at 2.4 (page 23) "BAP's Findings" states:

The matter which appears to cause greatest concern is the operation of utility helicopters using Bagby as a refuelling site. These can be expected to approach the aerodrome and depart without direct overflight of the village.

How many aircraft movements at the Airfield are lawful?

- 7.21 Under the terms of the 1976 and 1980 permissions the numbers of flights were limited to 4,160 movements per annum. That was the lawful level of use at that time.
- 7.22 The Applicant's position is that the current level of use of the airfield is lawful. This proposition is confirmed by Inspector Diane Lewis. The 2013 Enforcement Notice (as amended) alleged that annual aircraft movements had risen to 7,288 (including 567 jet helicopter movements) and that the use of the site as an airfield had intensified to such a degree to amount to a material change in the character of the use.
- 7.23 In confirming that the 2013 Enforcement Notice appeal should be allowed, and the Notice quashed, Inspector Lewis held that the level of use stated in the Notice did not constitute a material change of use of the land and was not a breach of planning control.
- 7.24 Inspector Lewis in her decision recorded concern regarding the quality of the movement data but reached the conclusion at paragraph 72 of the decision letter that:

...on the balance of probability any material change of use is not solely due to intensification of use of the airfield (the Land) through the take-offs and landings and the increase in the use of jet helicopters. A material change in character is related more to the change in the balance of the uses and activities on the

surrounding land at the Airfield and the development of new buildings and infrastructure. In turn there has been an effect on the number and composition of the AMs. However, a point has not been reached where, as a matter of fact and degree, it has given rise to such materially different planning circumstances as to result in a material change in the character of use of the Land.

- 7.25 Further commentary is given by Inspector Lewis that there were reservations about the quality of the datasets and that the methodology of aircraft log books and “fuel uplift method” were both flawed and noted the difference between the data sets and proxy and preferred the data from residents’ survey figures. At paragraph 80 of the decision letter the Inspector wrote:

The quantitative data assists as an indicator of trends in AMs (aircraft movements) and accordingly it has some weight. There appears to be consistency throughout all the data for the 10 year period in identifying 2006 as having a relatively low level of flying activity, with higher levels of activity in the periods before and after. This pattern supports my earlier conclusions that an increase in the level of use of the airfield occurred over the period 2006 to 2012 but over the 10 year period as a whole the picture is one of variability.

- 7.26 Inspector Lewis at paragraph 37 accepted that the lowest level of aircraft movements should be around 6,635 and then at paragraph 85, having decided that the Enforcement Notice should be quashed because the allegation of a material change in the character of the use had not been shown to exist, she amended the Notice to refer to the use of the site as an airfield with annual aircraft movements of 7,288 (including 567 jet helicopter movements) before quashing it.

- 7.27 As a result of that appeal decision, the baseline position is that there is a lawful level of use of at least 7,288 aircraft movements annually including 567 jet helicopter movements. This has to be viewed as a minimum because additional AMs would not constitute a breach of planning control unless and until there was intensification resulting in a material change of use. Inspector Lewis in the 2013 decision letter set the question in the terms

...whether an increase in the number and type of aircraft has reached a point that it gives rise to such materially different planning circumstances that, as a matter of fact and degree, it has resulted in such a change in the definable character of the use to amount to a material change in the use of the land.

- 7.28 It is very difficult to assess what that level may be in the abstract but there could be a significant increase in the number of AMs whilst still maintaining the same character of the use as a GA Airfield. It should also be noted that the Inspector could only consider the number of AMs stated in the Enforcement Notice; her decision that they are lawful does not necessarily mean that other numbers of AMs would be unlawful. Ultimately, this would require a planning judgment as a matter of fact and degree, in the light of all the circumstances.
- 7.29 The baseline level of use has been contested and the data that underpins the calculations has been challenged by different parties at different stages of the planning process. In the absence of a comprehensive log of aircraft movements, data of fuel sales in the period 2002 to 2012 was used as a proxy for recorded aircraft movements by representatives of the Airfield and advisors to the Council in the enforcement appeals. This was criticised in the 2013 Enforcement Notice Inquiry by Action4Refusal and different figures were provided by local residents. Inspector Lewis heard evidence on these before determination of the appeal, at a contested Public Inquiry, and she made her decision on the basis of that evidence and concluded as set out at paragraph 7.26 above.
- 7.30 The Airfield began recording AMs prior to the 2013 Enforcement Notice appeal. The Airfield notes that monitoring is compulsory (although not in the sense of being capable of enforcement by the Local Planning Authority):

Monitoring is a manual process with the individual in charge on the day being responsible for the entering of flights if the pilot forgets. All numbers recorded since 2013 are therefore actual movements.

(Barton Willmore response to questions regarding monitoring and EIA development 4 Oct 2017)

- 7.31 The movement details are set out below. The movements from 2002 to 2011 are derived by calculation using the “fuel uplift method”, from 1 September 2011 onwards the movements are from the logs of the daily movements kept at the Airfield. Total movements by year are reproduced from the York Aviation report, prepared for the Council, below:

Table 3.1: Agreed and Documented Annual Movements					
Year	Fixed Wing	All Helicopter (Excl. YAA)	T&G	Total (Excl. YAA)	Helicopter %
2003	8,519	261	3,812	12,592	2.1%

2004	5,757	239	2,581	8,577	2.8%
2005	5,897	258	2,639	8,794	2.9%
2005	4,593	281	2,056	6,930	4.1%
2007	7,584	269	3,394	11,247	2.4%
2008	6,741	291	3,017	10,049	2.9%
2009	6,521	318	2,918	9,757	3.3%
2010	6,462	396	2,892	9,750	4.1%
2011	6,176	353	2,764	9,293	3.8%
2012	4,632	471	2,073	7,176	6.6%
2013	-	-	-	6,335	-
2014	-	-	-	5,199	-
2015	-	-	-	8,829	-
2016	-	-	-	6,822*	-
2015 10-Yr Total Average					
8,457					
2016 10-Yr Total Average					
8,446*					
2016 5-Yr Total Average					
6,872*					
Notes:					
There appear to be some discrepancies in the calculations of figures presented in Table 2.2 of the Business Case Addendum, which appear to be the result of discrepancies in the figures produced by Peter Forbes in the Joint Statement presented as Appendix 2 of the Planning, Design and Access Statement. The Peter Forbes table appears to count the Yorkshire Air Ambulance (YAA) in the total helicopters in some cases and not others and then adds these on to the final total value either way afterwards. For the purposes of this table we have assumed Total (excl YAA), Fixed Wing and T&G Movements are correct and calculated the total helicopters, excluding YAA, back from this.					
*2016 data only goes to 4 th December 2016 a count of 6748, so we have assumed December movement levels as per 2015 to estimate, adding 74 movements to give the total for the year. 2016 final movements and this is reflected in 5- and 10-year averages					
Source: Planning, Design and Access Statement, Appendices 2 & 4 and 2016 Airfield Supplied Data					

- 7.32 The ten year average (2006 to 2015) is 8,457 aircraft movements per annum.
- 7.33 As noted above, data for prior to 1 September 2011 is derived by calculation of the fuel sales (“the fuel uplift method”). The methodology was used with caveats (see below) as being the best available data. The Airfield has made no further attempt to corroborate the fuel uplift method to test the accuracy of the calculation of movements prior to 1 September 2011. The Airfield considers that the data captured since 1 September 2011 is accurate and that further comparison has not been made as it has not been considered necessary.
- 7.34 It is noted that the ten year average used by the Airfield to underpin the proposed limit of 8,787 annual aircraft movements used five years of proxy data from the fuel uplift method and almost five years of actual data from the written logs kept at the Airfield, September 2011 to August 2016. While the Applicant maintains that 8,787 AMs is justified, the proposal now reduces the number to 8,400. The years of the fuel uplift method show a higher level of use than the period of logged movements. A

joint statement by the Airfield's and the Council's advisors to the 2013 Inquiry had identified seven caveats with regard to the fuel uplift method:

1. There was a lack of detail about which aircraft based at the Airfield refuelled there and recognition that some visiting aircraft would not refuel at the Airfield;
2. Aircraft fuel consumption rates vary;
3. Aircraft have different fuel capacity;
4. A limitation on the data on fuel stock level;
5. Data on sales of fuel for use elsewhere (bulk and can uplifts) is limited;
6. It was assumed that the written log is correctly completed; and
7. It was assumed that the fuel usage and movements ratio has been consistent throughout the modelled period.

7.35 No new evidence has become available since July 2013 that would allow the caveats to be removed or the potential for errors to be reduced. There is therefore no means available to the Council or the Airfield to increase the level of confidence in the aircraft movement data prior to logging of movements from September 2011.

7.36 There is no evidence to suggest that the records kept at the Airfield since 1 September 2011 contain errors that would be material to the decision to be made on this application. The requirement to complete the paper log at the Airfield is stated in the voluntary code of conduct; the physical log is kept by the club house door for completion by pilots or Airfield staff. The records compiled from the paper log are considered to be a reasonable basis to count aircraft movements and due weight can be given to the data produced from the logs in reaching a decision on this application.

7.37 The data available from the above table supports the figure of 5,199 annual aircraft movements (the year 2014) as being the lowest annual figure in the last ten years.

7.38 The decision of the Planning Inspector (that records 7,288 annual aircraft movements as not presenting a breach of planning control) concludes that the lawful level of use is at least 7,288 annual aircraft movements. The decision of the Planning Inspector determines that the use of the Airfield for 7,288 annual aircraft movements (including 567 jet helicopter movements) is lawful (see above).

7.39 The average (mean) annual level of movements over each of the two ten-year periods quoted in the York Aviation report is higher than either of these figures. The ten-year periods are an average whereas the lawful level is the base level of use that is sustained over a ten year period and gives rise to different figures.

- 7.40 The current use of the Airfield is not controlled by any planning conditions or express limitations which restrict its use to particular times of day or by type of aircraft. Changes to the amount or type of use, so long as it would not give rise to a material change in the character of the use, would be lawful.
- 7.41 Therefore, the current level of use (or the 7,288 annual aircraft movements including 567 jet helicopter movements) is not an absolute cap on the lawful level of use of the airfield. Reduced recent levels of aircraft movements do not change the lawfulness of the figure derived through the Enforcement Notice appeal process. Changes can be made to the numbers of aircraft and mix of type of aircraft without the need for further planning permission to be obtained, provided that this does not result in a material change in the character of the use. Whilst aircraft movement numbers could increase, aerobatic activity could return and the mix of helicopter types could change, increases in movements do not result in a need for planning permission unless there is a material change in the character of the use, which could only be determined by observation. Therefore the level of use could lawfully increase provided that it did not result in a material change of the character of the use by intensification or any other reason. This is relevant to the baseline, against which to assess any material land use planning impacts because there could be an increase in AMs and therefore noise above the figure considered by Inspector Lewis.

The “do nothing” scenario

- 7.42 As a matter of planning judgment based on detailed knowledge of the Airfield, there is no reasonable prospect that the lawful use of the Airfield will cease. Whilst it is noted that several of the hangars are in poor condition and over time may become unsuitable for the storage of aircraft, the Applicant reasonably considers that time is a long way off and the hangars as they exist are capable of use for the storage of aircraft for the foreseeable future. In this regard it should be noted that works of maintenance and repairs to buildings do not need planning permission (s.55 of the Town and Country Planning Act 1990 as amended) and therefore the existing buildings can be renovated.
- 7.43 In the “do nothing” scenario, that is, with no further planning permission and no operational development leading to service of an Enforcement Notice on the land, it is reasonable to conclude that the lawful use will continue and that use will have an impact upon the local community. The levels of use of 7,288 annual aircraft movements including 567 jet helicopter movements are therefore both lawful and practically likely to continue into the future and represent a reasonable baseline against which to assess the Applicant’s proposal. Indeed, it is reasonable to assume

that (as a commercial venture) the Airfield will continue to maximise revenue and that this will entail maximising airfield activity. As York Aviation considers, the use of the Airfield for noisy activities could, therefore, be reasonably expected to increase (notwithstanding current levels of use).

DISCONTINUANCE

- 7.44 The enforcement of planning controls at the Airfield was the subject of a critical report and a finding of maladministration against the Council by the Local Government Ombudsman in April 2012. Amongst the Ombudsman's recommendations was a statement that the Council should consider the use of Discontinuance powers to control the activity at the Airfield.
- 7.45 Prior to this, on 15 September 2011, the Planning Committee had resolved that enforcement action should be taken on a series of breaches of planning control, some given a high priority and others a normal priority for action.
- 7.46 Following the Ombudsman's report, the Planning Committee considered a report on the available enforcement options on 13 September 2012. The Committee report considered the steps that could be taken to regain planning control over the use of the Airfield, including the use of powers under section 102 of the Planning Act 1990 to issue a Discontinuance Order.
- 7.47 The decision of the Planning Committee on 13 September 2012 was in three parts:
- 1) That a Discontinuance Order be not made at this time;
 - 2) That further enforcement action may be taken in respect of (a) the Jet A1 fuelling point; and (b) reducing the number of aircraft movements on the main runway, the use of the clubhouse control tower etc.; and
 - 3) To request that Cabinet agree additional funding of £32,000 to support enforcement action. (This was agreed by Cabinet.)
- 7.48 A second report containing exempt information regarding financial issues relating to the enforcement matters at Bagby Airfield was also considered on 13 September 2012. The Committee's decision was to note the report.
- 7.49 A further report on 29 May 2014 returned to the issue of Discontinuance. A separate report on the financial considerations was considered.
- 7.50 The conclusion of the May 2014 report is reproduced:

7.0 CONCLUSIONS:

- 7.1 *The Council made mistakes in the planning control of Bagby Airfield and this has had an adverse impact on residents through increased noise and disturbance. Since 2008 the Council has been making efforts to improve the situation, including taking action against all known breaches of planning control.*
- 7.2 *The enforcement action initiated in 2011 resulted in the removal of various unauthorised developments and the cessation of uses. This included noisy and intrusive uses such as the air ambulance and acrobatic flying and has resulted in a reduction in the number of aircraft movements and some improvements to amenity.*
- 7.3 *The enforcement action initiated in 2012 could add to these improvements. The removal of the jet fuel facility will in all probability further reduce the number of flights by larger turbine helicopters which are a source of serious disturbance to local residents. Removal may also impact on the viability of the airfield given that at the Public Inquiry the owner described it as an essential piece of infrastructure stating that its removal would seriously compromise the financial viability of the airfield. The Inspector commented that a portable bowser would probably not generate the same number of turbine helicopter movements.*
- 7.4 *Although the enforcement action to reduce the number of aircraft movements was unsuccessful it has established the “lawful” number of flights and so provided a base threshold against which to assess future increases, although it must be acknowledged that determining the point at which an increase constitutes a material change of use that requires planning permission will be difficult.*
- 7.5 *Making a Discontinuance Order for a total cessation of the airfield use would be a disproportionate response to the current situation. This is because there has previously been an authorised planning use of the site for flying private aircraft for recreation purposes up to a total of 4,160 aircraft movements per annum (albeit the make-up of these aircraft is different from the present) and planning permissions have been granted for associated development, including permission granted by the Secretary of State at appeal for the installation of geotextile matting on the main runway. Also the recent enforcement actions have had an impact on reducing the number and nature of aircraft movements and the adverse impact on residents. The removal of the jet fuel facility could result in further reductions.*

7.6 *There is more of a case for a Discontinuance Order to impose limits on the number of aircraft movements. However, the justification for this may not be strong given the previous planning permission relating to aircraft movements and the reductions in the number and nature of flights already achieved through enforcement action and the likelihood of success or the financial consequences cannot be guaranteed. Bagby and Balk Parish Council has also previously stated that it wished to see the airfield use discontinued and any compromise would not be acceptable to them.*

7.7 *The financial consequences, which are also material to the decision on whether to make a Discontinuance Order, are set out in a separate report on the agenda.*

7.8 *Now that the “lawful” number of flights has been established it is suggested that a “fit for purpose” and proportionate monitoring regime capable of providing comprehensive and reliable data be set up. Discussions will need to take place with the airfield on this. The methodology should be made public and the data published for transparency and public scrutiny. However, it is not anticipated that the Council would collect and publish such data; this should be done by the airfield, possibly via its website.*

7.9 *In following the recommendations of the report the Council will have complied with all the recommendations of the Ombudsman, albeit having considered the possibility of making a Discontinuance Order it would have decided against this.*

The recommendation that the making a Discontinuance Order be not considered further and that an appropriate monitoring regime be investigated was agreed.

7.51 The May 2014 report was written within a factual context that has changed. Notably in the 2017 Public Inquiry the Inspector ruled that the mobile fuel facilities were lawful and quashed the Enforcement Notice relating to them. As a consequence the reduction in lawful numbers of flights anticipated through the enforcement action has not been realised.

7.52 The circumstances described in the conclusions above paragraph 7.5 of the May 2014 report continue to be true - the permission from 1980 allowed 4,160 aircraft movements per annum. Additional developments have been granted by Planning Inspectors who had heard evidence of the harm that the Airfield caused to residents. An Inspector allowed development that was the subject of Enforcement Notices (and,

through a ground (a) appeal, a retrospective planning application) and rejected proposals for a large scale redevelopment and expansion of the Airfield. The monitoring regime that was identified in the resolution of the Planning Committee in 2014 that was subsequently investigated by the Council is now proposed as part of this application. To meet the tests set out at paragraph 7.8 in the May 2014 report that the methodology of the monitoring system should be made public and the data published for transparency and public scrutiny conditions can be imposed if this development is approved. Particularly (condition 12) that the monitoring of aircraft must be undertaken by surveillance cameras and virtual radar the methods and data be made public would achieve this aim.

- 7.53 Accordingly, the current position is that the Local Planning Authority has considered whether the use of the site as an airfield should be discontinued. The Local Planning Authority resolved in 2014 that the use should not be discontinued.
- 7.54 Accordingly, in a “do nothing” scenario, i.e. where planning permission was either not sought and/or not implemented, it is reasonable to assume that the Airfield will continue to operate lawfully and generate a significant number of AMs. Despite the factual changes arising from the appeal decision and works at the Airfield the underlying circumstances as set out in the May 2014 report still prevail. There is no evidence that the conditions for residents that led the Ombudsman to recommend consideration of Discontinuance have worsened. On the contrary, enforcement action has been successful, including prohibiting use of land as the north-south runway and ending the use of the Airfield as an operating base for an Air Ambulance and the other developments have also been controlled as set out Table 2 at paragraph 2.1 of this report. Furthermore, specific aspects of the Airfield operation have received planning permission on appeal and it is unlikely that discontinuance could be justified for them.
- 7.55 The use of the Airfield for aerobatic flying activities has ended, although it has to be acknowledged that it could return. The number of aircraft movements has fluctuated but has reduced since the high point 2007-2011 as set out in Table 3.1 (paragraph 7.27). The changes in circumstances at the Airfield have not resulted in reports of a material change in the character of the use of the Airfield and there is no justification for the making of a Discontinuance Order.

Change in aircraft movements

- 7.56 There is a contention that the proposal is to avoid dilapidation of the Airfield that would otherwise lead to a reduction in its use and that the proposal would, through

enhancing the facilities, increase the usage. The Applicant acknowledges that the proposed development focuses on improving the standard and quality of hangars and facilities that would lead to an increase in revenue through higher rents and attracting higher quality aircraft and lead to additional staff being employed to service the needs of Airfield users.

- 7.57 However, the Applicant's advisors state that the proposal does not aim to increase the storage of aircraft. The proposed development increases workshop space in response to a need for more covered workspace as the regulations pertaining to maintenance preclude outside working. The move from the former maintenance hangar (201sqm) to Hangar B (704sqm) increases the workshop space by 503sqm but reduces hangar space for the storage of aircraft by 689 sqm and would as a consequence limit the number of resident aircraft that can be stored in the hangars. Though in this regard York Aviation notes at 4.15 of its report that:

“Currently the hangars are not full, housing up to 33 aircraft currently, but it is indicated that this could increase to 40 aircraft upon completion of the redevelopment, resulting in a 21% uplift in based aircraft which must have an associated increase in movements if the existing aircraft remain in situ and continue to fly at current rate.”

- 7.58 York Aviation also notes that provision of bedrooms could act as an attractor and that extended maintenance space could also generate between 130 and 500 additional movements annual. The Applicant states that they would not be proposing a cap on movements if it was proposed to increase the usage and that would require an increase in annual movements as that would hamper the business model.
- 7.59 Noting that the aircraft movements are unrestricted (subject to the caveat that a material change in the character of the use would result in a requirement for planning permission) the Applicant considers that the proposal would improve and enhance the Airfield and, through the imposition of conditions, restrict movements (or any increase in movements above the cap). Further the agent for the Applicant claims that the movements after development would not increase and the tests in the Environmental Statement are appropriate and that their approach is not flawed (as claimed by objectors).

Applicant's noise data and report

- 7.60 The details of the Environmental Statement include baseline noise survey data from the period 15 July 2016 to 12 August 2016, a time period that includes days without

aircraft movements. The detail of the survey report over that period by KP Acoustics is assessed by WSP Parsons Brinkerhoff in a supplementary report to the Environmental Statement. The supplementary report notes that the KP Acoustics report presents a comparison of the selected noise level events at the airfield with those at the receptors. The reported findings are:

- a) 518 corresponding 1-minute events are identified and KP Acoustics suggests, through scrutiny of the aircraft movement logs, that only 85 (16%) correspond to airfield-related activity;
- b) The remaining 433 events (84%) are attributed to meteorological effects, coincidental activity or non-airfield related air activity;
- c) The increase in noise in Bagby from the airfield can generally be described as “marginally significant”, owing to the magnitude of the increase in noise in relation to the perception of sound, with the majority of corresponding noise levels in the village not exceeding 60 dB(A);
- d) In many cases the measured noise levels in the village maintain a similar noise level, 55-60 dB(A), with no correlating aircraft movements at the airfield;
- e) Noise levels in Bagby remain consistently representative of a typical village environment, with average levels in the region of 45-55 dB LAeq, with limited correlation to the noise levels measured at the airfield; and
- f) Whilst some peaks do suggest a correlation between the airfield and community noise levels, it has been found that the majority were caused by either highly irregular air traffic or events unrelated to the airfield.

7.61 The WSP Parsons Brinkerhoff supplementary report concludes that:

Based on a review of the information presented within the KP Acoustics report, it is evident that, noise levels from individual airfield related events are difficult to distinguish from noise levels generated by other transient events in the locality. Furthermore, it is apparent that, for those events which have been identified, associated noise levels are comparable to those generated by non-airfield related events. Non-airfield noise events have also been identified as being more numerous in comparison to airfield generated noise events.

7.62 Additional work undertaken by the Airfield sought to identify the source of the 84% of events that were not attributed to airfield activities. This work is presented as a video with annotations of noise source undertaken simultaneously at the Airfield and in the village street.

7.63 In summary, the KP Acoustics report concludes that noise levels in Bagby remain consistently representative of a typical village environment, with average levels in the region of 45-55 dB LAeq, with limited correlation to the noise levels measured at the Airfield.

The four measurement locations are shown with data including and excluding aircraft movements measure on the scale La90 15minutes:

Parameter	Including aircraft movements				Excluding aircraft movement			
	1	2	3	4	1	2	3	4
Minimum LA ₉₀ , 15minutes	31	23	34	33	31	23	34	33
Maximum LA ₉₀ , 15minutes	57	50	55	50	58	45	54	51
Linear Average LA ₉₀ , 15minutes	41	34	46	41	42	34	46	41
Most common LA ₉₀ , 15minutes	41	36	45	40	43	37	48	41

Locations within the table are shown within the ES Chapter 7 Appendix 4.4. Location ML1 is within the village on Bagby Lane, location ML2 is to the east of the village beyond the east end of the runway at Thistle Hill Farm, location ML3 at Foxglove Cottage to the south of the airfield and location ML4 is at Low Moor Farm to the west of the A19.

- 7.64 The noise contour plot within ES Chapter 7 Appendix 4.4 shows average noise over a 16-hour period. The use of the 16 hour measurement period is not considered to be appropriate or robust in the assessment of noise due to the relatively small number of movements that are experienced by receptors (mainly local residents). The movements are experienced as single noise events not as a continuous level of noise in the environment (as Planning Inspectors have concluded). More relevant is how a resident would experience the take-off of a helicopter between 7:30 and 8:00am as a single noise event.

Action 4 Refusal – noise report

- 7.65 Correspondence from Goodman Derrick LLP for Action 4 Refusal (A4R) set out criticisms of the approach in preparing the planning application and the Environmental Statement. The matter of the number of aircraft movements, the flight paths and noise of those aircraft are significant features of the submissions. These are addressed in the previous section of this report. The matter of noise is specifically addressed by the correspondence of Mr Saunders, acting for A4R, dated 4 May 2017. This correspondence was placed before BAP to consider alongside the other details of the proposal and the data from the noise consultants of the Applicant.
- 7.66 The modelling of the noise data is criticised by A4R for not undertaking a prediction of noise arising from the lower number of operations in the period of noise monitoring to the higher number at the level of the proposed cap of 8,440 (reduced from the cap of 8,787 proposed at the time of submission). The distribution of sample of noise

data was also considered by A4R to underestimate the seasonal patterns of aircraft movements and the 16 hour day for modelling the movement in the 'typical summer day of the period of 92 days 16 June to 15 September. Further, the modelling over a 16 hour period ($L_{Aeq,16hr}$) underestimates the noise impact, particularly on residential receptors south of Bagby and at Low Moor Farm. The noise report failed to provide predicted or assessed maximum noise levels (L_{Amax}) in relation to the change number of movements.

7.67 Mr Saunders provides further critique of the work, noting the lack of precise detail of the location of noise monitoring undertaken by KP Acoustics acting for the applicant and further questions the lack of narrative to the details of noise recording and lack of attempt to filter noise relating to airfield activities from activity off the airfield. The lack of any direct manual measurement of any aircraft movements is also noted.

7.68 Mr Saunders also refers to the further work undertaken by WSP Parsons Brinkerhoff and further noise data analysis by WSP and alleges errors in the data supplied and a lack of detail to distinguish between the details of ambient noise sources such as road traffic, fauna and wind generated noise sources from aircraft noise.

7.69 Mr Saunders states, in summary, that:

- The ES noise modelling does not provide a suitable assessment of typical air traffic movements. [Officer note: the term "air traffic movement" is properly used to refer to commercial aircraft movements rather than the mixed uses of aircraft at Bagby Airfield];
- The ES chapter does not provide an impact assessment as result of the increased movements;
- The background noise parameter (L_{A90}) is not deemed a suitable metric for the assessment of aircraft noise and determine the impact of the airfield as short duration events of elevated level has little impact on the L_{A90} ;
- No direct measurement of aircraft movements have been made, nor is any evidence provided that suggests any of the noise consultants have observed an aircraft movement from the measurement positions; and
- No assessment has been made or evidenced of the increase in aircraft movements as a result of the cap, and effect of the number of events and L_{Amax} levels at noise sensitive receptors.

Bickerdike Allen Partners (BAP) – noise report for HDC

7.70 BAP considered the data from the Airfield from the KP and WSP reports and from their own sources to assess the instantaneous levels of noise from different types of aircraft and present their findings. BAP has also considered the evidence in the Saunders report noted above. At the end of the section 2.3, relating to the Applicant's findings, BAP state that:

On the basis of information in the revised E.S., use of the refuelling facility by twin-engine helicopters could produce significant impact.

Noting towards the end of section 2.4 headed "BAP's Findings" that:

The matter which appears of most concern is the helicopter operations, which BAP were advised initially took place at Helipad '2' approximately 450m from the nearest housing in Bagby and in front of the reflecting facades of hangar A and B. The hangars on the north side offered some screening from some properties. The latest advice indicates a different helicopter pad near the new refuelling facility, slightly closer to Bagby village.

7.71 BAP, in discussing the noise from helicopter movements at the new helicopter pad near the refuelling facility, states:

The results indicate noise events which will be clearly audible for single and twin engine types and will continue for several minutes unlike a normal landing or take-off, at levels dependant upon what type of helicopter which could be problematic. On the basis of information in the revised ES use of the refuelling facility by twin-engine helicopters could produce significant impact. It is unclear as to why if the Bell 429 can be refuelled at a more distant location, why other twin helicopters have to use this new facility.

7.72 At 6.5.8 of this report the absence of noise data of larger (jet turbine or twin engine) helicopters at the fixed fuel facility is noted. The use of controls that preclude refuelling of larger helicopters at the fixed fuel facility is found on a pre-cautionary basis to be a suitable means of safeguarding amenity.

7.73 The proposals are set out by the Applicant to not increase the number of movements of aircraft. The scope of the proposals and the draft set of controls achieved by the use of planning conditions and planning obligation have been considered by BAP in its report. BAP's report states at the end of section 3.3, with regard to the section "Proposed Planning Conditions and Section 106 Obligation":

These conditions are very complex, more than BAP has noticed at other G.A. aerodromes upon which they have been retained. These should ensure no significant worsening in the adverse effects related to level of activity.

With regard to the second critical matter for aircraft noise i.e. what aircraft carry out the movements, detailed conditions to restrict activity to aircraft no noisier than currently operate are proposed.

With regard to how the aircraft are operated, a proposed condition seeks to reduce the effect of helicopter refuelling, the Section 106 obligations also introduce restrictions on circuit training, the circuit used by training aircraft, and helicopter operations.

The overall effect of the controls should be to contain noise to that recently experienced.

7.74 The BAP assessment has been made with regard to the potential use of planning conditions to control the number of aircraft movements:

- by type (fixed wing or helicopter)
- by day (week day and weekend); and
- by aircraft engine type (jet turbine or piston engine)

7.75 The BAP report provides a summary as follows:

4.0 SUMMARY

4.1 Adequacy of Applicant's submitted noise information and findings

The Applicant concentrated in the initial E.S. on noise matters relating to use of the new access road, demolition and construction, entertainment noise from the clubhouse, maintenance activities within the new hangar advising that there can be no noise impacts from aircraft noise in the air associated with the Development. They did separately consider helicopter refuelling using the information provided by D.F Sharps in 2011.

Two unattended noise surveys were undertaken, and attempts made to retrospectively determine the contribution of aircraft noise events noise in local areas. This was in general not successful, such that the detailed noise effect of the airfield operations on the local area was not clarified. The applicants' noise information did not meet the requests made by HDC, other than by providing a

noise contour and a very small number of instantaneous noise levels, which did not fully address aircraft noise.

In March 2018, a revised E.S Chapter 7 was issued which provided useful information by measurements of helicopter and fixed wing aircraft using the proposed new refuelling facility and helipad. This coupled with predictions directly addressed the matter which has caused most past complaints, the refuelling of helicopters. The related analysis concentrated on the impact arising from one type of aircraft, a single engine Robinson R44 type and showed it is unlikely to produce an unacceptable change in noise impact. Analysis of the provided movement data for January – July 2016 indicates that although the single engine helicopter was common, an equal or larger number of helicopter operations related to the noisier Bell 429/Augusta 109 twin engine larger types. Impact analysis for these helicopters appears necessary unless the applicant seeks only to operate single engine types.

4.2 Adequacy of Proposed Planning Conditions and Section 106 Obligations.

The proposed restrictions represent a large improvement over the current situation (Voluntary Code of Conduct) as they put in place restrictions on the level of activity, the noise characteristics of the aircraft operating and the manner of operation.

The residual concerns with regard to aircraft noise are:

- The possible level of activity on busy non Fly-In days, (daily top limit)*
- The impact of utility helicopter activity, (10/day-hours/restriction)*
- The establishment and maintenance of an Aerodrome Consultative Committee and the related reporting procedures.*

However the overall effect should be to contain aircraft noise to that recently experienced.

4.3 Bagby Aircraft Noise / Impact / Control.

The aircraft operations from Bagby, as advised by the Secretary of State and various inspectors do affect local amenity. The impact is reduced by the use of small GA aircraft, especially new light sports aircraft and modern microlights, and the fact that the noisiest phase of operations (departures) mainly takes place away from the local villages. The few complaints reported to HDC suggest

acceptability of most operations except for concern over helicopter refuelling especially early in the morning.

The lack of any current controls other than voluntary may exacerbate community reaction, such that if as suggested by the CAA it can be shown that the matter of aircraft noise is being taken seriously a tolerable situation should arise. The proposed controls, adequately enforced, should provide suitable benefit to both the operator and local community.

- 7.76 The final sentence of this extract from the BAP report is highly significant. The findings are that the proposed controls, which BAP considers to “represent a large improvement over the current situation” should bring suitable benefits. This exceeds the test set in the planning policies CP1 and DP1 that are fundamentally to avoid harm and also exceeds the requirement of the Policy CP15 to mitigate harmful implications of development. The finding of benefit is however from the starting point of a proposal that, whilst the use is immune from enforcement action, it has not gained planning permission for that use and so is not the subject of planning conditions and/or other controls. The finding that the control should provide suitable benefit to both the operator and local community is therefore a ‘planning benefit’ to which weight should be given in the decision making process. The amount of weight is a matter that is for the decision maker. The weight to be afforded to the planning benefit is however dependent upon the controls being enforceable. The matter of the enforcement of planning controls is discussed later in this report.

Planning Policy - Assessment of the noise impact

- 7.77 The findings of BAP support some of the criticisms made by the Saunders consultant to A4R of the failings of the submitted information on noise. The findings of the BAP report are that the amended proposal would result in impact but one which can be mitigated by the use of planning conditions, such that there is no material change in noise impact. That is accepted to be a robust conclusion. It is not the role of BAP as consultant to advise whether the planning policies have been met. That is the role of the Local Planning Authority in the light of those policies.
- 7.78 The LDF policies CP1 and DP1 as set out earlier in this report are that CP1:

Proposals will be supported if they promote and encourage or protect and enhance [amongst other things] iii. The health, economic and social well-being, amenity and safety of the population.

At DP1:

All development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odour and daylight.

7.79 These policies relating to amenity do not include wording used in policy CP15 “Rural Regeneration” that the development proposal:

...should seek to enhance the environment: and should provide any necessary mitigating or compensatory measure to address harmful implications.

Policy CP15 is relevant as the proposal does seek to retain an appropriate business outside of Service Centres and Service Villages of the District. It is therefore appropriate to consider not just the proposed development but also the mitigation proposals that are proposed to address the otherwise adverse impact of the proposed development.

7.80 The conditions set out in the report by BAP and York Aviation are considered by BAP to provide suitable benefit to both the operator and local community. Further impacts from outdoor events or special events in the clubhouse have also been considered by the Council’s Environmental Health Team and it is considered appropriate mitigation can be achieved by planning conditions. The proposal therefore meets the tests of Local Development Framework Policies CP1, DP1 and CP15.

7.81 The NPPF 2018 (as set out at section 3 of this report and at the beginning of this section) contains policy at paragraph 180 that seeks to avoid noise giving rise to significant adverse impacts on health and quality of life.

7.82 The scope of the Noise Policy Statement for England includes noise from transportation sources and neighbourhood noise, including noise from trade and business premises. The NPSE aims to consider noise alongside other relevant factors.

7.83 The consideration of the noise in this case complies with the policy and guidance in the Development Plan, the NPPF and the NPSE. The development would adequately protect amenity, and would not result in a significant adverse impact on the health or quality of life. The proposal would minimise the unwanted intrusion that adversely impacts on the quality of life of residents around the Airfield. The proposal therefore more than meets the relevant tests of each of the policies.

7.84 The lawful use of the site has been discussed in section 2 of this report. It is considered that, subject to appropriate controls in the form of planning conditions

and/or a planning obligation, the development would have no material increased impact.

8.0 Local economy – business case

8.1 The proposal seeks to extend the business facilities at the airfield through the provision of an enlarged engineering workshop, the replacement of the club house with a wider range of facilities in a larger building and replacement of dilapidated hangars with a new larger hangar.

8.2 The Development Plan supports business development in the countryside where it complies with a series of criteria. The leading policy of the LDF is CP15 which details how the social and economic needs of rural communities will be supported. The policy sets examples of proposals that will be supported. Pertinent to this proposal is the support for:

- i. Retention or expansion of appropriate businesses outside of the Service Centre and Service Villages;
- ii. Re-use or replacement of suitable rural buildings for employment generating uses;
- iii. Appropriate tourism related initiatives, including schemes which improve the accessibility of tourist assets both within and outside the District; and
- vi. Recreation uses appropriate to a countryside location.

In all cases development should be designed to be sustainable, consistent with the requirements of CP1 and CP17, should not conflict with environmental protection and nature conservation policies of the LDF but should seek to enhance the environment and should provide any necessary mitigating or compensatory measure to address harmful implication.

8.3 To take support from Policy CP15, it has to be decided that the business is appropriate for the purposes of this policy, viewed in its context. The term “appropriate” is not defined but reference is made to the need to protect the environment of the countryside and landscape, making the most of pursuing higher skilled new business sectors (CP12), grow and develop the skills base of the local population reducing commuting to work (CP12), re-use of vacant or underused site (CP13 and CP15).

8.4 The development proposals are made to support an existing business that requires a large open space for the runway. An airfield use could not be accommodated within the Development Limits of any of the settlements of the District. An airfield needs a

large amount of open space that is not available within the built up areas of Service Centres or villages, it is therefore appropriate that it is in a countryside location to meet the space needs that cannot be met in a settlement. Accordingly an airfield is an appropriate business in the countryside.

- 8.5 The proposal seeks to create jobs in aircraft engineering and re-use a hangar to provide the aircraft engineering workshop. The application details how support has been given and is planned to expand job opportunities at the Airfield in aviation and states that the proposal gains support from Policy CP15 criteria i and ii. For some the Airfield provides a place of recreation, as such the proposal gains support from Policy CP15 criterion vi. Proposals are made to control the impacts of development and are therefore considered to be in general accordance with Policy CP15.
- 8.6 LDF Policy DP25 sets out support for rural employment proposals. All five criteria of DP25 need to be met to enable the development to be supported by this policy. These require proposals to be small in scale; comprise conversion or re-use or appropriate replacement or extensions; be incapable of location within a settlement in the hierarchy at CP4; be supported by a business case; and not harm the economy of the Service Centre. As noted above the scheme would overall create an additional 273 sqm floor space most of which is in the form of the clubhouse and the remainder, a tractor shed. The new built elements of the scheme are small in scale. The number of jobs created would also be small in scale with 14 additional jobs (some part time and some full time) envisaged and additional jobs in the local supply chain. The full details of new jobs and supply chain impacts are set out in a Business Case Addendum prepared by the applicants' agent This is considered below against the requirement in DP25 (iv) for proposals to be supported by an appropriate business case. In relation to DP 25 (ii), (iii) and (v), as explained in paragraph 8.4, the development could not sensibly be located within a settlement. Further, the proposed buildings would replace dilapidated structures and create conditions suitable for the intended future use to support the existing business. The new buildings, aircraft hangar, tractor shed, club house, would all be functionally connected to the operation of the Airfield and could not fulfil the function if located in a settlement away from the Airfield.
- 8.7 The Council Plan 2015 – 19 also makes driving economic vitality a priority, it seeks to promote growth of the local economy, to support economic growth through planning, enable business to set up and grow and maximise private sector investment in the district.

8.8 The NPPF supports business growth including those in rural areas in order to create jobs and prosperity. At paragraph 28 the NPPF states Local Planning Authorities should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings.

8.9 The York Aviation review of the application acknowledges the Government's policy in the General Aviation Strategy 2015 and quotes the stated purpose of that Strategy:

Stimulating employment in GA in terms of how many people are involved and how much they participate; and

Supporting infrastructure that is appropriate in its extent, capability and location to deliver a mixed, modern fleet of aircraft flying between appropriately equipped aerodromes across well-defined airspace.

8.10 York Aviation then states:

3.3 *The proposals put forward by the Applicant appear to contribute towards both of these main goals and therefore meet overarching policy for the sector.*

3.4 *A key commitment arising from the General Aviation Strategy was to make amendments to the National Planning Policy Framework (NPPF) to make reference to GA aerodromes as part of a network. This was implemented in March 2018 and indeed the NPPF now states that planning policies should:*

Recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government's General Aviation Strategy.

3.5 *In our view, the Application is a clear recognition by the Airfield that they need to change their business model to adapt to changes in the sector over recent years. This may mean that the nature of activities could vary from those seen historically, but this fits with policy in this regard.*

8.11 The York Aviation report further states:

4 Application review

4.1 *The Application has been provided with a significant number of supporting documents and evidence, which overcome some of the former criticisms*

related to previous applications, including by the Inspector in the 2011 Inquiry which covered similar developments. In particular in 2011, the Inspector noted the lack of a Business Case to support the application to allow the benefits, both to the applicant and the economy, to be judged. This has now been overcome. The amendments to the application, submitted in March 2018, do not provide a further update on this because the applicant perceives there to be no change in the Business Case or subsequent economic impacts arising from the relocation of the maintenance facility or the provision of a fixed fuelling facility.

4.2 *A key starting point has been to understand the reasons for the application. As highlighted by the Business Case, the Airfield has consistently made small profits since 2011¹ and as such we have sought to understand the benefits of the expansion, particularly as the Airfield is willing to be restricted on overall movements, but also any risks to the sustainability of the current business from not undertaking the redevelopment. Through discussion with the agents², it was highlighted that it is the state of dilapidation and ongoing decay of existing facilities which is driving the application. They consider that even the current profit of the business may be at risk without the ability to provide new facilities. Among the key arguments for new and replacement hangars is the fact that new generation aircraft are increasingly required to be stored in higher grade buildings than those on site. This is true and modern avionics, as highlighted in the written response, need to be stored in low humidity environments. Furthermore, we are aware that many insurance companies now also expect aircraft to be stored indoors, which influences the location decisions of some aircraft owners.*

¹ Bagby Airfield: Business Case V6.2, Prepared by Peter Bondar, Papa Bravo Ltd, 29th February 2016, Page 11, Para 5.3.1

² Conference call held on 18th May 2017, and accompanied by written responses provided on 6th June 2017 and included as Appendix A.

- 4.3 *However, the proposals go beyond simply replacement of the existing hangars with newer equivalents and, throughout the Business Case and supporting documents, a key theme is around improving the quality of the revenues and business and it is this which appears to drive the extended programme of redevelopment on site. This is a common theme with other airfields in the UK which are run as businesses, whereby operators seek to focus on a lower volume of higher value movements and trade these off against the former high-volume, low value small leisure aircraft. The two are not mutually exclusive in a balanced business and there is no suggestion that there will not be a balanced portfolio of movements in the future at Bagby. However, this does explain why the Applicant is willing to propose limits on movements for the first time. We will consider movement levels in more detail below.*
- 4.4 *Both of these key points, the risks of degrading facilities and the desire to focus on a different, more quality driven, market are credible in our view.*
- 4.5 *During discussions with the agents, it was repeatedly highlighted that the Airfield is currently unrestricted in terms of movements and activity, and thus the proposals, would allow some control to be gained over what the Airfield could do in future. In theory this is correct, but conversely it must be remembered that activity levels and based aircraft numbers have been below peak levels for some time and the thrust of the justification for the redevelopment is that the current facilities on site are not attractive to current aircraft owners and operators. It is likely that simple refurbishment of the existing hangars may not overcome this, and so the Application may lift movements from current levels and retain them in the foreseeable future. Continued degradation of the current facilities therefore makes it less likely that the Airfield can take advantage fully of its claim to unrestricted movements and in reality, on this basis, it would be hard to see how the Airfield could grow back to higher levels.*

- 4.6 *This is not to say that it could not grow again without the redevelopment as many facilities would still be useable. Perhaps more importantly, some of the activities already curtailed may lawfully be reinstated if the operator feels they need to diversify to retain a profitable business. Many of the activities which have already been excluded by the current Code of Conduct, because they were unpalatable to local residents, are also likely to be unattractive to the residents near other airfields and airports. As a result there may be a lucrative opportunity for the applicant to attract these back if they cannot sustain the airfield through the proposed redevelopment. Overall, airfields are likely to come under pressure to exclude these activities as they grow, and as such Bagby Airfield, with no current lawful constraints, may be in a strong position to charge a premium for movements and operations which cannot be accommodated elsewhere. In our view it would be likely that the Airfield would be able to improve profitability by reintroducing aerobatic flying and allowing hot-refuelling of helicopters. In the case of the latter, these aircraft would not need any improvements to facilities as they would only be visiting. With no planning constraints on aircraft size or noise, the Airfield could be very attractive to helicopter operators on the popular north-south routing along England for such refuelling, and this could include helicopters of all sizes. Clearly there would be an incentive for the Applicant to attract larger helicopters because they would uplift more fuel and increase profits, despite their negative noise impacts locally.*
- 4.7 *The uncertainty over whether the Airfield would completely shut without the development, or whether it would change its focus means that without the Application being approved, there will be no way to bring controls over areas such as circuit flying or helicopter approach routes as now proposed and a real risk of diversification back to less appealing activities*
- 4.8 *However, this means that the individual controls need to be considered in detail and it is necessary to work out what the Airfield needs to successfully deliver against its economic proposals, whilst not simply setting arbitrarily high restrictions which bring no environmental certainty and benefits to the local community.*
- 8.12 The York Aviation report also considers the other aspects of the business proposals relating to the improved hangars, overnight accommodation and the engineering business. The applicant and his agent have provided comment on these matters which may be summarised that the proposals seek to increase the value of spending at the Airfield through higher rental income from improved hangars, for each visit to

increase returns through fuel sales, overnight accommodation for pilots (though there is no proposed restriction that it should be only pilots or passengers) and aircraft maintenance spending; rather than by increasing the number of aircraft movements.

4.126 On the whole, there is a reasonable chance that the site would develop as outlined, with re-growth in higher-value movements and the creation of a restaurant which will be dependent upon employees to be successful. The result is that if this can be achieved, then there will be a positive impact on the local economy, to which weight needs to be attached in the overall planning balance. However, given the limitations identified above, the weight to be attached to such benefits must be reduced.

- 8.13 The applicant was invited to supplement their business case following the criticisms made. Additional comments were made and have been considered and documented in the report of York Aviation.
- 8.14 Criticisms have been made by Action 4 Refusal (particularly by Mr Chapman) of the business case prepared for the applicant and as reviewed by York Aviation; A4R set out that the business case lacks evidence of the type, scale and level of financial analysis, that it is merely a summary document failing to provide robust support for the application. A4R also note the lack of cash flow details, that the claimed additional employment is overstated as the jobs will not materialise, that there is a shortage of skilled aviation engineers to support the sector to take up and vacancies at the Airfield Further concern is raised at the uncertainty for business as a consequence of Brexit.
- 8.15 The business case and the critique by A4R have been considered by York Aviation. York Aviation states in its Summary of Review:

- 4.147 *Overall we believe that the Application goes a long way to addressing deficiencies in the previous applications and meeting the points raised by the Inspector in 2011. There is a clear strategic plan which fits with the approach being adopted elsewhere in the UK in terms of focusing on higher value activities and using these to replace lower value, higher volume activities, some of which have already left the Airfield. This approach is inherently sensible and would allow a more sustainable business, which could then deliver greater economic value. This is also in keeping with government policy for the general aviation sector.*
- 4.148 *There remain deficiencies within the noise assessments provided in support of the Application and further comment will be provided on these by BAP. It appears, given that there are currently no constraints on movements or noise, that any solutions which can be implemented to bring certainty and control of noise will be of more value than the current position.*
- 4.149 *We believe that many of the areas of concern for local residents and those who have historically objected to the Airfield can now finally be overcome with appropriate Planning Conditions and Controls. The Applicant has made a number of valid suggestions around these, all contained within a voluntary Code of Conduct. However, we believe that, in line with other airfields in the UK, it is more appropriate to condition some of these if planning is approved. Throughout this section we have attempted to identify the appropriate levels of control which should be considered. We bring these together in the next section.*
- 4.150 *Finally, we make no recommendations on whether the Application should be approved or otherwise, as our role has been to test the aviation and economic aspects rather than measure these against the relevant local planning policies. However, we do believe that on the whole the Applicant has made a fair representation and based on our knowledge of general aviation activity elsewhere, we believe that the proposals are reasonable and accurate. With sensible conditions and controls, we believe that this may present an opportunity to finally bring about certainty of operations for local residents which has long been missing.*
- 8.16 The business case for the development at the Airfield is considered by York Aviation to be appropriate for the purpose of DP25 iv and provides a suitable basis on which to make a decision. Action4Refusal has criticised both the Business Case prepared by the applicant and the assessment of the Business Case prepared by York

Aviation. A4R further comments on a lack of financial and contractual details and a lack of evidence of the viability of the businesses on the Airfield. A4R states that the businesses on the Airfield may change over time and question assumptions made about the value of future business, express doubts about the truthfulness of the business case and consider that the underlying data is flawed and that the jobs will not materialise. York Aviation however finds that the level of detail and the business case made are both comparable with other airfield businesses in its experience and that the more recent concerns arising from the Brexit process would be likely to have little effect on the business at the Airfield as it is not dependent upon international trade. The proposal has potential to support the development of small businesses at the Airfield involved in the maintenance and repair of aircraft and provide hangar space to meet needs of modern aircraft and, through the provision of an enhanced club house, provide a reasonable standard of accommodation for visitors to the Airfield.

- 8.17 The proposal would support the local economy as required by the Local Development Framework Policies CP15 and DP25 and support the economy as sought in chapter 6 of the NPPF and as expressed by Government in the General Aviation Strategy.

9.0 Heritage

- 9.1 The approach required by the Council's statutory duty and the national policy framework for the consideration of the proposal with regard to heritage assets is set out at section 6.3 of this report. The Local Development Framework policy tests are contained in the Core Strategy at CP16 and the Development Policies at DP28. The LDF policies seek to preserve and enhance Listed Buildings and Conservation Areas and the setting of these and the other heritage assets of the District.
- 9.2 Section 6.3 of this report details the heritage assets within the locality of the development, assessed their significance and found that the development proposals will result in no harm to the significance of the heritage assets and cause no harm to the setting of those heritage assets. The tranquillity of the setting of the churches of Bagby and Thirkleby does contribute somewhat to the significance of those heritage assets, though the primary significance lies within the fabric and immediate physical settings and there is no direct harm to those components only to the wider setting. Aircraft movements and other activities that have the potential to increase noise in the environment may impact adversely upon the tranquillity of these churches. However, only those impacts arising from the development proposal may be considered. The development proposals include controls and, as set out later in this

report, those controls are such that the significance of the heritage assets would not be eroded as there will be no material loss of tranquillity from the current position..

- 9.3 The proposal would preserve the manmade assets as required by Local Development Framework Policies CP16 and DP28. As such the proposal is acceptable under the terms of the local and national heritage policies.

10.0 Design

- 10.1 The Local Development Framework Policies CP17 and DP32 require the highest quality of creative, innovative and sustainable design for buildings and landscaping that take account of local character and settings, promote local identity and distinctiveness and are appropriate in terms of use, movement, form and space.
- 10.2 The National Planning Policy Framework Planning supports this approach and, at paragraph 130, states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 10.3 The buildings within the site are of a form, design, materials and colour that is not unlike agricultural buildings found within the landscape around the Airfield, which is dominated by arable farming with some livestock. One of the aircraft hangars was formerly used as a pig rearing building. There are two structures that are visible from beyond the site that are distinct from farm buildings in terms of their appearance; these are the control tower and the orange wind-sock.
- 10.4 The proposed buildings are of a design that follows the form of the existing buildings, using a simple form with dark coloured box profile cladding on a metal frame and with heights that are generally in common with the adjacent buildings.
- 10.5 The approach to the design of the buildings is considered to respect the context and proposed uses and takes account of the local character and setting as required by Local Development Framework Policy DP32. The overall design of buildings is considered to be of the quality required by the Local Development Framework Policies. The expectation of “highest quality” has been considered in this assessment. Given the rural setting it is considered that simple design, reflecting agricultural forms, and using muted colours constitutes the best design approach and exceeds the requirements of the NPPF paragraph 130.

11.0 Landscape character and landscape impact

- 11.1 The Local Development Framework Policy CP16 states that development will not be supported if it has a detrimental impact upon the interests of a natural or man-made asset or is inconsistent with principles of proper management or is contrary to the necessary control of development within nationally or locally designated areas. Policy DP30 states:

The openness, intrinsic character and quality of the District's landscape will be respected and where possible enhanced.

- 11.2 The May 2016 Landscape Character Assessment for Hambleton identifies the site of Bagby Airfield, as well as Bagby and Thirkleby, to be within the area of the North York Moors Fringe (Area 16) and close to the southern boundary of the Thirsk Settled Farmland (Area 17) (source LUC Landscape Character Assessment and Sensitivity Study May 2016).

- 11.3 The Landscape Sensitivity Assessment for area 16 states:

Table 5.32 Sensitivity assessment for character area 16 North York Moors Fringe

Landscape

Topography

A distinct landform within the District, a transition between the hills and vales. Rolling, rounded hills and knolls together with wide flat sheltered areas.

Scale (landform and component landscape features)

There is a clear sense of enclosure and seclusion within many areas, between or below the rounded hills of the character area, and due to the proximity of the Hambleton Hills to the east.

Landscape pattern and complexity (including sense of time-depth)

General pattern of small and medium scale pasture on steeper northern and eastern slopes, and larger scale arable fields in flatter areas to the west and south. Historic pattern of strip fields present in certain areas (e.g. Knayton).

Perceptual qualities

There is a clear sense of tranquillity in many places, particularly in secluded areas away from overt modern features such as the A19 and overhead power

line, where historic features such as sandstone villages and small field patterns give a sense of time depth.

Visual

Skyline character and visual prominence

The Hambleton Hills form a distinctive skyline, and in conjunction with rolling hills and knolls, gives a sense of enclosure in many places. Modern features are prominent in some locations, but hidden from others.

Visual sensitivities and inter-visibility

The area is overlooked by the Hambleton Hills, and from some locations views are available across the Vales to the west.

- 11.4 The site is within the gently sloping landscape on the lowest land that is a transition from the Vale of York to the uplands of the North York Moors. The site is enclosed by hedgerows and the change in slope also reduces visibility of the whole Airfield from surrounding vantage points. The land is close to the A19 and overhead powerlines and particularly the western end of the Airfield does not experience the same high levels of tranquillity of locations further to the east.
- 11.5 The proposed access from Bagby Lane would be about 50m southwest of the play park and would require a break in the roadside hedge. The layout of the access is formed to allow vehicles to pass at the Bagby Lane end before narrowing to single track width with three other passing places. The submitted Landscape and Visual Appraisal finds that the works would initially have a slight adverse effect will have a small but harmful impact on the appearance of the countryside. The buildings on the Airfield are would continue to be largely hidden by the changes in land levels and trees and hedgerows in the landscape. Provision of additional tree and hedgerow planting can in the longer term provide benefit by increasing tree cover and further screen views of the proposed buildings and provide appropriate boundaries to the new access track.
- 11.6 The proposed buildings are similar in design, height and materials to those already on the Airfield and this, and their limited scale, are such that the development would not result in significant change to the appearance of the site within the landscape. The increased height of the existing engineering hangar to accommodate the clubhouse would result in this being the highest building on the Airfield, however the ridge at 9.1m above ground level is not unusual for buildings of similar form on the

Airfield or on agricultural land close to the Airfield. Overall it is considered that the new and altered buildings are of a design that would not result in harm to the openness, intrinsic character or quality of the landscape; accordingly the proposal complies with the Policies CP16 and DP30.

12.0 Sustainable energy

12.1 The floor space of new buildings proposed in this application is below the threshold set in LDF Policy DP34. Therefore, in this case there is no requirement for the applicant to show that they have addressed sustainable energy issues. The aim of the NPPF to meet the challenge of climate change is achieved by conversion of existing buildings. The clubhouse conversion will also be the subject of controls under the Building Act Approved Documents to achieve the required construction standards.

13.0 Access and highway safety

13.1 The Local Development Framework requires at CP2 that development should be located to minimise travel and to encourage sustainable travel to reduce the need to travel by the private car and increase accessibility. Policy DP3 adds detail to the stance of CP2 and DP4 requires:

Development proposals must ensure that safe and easy access is available to all potential users regardless of disability, age or gender.

13.2 The NPPF at paragraph 109 states that:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

13.3 The scheme includes a new vehicular access from Bagby Lane from a point south of the village to serve the Airfield. This would join the existing unmade single track road near its southern end and the majority of the existing track, north of this, would cease to be used other than for pedestrian access.

13.4 The proposed access requires a new verge crossing and an opening in the boundary hedge as previously noted in consideration of the landscape impacts of the proposal.

13.5 The geometry of the proposed access has been considered by the Highway Authority and found to be acceptable. The required visibility can be achieved on Bagby Lane. The retention of the existing track as a pedestrian access achieves a degree of

segregation of vehicles from vulnerable road users. The access arrangements are therefore found to meet the requirements of the LDF Policy DP4 in respect of highway safety.

- 13.6 Aircraft overflying the A19 on approach to and departure from the Airfield has been raised as a concern; i.e. that aircraft would distract drivers and increase the likelihood of accident on the highway, although not by the Highway Authority. Overflying of the A19 is unavoidable given the east-west configuration of the runway and occurs already. However, there is no evidence of accidents being caused by it. Comparison has been drawn to other activities that occur in the view of drivers and no evidence has been found to support the contention that the development would result in increased risk to highway users.
- 13.7 The proposal does not reduce the need for travel; however as a place of work, transport infrastructure and place of recreation, journeys to the site are necessary. The proposed access is considered to be of benefit to users of the play park that is east of the proposed access and residents through a reduction of traffic passing the play park and homes, particularly a benefit through the reduction of large heavy vehicles using the stretch of the current access from the village street that runs between back gardens. The retention of a separate footpath access to the Airfield would be a safety and amenity benefit pedestrians accessing the Airfield. It is considered that the taking a balanced view the proposal complies with the requirements of the Local Development Framework Policies CP2 and DP4. The impacts of the proposal on highway safety and the impacts on the road network would not be severe and the proposal therefore also meets the requirements of the NPPF in this respect.
- 13.8 Securing the implementation of the new access early in the construction phase would result in a “quick-win” by avoiding some of the amenity impact of construction traffic on the village. This can be addressed by planning condition.

14.0 Drainage and flooding

- 14.1 Local Development Framework Policies CP21 and DP43 require that development does not have an adverse effect on watercourses or increase the risk of flooding elsewhere. The NPPF seeks to manage drainage as a component of responding to climate change and reducing the risk of flooding.

Surface water

- 14.2 A large proportion of the Airfield is grassland. The areas of hard surface (such as the runways and taxiway) are mainly drained by seepage from the edges and roof water drainage is to the ground, there is no detail regarding the use of soakaways around the existing buildings but similarly no positive drainage either, some of the buildings currently drip from the roof edge to the ground, an informal soakaway system. The proposed drainage arrangements for the airfield are mainly to continue the current arrangements of natural drainage through infiltration. The disposal of surface water to sustainable drainage systems is also the preferred means of disposal and in light of the extensive area of ground into which infiltration can be used the disposal by this means is supported. The use of an existing watercourse for drainage also continues the existing arrangement. The proposal would not increase the risk of flooding and therefore complies with the requirement of the Local Development Framework Policies CP21 and DP43.
- 14.3 Drainage of the hard-surface at the fuel facility will be required to be designed to minimise the risk of polluted water discharging to the wider environment. A condition can be imposed to require that the details are approved and implemented to safeguard the environment. This is further detailed in section 15 below.

Foul drainage

- 14.4 Foul drainage from the club house is to be directed to the public foul sewer. Drainage to the public sewer is the preferred means of disposal in the National Planning Practice Guidance (Paragraph: 020 Reference ID: 34-020-20140306) and, subject to adequate capacity, is appropriate. Control over this detail can be secured by the use of a planning condition. Yorkshire Water advises that there is no objection to the proposal. It is further noted that Yorkshire Water is currently investing in the provision of a new foul sewer to the Sowerby Waste Water Treatment Works, as such treatment capacity and standards are within the control of the statutory undertaker. The foul drainage proposal would not result in an increased risk of pollution and the proposal therefore complies with the requirement of the Local Development Framework Policy CP21.

Flooding

- 14.5 Local Development Framework Policies CP21 and DP43 require that development does not have an adverse effect on watercourses or increase the risk of flooding elsewhere. The site is within Flood Zone 1 (the land at the lowest risk of flooding) and the proposal is to drain the site by soakaways, which is the first and preferred option in a hierarchy of drainage options as set out in the National Planning Practice

Guidance (Paragraph: 080 Reference ID: 7-080-20150323) and will not give rise to an increased risk of flooding elsewhere. The proposal therefore meets the requirements of the Local Development Framework policies CP21 and DP43 and the NPPF in this respect.

15.0 Ground pollution control

15.1 The LDF Policies CP21, DP42 and DP43 address the issue of protecting the public and environment from the effect of activities that could be harmful to the environment, human health or amenity. The NPPF states at paragraph 170 that decisions of local planning authorities:

...should contribute to and enhance the natural and local environment by [among other things] e) preventing new... development from contributing to,.. soil, air, water or noise pollution.

15.2 The Airfield fuel facilities and engineering workshop are significant potential sources of pollution to the ground. The controls required to prevent spillage and the handling of spills are contained within other legislation including for petroleum fuels under the provisions of Petroleum (Consolidation) Regulations 2014 as noted by North Yorkshire Trading Standards in its representations reported earlier. The structures and systems required to contain such substances as fuel oil commonly require planning permission. In the case of this application the base and the bund around the proposed fuel facility is a building operation that requires planning permission. The construction of a suitable container including a bund is appropriate under the terms of the planning policy to protect the public and environment from the adverse effects of contamination of the land through uncontrolled spillage. External storage of other oils used in maintenance of aircraft may also involve development requiring planning permission but no specific proposals have been made for such storage and it may be formed inside a building without the need for planning permission.

15.3 The proposed fixed fuel facilities at the Airfield have temporary bunds to reduce the risk of spillage. The proposed facilities would require the formation of suitable ground cover and bund to provide appropriate containment of spillages as advised to be required by the Petroleum (Consolidation) Regulations 2014 in advice from North Yorkshire Trading Standards.

15.4 In the event that the proposal is approved a condition to require the early implementation of suitable bunds is appropriate and is shown in the recommendation. A decision to approve the fuel facilities and implementation of appropriate measure to

safeguard air, soil and water quality would provide resolution of the enforcement issue identified at paragraph 2.12 of this report.

16.0 Ecology

- 16.1 Section 6.4 of this report considers the national policy relating to ecology and the potential for the development to have an impact on ecology.
- 16.2 The Local Development Framework Policies at CP16 and DP31 set the test that permission will not be granted for development which would cause significant harm to sites, habitats or species of importance to nature conservation. The policy supports development that will restore or create new habitats. The NPPF takes a very similar approach albeit with the aim of minimising impact and on providing net gain for biodiversity.
- 16.3 The proposal involves the removal of buildings of lightweight construction. The ecological survey supplied with the application indicates that none of these buildings, other than the west side of the control tower provide a significant habitat for bats (where two bat roost emergence locations are identified) and only limited opportunities for nesting birds elsewhere. A licence application and approval would be required to allow for the removal of the control tower building and mitigation measures undertaken to create new roosts prior to the demolition of the control tower. Additional detail of the mitigation and enhancement measures to achieve the objective of a net gain for biodiversity can be required by condition, overall the scheme would not on balance result in a loss of habitat of importance for nature conservation.
- 16.4 There are no identified sites, species or habitats (other than as noted above) that would be affected either adversely or advantageously by the proposed development. The proposal does not include measures to enhance biodiversity. There is potential within the extended application site for those areas of land that are not intensively used for the operation of the Airfield to be managed to the benefit of biodiversity and such measures are advocated in the Applicant's Ecology Survey. Landscaping to the margins of the access track, provision of hibernacula and other management practices would present opportunities to enhance biodiversity. A planning condition can be applied to development to require the provision of a biodiversity habitat enhancement/management plan that responds to the objectives of the Biodiversity Action Plan.

16.5 The proposal as set out at section 6.4 of this report is considered to meet the requirements of the Development Plan CP1, CP16 and DP31 and NPPF policies subject to conditions relating to the provision of compensatory mitigation measures for the displaced protected species.

17.0 Safety (as a component of sustainable development)

17.1 LDF Policy CP1 “sustainable development” requires that development is safe. Safety of the population is, in the terms of the LDF, a component of sustainable development.

17.2 Whilst safety is a material consideration in a planning decision, Local Planning Authorities must avoid repeating controls that are contained in other legislation; this point is illustrated by the text of paragraph 183 of the NPPF:

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

17.3 The matter of highway safety has been considered above and found to be acceptable.

17.4 The proposal to alter the arrangement of the buildings at the Airfield would be required to meet the Approved Documents of the Building Regulations and their safety is therefore not a matter for the Local Planning Authority.

17.5 The storage and dispensing of petroleum falls within the scope of the Petroleum (Consolidation) Regulations 2014. Representations have been made with particular emphasis on the storage and handling of aviation fuel. The storage and dispensing of some fuels types are not covered by the Petroleum (Consolidation) Regulations 2014 and so are not controlled by North Yorkshire Trading Standards, which acts as the Petroleum Enforcement Authority for the site. The controls relate only to petroleum storage and dispensing. AvGas and UL91 are petrol fuel and within the control of the Petroleum Enforcement Authority. JetA1 is not a petrol fuel and is outwith the control of the Petroleum Enforcement Authority. However JetA1 is unlikely to be ignited by spark or flame at normal temperatures (source The International Fire Training College, IFTC Darlington). JetA1 presents a lower risk of fire, a risk that in the absence of public access to the site is to be managed by the Airfield. The absence of controls by other agencies is an indication of the lower level

of risk of accident with potential harm to human health and does not justify further consideration by the Local Planning Authority.

- 17.6 The agent for the applicant has provided a commentary on the control measures at the Airfield. This sets out that the Airfield meets its obligations in respect of fuel safety but acknowledges that further improvements can be made. The proposals include: within the Planning Obligation the owner's covenant that a permanent member of staff is to be on duty at all times during the operating hours of the Airfield; and the provision of an impervious bund wall to the existing fuel facility. These two measures provide for general safety and specific safety controls. Reference is made to the requirement for a bund within the commentary of the Petroleum Enforcement Authority and as noted above at section 15.0 a condition can be imposed to control the risk of pollution and is necessary to meet the requirements of Local Development Framework Policies CP21, DP42 and DP43.
- 17.7 In addition to safety concerns relating to fuel storage and dispensing identified in observations to this application are concerns about low flying, night flying, over flying of property, including over villages, and a lack of site safety management. Reference is made to past incidents including those where reports have been published by the Civil Aviation Authority Air Accidents Investigations Branch.
- 17.8 The Civil Aviation Authority publishes guidance such as CAP 795 "Safety Management Systems - Guidance to Organisations" and CAP 1059 "Safety Management Systems: Guidance for small, non-complex organisations". These documents explain that the level of detail in the safety management system should reflect the size and complexity and level of risk within the organisation. However, the identification of risks and the control measures required are outside the scope of the planning system. The fall-back position is that the Airfield can continue to operate within the limitations of the lawful use, where no change can be required in respect of the safety systems at the Airfield and no planning conditions can be required on any permission granted now by the Local Planning Authority.
- 17.9 The proposal includes controls (that could be secured by a planning obligation under s106 of the Town and Country Planning Act 1990) relating to the approach and circuits of aircraft as noise abatement procedures. The measures, enforced by the requirements of the Flight Policy set out within the Planning Obligation, would keep aircraft away from the villages of Bagby and Thirkleby. This would reduce the potential for overflying of properties at low altitude and in addition to reducing noise would also reduce the potential for accidents impacting upon people and property in the locality. The prevention of over flying of property is also detailed in the proposed

planning obligation set out at the end of this report and contribute to public safety and would therefore be in accordance with Local Development Framework Policy CP1 criterion iii, which supports proposals that encourage or protect and enhance the safety of the population.

- 17.10 The safety of aircraft landings during darkness is a matter for the judgement of the pilot but requires at least a Private Pilot Licence (PPL) and additional Night Rating licence with further requirements for flights in low visibility conditions. (The training requirement for a PPL is 100 hours theory and 45 hours flight instruction with additional requirements for night flying of a further five hours theory and five hours flight instruction.)
- 17.11 The site management arrangements are addressed in the comments of York Aviation at 4.122 considering the economic impact of the proposals:

However, we are also aware that more recently there has been a reduction in employment on site, and this may impact on the overall level of future employment if this position (Airfield Manager) is not replaced. For the purposes of our assessment we assume that with the introduction of a new club house, accommodation and requirements to monitor activity at the airfield arising from this application, this is a position which will likely need to be restored.

- 17.12 It is acknowledged that permanent staff could enable a safety culture to be promoted as advised by industry good practice guidance. It is also noteworthy that of the 6 accidents reported by the Civil Aviation Authority's Air Accident Investigation Branch one notes the lack of radio communications at the Airfield as a contributory factor in a landing in adverse wind conditions. However as noted above the Civil Aviation Authority publishes guidance on the safety management and the NPPF guides Local Planning Authorities to assume that other regimes of control will operate effectively. The presence of suitably skilled permanent staff familiar with the safe operating procedures could provide guidance in a timely manner to enable Airfield users to operate safely.
- 17.13 The NPPF sets requirements for policy making and decision taking to ensure safe and healthy living conditions. The NPPF makes specific reference to safety on various matters including highway safety, contaminated land and flood risk, the requirements of the NPPF is to ensure that (in consideration of mineral extraction proposals) there are no unacceptable adverse impacts on aviation safety. This policy approach supports the contention that the aviation sector is responsible for its safety management. The role of the planning system is limited to using spatial constraints

and policy controls to safeguard a zone around and including aerodromes to enable aerodromes to operate without a change in level of risk arising from other development beyond the boundary of the aerodrome.

- 17.14 There is no specific reference to safety management at aerodromes in the NPPF. The proposal meets the safety requirements of relating to those matters that are addressed in the Local Development Framework as set out in sections 13, 14, and 15 of this report and as specified in the NPPF.

18.0 Controls over activity

- 18.1 Policy and guidance from Government on the use of planning controls is given in the NPPF and the National Planning Practice Guidance. This sets out how

When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development.

- 18.2 The use of controls can make development that would otherwise breach the policy of the Development Plan comply and can enable the economic, social and environmental gains of development to be realised.

- 18.3 The NPPF, paragraph 55, sets out that conditions should only be imposed where they are:

1. *necessary;*
2. *relevant to planning and;*
3. *to the development to be permitted;*
4. *enforceable;*
5. *precise and;*
6. *reasonable in all other respects.*

- 18.4 Each planning condition must meet all the six tests. The National Planning Practice Guidance set out that the requirement to meet all six tests applies even if the applicant suggests the condition. The National Planning Practice Guidance also states that conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. (Paragraph: 005 Reference ID: 21a-005-20140306.)

- 18.5 It is acknowledged by the Applicant in the submitted supporting documents that controls over the amount of activity at the airfield are necessary to control the impacts

that have been set out in section 7 of this report. The controls that are necessary are mainly to regulate the level of noise in the environment from the movement of aircraft both on the ground and in the air at and near the Airfield to protect the residential amenity of people living near to the Airfield. Some potential for noise arises from other activity at the Airfield such as road noise from deliveries and pilot and other visitor vehicle movements and also from the aviation engineering business undertaking maintenance and repair work.

- 18.6 Advice has been commissioned by the Council from York Aviation. Its report considers the use of planning conditions to control *inter alia* the number of movements. A full copy of the York Aviation report is at annex 9.
- 18.7 The ability to restrict the number of aircraft movements by condition had existed until the breach of planning control that commenced in the 1990s resulted in immunity from planning enforcement. The use of conditions again to control the number of movements is consistent with the approach in the 1976 and 1980 personal permissions that relied upon a control of take-off and landings to protect the amenity of residents.
- 18.8 Controlling aircraft activities and the business activities on the ground can be achieved by planning condition. The application site includes all of the land and buildings in use as part of the airfield. It is therefore possible to rely extensively on planning conditions to control the proposed development and the use of the Airfield overall, provided those conditions meet the NPPF's six tests.
- 18.9 There are currently no planning conditions that control the number, timing or type of aircraft movements at the airfield. The Applicant proposes that if the development is approved, controls should be attached. Planning conditions cannot be applied to aircraft whilst airborne. To control these activities a Planning Obligation is required that imposes sanctions for failure to follow a flight policy. A Planning Obligation under section 106 of the Planning Act (s106) is a binding contract between the landowner and the Council and can be used to require the landowner (in this case the operator of the Airfield) to set rules for the operation of aircraft flying in and out of the Airfield and impose sanctions if those rules are not followed.
- 18.10 As noted previously, advice has been sought from aviation specialist York Aviation on matters relating to the controls that have been proposed in the application. The York Aviation report considers the business case and the controls that would enable the Airfield to operate as an economically viable business whilst simultaneously limiting

the level of usage so that the harmful impacts of unrestricted use of the Airfield operations are controlled to an acceptable level.

- 18.11 The range of controls applying to the Airfield and pilots is broad, including powers held by the Civil Aviation Authority, border/immigration controls and trading standards, including petroleum licensing. The controls considered in this report are restricted to those which can be exercised by the Council as the Local Planning Authority. It is not the role of the planning system to duplicate controls which exist elsewhere and as noted at 18.4 any condition seeking to do that would fail the test of necessity.
- 18.12 The main controls proposed by the Applicant relate to limits on the number and types of aircraft movements. A reliable system of monitoring and recording of aircraft movement together with the time and type of aircraft is essential to enable enforcement of the proposed planning conditions. The provision of the data to enable on-going review and prompt corrective action to be taken by the Airfield management to prevent a breach of the controls is necessary. The data must also be available to the Council to enable action to be taken by the Council if the Airfield fails to control activities in accordance with any adopted 'code of conduct' or planning conditions.
- 18.13 The responsibility to monitor and manage day-to-day aircraft movements at the Airfield rests with the Airfield management. The management of movements, involving the recording of times and dates of aircraft movements amongst other details, to prevent a breach of controls in the Planning Obligation and conditions must be undertaken by the Airfield. Only when a breach of the terms of one or more planning conditions occurs or the terms of a planning obligation is breached does the enforcement role pass to the Council. The data must be available to the Council to enable control to be exercised. Adequate and accurate data must be secured by the conditions (for the reasons set out in the York Aviation report).
- 18.14 Planning conditions cannot be used to control activities that are not ground based. A Planning Obligation may control activity that is not on the ground.
- 18.15 Two sets of planning controls are identified:
- Conditions relating to the operation of the Airfield, particularly aircraft operations, and controls of airborne craft in the terms of a Planning Obligation; and

- Conditions relating to the construction works and other operational issues that do not specifically relate to aircraft operations.

18.16 Conditions are proposed to limit aircraft movements with reference to three characteristics: (i) by number; (ii) by time; and (iii) with reference to “Noise Certification” (explained in detail later in this section). The objective is to control the impact of the use of the Airfield with reference to the lawful level of use and with reference to the Development Plan policies to protect amenity whilst achieving economic growth.

18.17 The conditions would (amongst other things):

- a) Control the total numbers of movements, mindful that each movement is experienced as a single noise event and may cause disturbance and a loss of amenity;
- b) Control the times of movements, noting that noise during the night, early morning and late evening are more harmful to amenity than movements through the day; and
- c) Prevent use of the Airfield by noisier aircraft.

18.18 The total numbers of movements and timing of movements that are considered appropriate should be defined with awareness of the business case for the viable operation of the business. This is discussed in detail in section 4 of the York Aviation report:

4.2 A key starting point has been to understand the reasons for the application. As highlighted by the Business Case, the Airfield has consistently made small profits since 2011 and as such we have sought to understand the benefits of the expansion, particularly as the Airfield is willing to be restricted on overall movements, but also any risks to the sustainability of the current business from not undertaking the redevelopment. Through discussion with the agents, it was highlighted that it is the state of dilapidation and ongoing decay of existing facilities which is driving the application. They consider that even the current profit of the business may be at risk without the ability to provide new facilities. Among the key arguments for new and replacement hangars is the fact that new generation aircraft are increasingly required to be stored in higher grade buildings than those on site. This is true and modern avionics, as highlighted in the written response, need to be stored in low humidity environments. Furthermore, we are aware that many insurance companies now also expect

aircraft to be stored indoors, which influences the location decisions of some aircraft owners.

4.3 However, the proposals go beyond simply replacement of the existing hangars with newer equivalents and, throughout the Business Case and supporting documents, a key theme is around improving the quality of the revenues and business and it is this which appears to drive the extended programme of redevelopment on site. This is a common theme with other airfields in the UK which are run as businesses, whereby operators seek to focus on a lower volume of higher value movements and trade these off against the former high-volume, low value small leisure aircraft. The two are not mutually exclusive in a balanced business and there is no suggestion that there will not be a balanced portfolio of movements in the future at Bagby. However, this does explain why the Applicant is willing to propose limits on movements for the first time.

18.19 The calculation of how the limits on the aircraft movements should be set are included in the York Aviation note at paragraph 4.25 of its report. YA has attempted to understand the aircraft movement that the Airfield would need to drive economic growth, referring to evidence taken from other UK airfields and airports and information in the application, and balancing the economic case for aircraft movements against the limits required to safeguard the amenity of the population.

18.20 The York Aviation report considers in detail the operating hours of airfields around the country and the absence of justification to support the proposed opening hours at Bagby Airfield. Acknowledgement is given in the report (4.34 to 4.37) to the characteristics of the Airfield, including the owner-operated aircraft that would be flown in evenings after work to keep up annual flying hours and undertake training as well as the business travel from the Airfield and the balance against the needs of local residents:

In relation to operating hours, many UK Airfields and Airports impose restrictions on opening hours and/or movements in certain periods of the day.

18.21 Recommendation is made by York Aviation in the absence of evidence or justification for longer operating hours to impose more restrictive conditions over operating hours than those sought by the Applicant in their planning statement.

18.22 The third aspect of control is to preclude use of the airfield by noisy aircraft. To prevent use by aircraft that are noisier than those which have defined its character

such that small light weight fixed wing aircraft continue to be the predominant user of the Airfield.

- 18.23 Helicopter noise is acknowledged as being more intrusive than that of fixed wing aircraft in the BAP report as it was in the decisions of Inspectors Brathwaite and Lewis and is also acknowledged by York Aviation. The applicant's Code of Conduct also accepts the need for separate conditions to control the movements and refuelling of helicopters. York Aviation advises (paragraph 4.44 to 4.52) on the use of conditions and planning obligation to control helicopters. In consideration of the number of helicopter movements reference is made to the records of the movements in recent years. York Aviation finds that whilst there is doubt about the number of non-turbine engine helicopters the numbers of turbine movements are known from the logs kept and recommends an annual limit of 676 jet turbine helicopter movements.
- 18.24 Reference has been made to the "Noise Certification" of a sample of aircraft that operated at the Airfield during January to August 2016. Details of Noise Certification are available for many aircraft from the Civil Aviation Authority's website G-INFO.
- 18.25 The Noise Certification limits are proposed to preclude any fixed wing aircraft that would generate noise levels higher than aircraft that have used the Airfield in the selected period of January to August 2016. The proposed restriction applying to helicopters would preclude use of the Airfield by some aircraft that have used it in the past. The proposed condition would, with reference to the sample period in the first eight months of 2016, exclude 12 out of the 314 movements.
- 18.26 Most modern factory produced aircraft have a Noise Certificate for which data is available on the G-INFO website. Where Noise Certification does not exist for a particular aircraft it is proposed to limit the weight of aircraft to 2,730kg MTOM (Maximum Take-Off Mass), although it has to be acknowledged that differences in aircraft weight may not be matched by differences in aircraft noise. MTOM is available for all aircraft registered in the UK on the G-INFO website.
- 18.27 The proposed noise limits for aircraft are set out below and relate to the data listed on the Civil Aviation Authority website identified as Noise Certification Details.
- The table is split between fixed wing (aircraft excluding helicopters) and rotary wing (helicopters).
 - The "Chapter" number (6, 8, 10 and 11) refers to the methodology used to calculate the noise level; aircraft are certified under the methodology of a particular chapter.

- The “Movement” refers to the position of the aircraft when the measurement is taken. Three positions ‘Take-Off’, ‘Approach’ and ‘Overflight’.
- The Limit EPNdB (effective perceived noise in decibels) is the value that is the upper limit of permissible noise. EPNdB is a measure of the relative loudness of an individual aircraft pass-by event.
- The level dBA SEL (single event level) is another measurement scale to provide an upper limit to permissible noise.
- Applying the table an aircraft with a Noise Certification under Chapter 6 would be required to have a noise in Overflight of no more than 79.6 EPNdB.

Proposed noise limits for aircraft at Bagby Airfield

Fixed wing	Movement	Limit EPNdB
Chapter 6	Overflight	79.6
Chapter 10	Overflight	82.7
Rotary wing		
Chapter 8	Take-Off	92
Chapter 8	Approach	94
Chapter 11	Overflight	84 dBA SEL

19.0 Suggested Conditions relating to aircraft

19.1 The York Aviation report sets out conditions arising from the methodology set out in their report as follows. Commentary of the Planning Officer is provided after condition:

1. **Maximum Permitted Aircraft Movements:** The number of all movements at the Airfield shall not exceed 8,440 per calendar year of which:
 - a) A maximum of 676 may be by helicopters;
 - b) A maximum of 1,700 may be Touch & Go movements; and
 - c) There will be a maximum of 1,518 movements of all types in any calendar month.

Comment

The total number of movements derived from the calculations of York Aviation is 8,440, and is therefore 347 movements lower than the 8,787 figure set out in the application. The proportion of helicopters and the number of movements that are “Touch & Go” movements (undertaken during training, where an aircraft approaches

the runway to land, touches the ground and powers away without rolling to a standstill) that occurs is challenged by A4R. Touch & Go movements are noted to give rise to annoyance and records of these movements are to be included in the total number of permitted movements. Control over the number of movements and, within that total, control over the number of Touch & Go movements, is important to safeguard amenity of the local population.

A4R makes a case for additional control by imposing a weekly limit but the restriction by day and by month is considered to be a reasonable balance to allow limited flexibility whilst maintaining controls to safeguard the amenity of the local population..

The control over the number of movements per month is necessary to avoid excessive levels of activities at times of the year when residents are most likely to be outside enjoying time in their gardens, or require windows open and thereby reduce the noise insulation of their property, and increase the likelihood of the onset of annoyance.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

2. Operating Hours: The permitted operating hours will be:

- a) Between 0700 and 2200 local time Monday to Friday for **resident** aircraft, with no movements permitted outside of these hours except in the case of emergencies;
- b) Between 0800 and 2100 on Saturdays, Sunday and Bank Holidays for **resident** aircraft, with no movements permitted outside of these hours except in case of emergencies;
- c) Between 0900 and 1900 each day for **non-resident** aircraft, with no movements permitted by non-resident aircraft outside of these hours except in case of emergencies. (Emphasis added.)

Comment

The condition differentiates between resident aircraft, i.e. those kept at Bagby Airfield, at a) and b), and non-resident aircraft, at c), which visit the Airfield. It would enable current business users to leave the Airfield earlier in the day than non-resident users. Resident aircraft may have reason to return later due to delays in schedules and the condition therefore avoids undue disruption to users and strikes a balance between supporting the economy and protecting the amenity of residents.

The number of movements at earlier times and later times in the day are shown to be restricted by conditions 3 to 7.

A condition to restrict the operating hours meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

3. Maximum Permitted Movements between 0700 hours and 0900 hours

Monday to Friday: The maximum number of aircraft movements between 0700 and 0900 hours local time, Monday to Friday shall be 5 on any day, of which a maximum of 2 may operate between 0700 and 0730 hours.

Comment

A limit on the number of movements within the early part of the morning that would allow business travel is necessary to safeguard the amenity of the community and is reasonable as this is an activity that is identified as part of the business case for the Airfield.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

4. Maximum Permitted Movements between 0800 hours and 0900 hours on

Saturdays: The maximum number of aircraft movements between 0800 and 0900 hours local time on Saturdays shall be 4 on any day.

Comment

A limit on the number of movements within the early part of Saturdays is necessary to safeguard the amenity of the community and is reasonable as this is an activity that is identified as part of the business case for the Airfield.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

5. Maximum Permitted Movements between 0800 hours and 0900 hours on

Sundays and Bank Holidays: The maximum number of aircraft movements between 0800 and 0900 hours local time on Sundays and Bank Holidays shall be 2 on any day.

Comment

A limit on the number of movements within the early part of Sundays and Bank Holidays at a lower level than other days is necessary to safeguard the amenity of the community on days when aircraft movements are likely to generate greater annoyance . The control is reasonable as this is an activity that is identified as part of the business case for the Airfield.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

- 6. Maximum Permitted Movements between 2000 hours and 2200 hours Monday to Friday:** The maximum number of aircraft movements between 2000 and 2200 hours local time, Monday to Friday shall be 6 on any day, of which a maximum of 2 may operate between 2100 and 2200 hours.

Comment

A limit on the number of movements within the later part of the weekdays is necessary to safeguard the amenity of the community and is reasonable as this is an activity that is identified as part of the business case for the Airfield.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

- 7. Maximum Permitted Movements between 2000 hours and 2100 hours on Saturdays, Sundays and Bank Holidays:** The maximum number of aircraft movements between 2000 and 2100 hours local time, on Saturdays, Sundays and Bank Holidays shall be 4 on any day.

Comment

A limit on the number of movements within the later part of Saturdays, Sundays and Bank Holidays is necessary to safeguard the amenity of the community. The earlier end to operating times is appropriate as annoyance from a greater number of aircraft or at later times would be more likely on these days. The control is reasonable as this is an activity that is identified as part of the business case for the Airfield.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

- 8. Maximum Permitted Daily Helicopter Limits:** The maximum number of helicopter movements permitted in any one day shall not exceed 10.

Comment

A limit on the number of helicopter movements overall is necessary to safeguard the amenity of the community and is reasonable as this is an activity that is identified as part of the business case for the Airfield.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

- 9. Weekend and Bank Holiday Non-Resident Helicopter Limits:** The maximum number of non-resident helicopter movements permitted on Saturdays, Sundays and Bank Holidays shall not exceed 4.

Comment

A lower limit on the number of helicopter movements during weekends is a measure to safeguard the amenity of the community, the specification of whether these are non-resident or resident is less relevant but provides for additional control to reduce the likelihood of higher levels of helicopter movements at a weekend when a greater number of people in the local community may be expected to be enjoying leisure times at home. The use of the Airfield by helicopters at weekends is reasonable and is part of the assessed business case.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

- 10. Fixed Wing Aircraft Operating Restrictions:** Only fixed wing aircraft certified to the following noise standards may operate at Bagby Airfield:
- a) In the case of Chapter 6 certified aircraft, a maximum overflight limit of 79.6dB(A); or
 - b) In the case of Chapter 10 certified aircraft, a maximum overflight limit of 82.7dB(A)

Only in circumstances where fixed-wing aircraft do not have a valid noise certificate, such aircraft with a certified Maximum Take-Off Weight (MTOW) of no greater than 2,730kg shall be permitted to operate. By exception, movements

which do not meet these noise and weight criteria may operate in relation to fly-in days only on the following basis:

c) That they can be proven to have at least two of the following characteristics:

- 1) The aircraft was first manufactured more than 50 years prior to the current date; or
- 2) They do not currently have an internationally recognised certification basis; or
- 3) They can evidence that they (or their type) were at one time, on a military register.

and

d) Such aircraft can arrive once in the period up to 48 hours prior to the commencement of such an open day and they should leave either on the day, or the day after such a show, or at the reasonably earliest opportunity thereafter, consistent with weather related conditions, at Bagby, their intended destination, any diversion and the en-route weather. No return shall be permitted after departure once the open day has ended except in the case of emergencies.

(NOTE: The Council may wish to separate the above condition into two separate conditions, isolating the fly-in day movements separately.)

Comment

At paragraph 18.24 above an explanation of the noise limits for aircraft is given. Control over individual aircraft that may use the Airfield measured by the noise level or other reference points as a proxy for a certificated noise level.

Where noise certification is not available and the exception for aircraft for “open day” (or “fly-in days”, a term that has also been used and it is appropriate to remove ambiguity by using only the term fly-in days) is reasonable provided that there is control over the “open day” or “fly-in days” to prevent a loop-hole for use of the Airfield by more noisy aircraft. Condition 13 recommends such a control.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control and the terms of the fly-in day controls at condition 13 are followed.

11. Helicopter Operating Restrictions: Only helicopters certified to the following noise standards may operate at Bagby Airfield:

- a) In the case of Chapter 8 certified aircraft, a maximum Take-Off limit of 92dB(A) and a maximum Approach limit of 94dB(A); or
- b) In the case of Chapter 11 certified aircraft, a maximum overflight limit of 84dB(A).

Only in circumstances where helicopters do not have a valid noise certificate, such aircraft with a certified Maximum Take-Off Weight (MTOW) of no greater than 2,730kg shall be permitted to operate.

Comment

At paragraph 18.24 above an explanation of the noise limits for aircraft including helicopters is given. Control over individual aircraft that may use the Airfield measured by the noise level or by maximum take-off weight as a proxy for a certificated noise level.

A condition to restrict the number of aircraft movements meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control. There is no exemption from these controls set for fly-in days.

12. Refuelling Location: Jet Turbine and/or twin-engined helicopters shall not be refuelled within 40 metres of the fuel storage facility.

Comment

The BAP report at the end of paragraph 2.4 considers the greater level of noise of helicopters and notes that they could produce significant impact at the refuelling facility. The stipulation to require refuelling of such aircraft at a more distant location is therefore a reasonable measure on a pre-cautionary basis to safeguard the amenity of the community.

A condition to restrict the location of refuelling meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

13. Fly-In Days: No more than 3 fly-in days shall be permitted in any one calendar year, each of which shall have been previously notified to the Local Planning Authority at least 30 days in advance. There shall be a maximum of 150 movements on any Fly-In day.

Comment

Fly-In days (also noted at open days in condition 10) allow for a greater number of movements and relaxation of control over noise of specific types of aircraft set out at condition 10. The business plan includes reference to the holding of Fly-In days. Control over the number of Fly-In days is appropriate to safeguard the amenity of the community.

A condition to restrict number of Fly-In days meets the six tests for a planning condition provided that the monitoring arrangements are effective to enable enforcement of the control.

14. Rotors-Running Helicopter Refuelling: Helicopters shall be required to shut down their engine(s) during the process of refuelling, except for emergency helicopters engaged in emergencies and essential utility aircraft engaged in powerline works at times of power outages. A detailed log of each rotors-running refuelling must be maintained covering the date, time, helicopter operator and reason justifying such a refuelling. This log shall be available to the Local Planning Authority upon request.

Comment

Running engines of helicopters during refuelling (“hot refuelling”) has the potential to expose the local community to a significantly increased level of noise and increase the likelihood of annoyance to, and complaint from, neighbours. An absolute ban on hot refuelling would prevent the limited occasions when the urgency of the work of the helicopter is great and when the impact upon the amenity of the community may be justified. Keeping a detailed record of the instances and the ability for a review of the refuelling activity is essential to achieve enforceability of the condition and thus to meet the six tests for a planning condition.

15. Movement Monitoring: The Aircraft Surveillance Cameras and Virtual Radar provision in the Planning Application 16/02240/FUL must be provided and maintained as operable in the manner outlined in the supporting Business Case (dated 29th February 2016) and with data and public access websites available to the Local Planning Authority and any interested parties as specified within the Application.

Comment

The monitoring of aircraft movements is critical to the management of the Airfield by the owner and for enforcement of the planning conditions by the owner and the Local

Planning Authority. Condition 15 and condition 17 in this list both require the collation of data and making the data available to those who need it to enforce the conditions.

Concern has been expressed by A4R that the Airfield has failed to collect data in the past and doubt the ability of the Airfield to collect the data in the future. York Aviation advises that the collection of data does not need to be complex. The proposals for systems of automated monitoring identified by the applicant would enable remote surveillance and data capture but the rigour of manual recording of the time and details of aircraft movements is not unduly arduous and is a reasonable requirement to enable control of movements. Concerns of the potential failure of sophisticated systems of monitoring and recording do not need to prevent the keeping of the necessary records of aircraft movements.

A negatively worded condition (rather than the form set out above) that refers precisely to the scheme of surveillance cameras and virtual radar and the data provision arrangements would follow best practice. A revised wording as provided in the recommended conditions at the end of this report this condition would meet the six tests for a planning condition.

16. Aircraft Transponder Requirements: All aircraft resident at Bagby for a period of 14 or more consecutive days at Bagby in any calendar year must have transponders fitted and operable which are compatible with the Virtual Radar outlined in Condition 11(sic 15), except for aircraft remaining at Bagby exclusively for the purpose of maintenance for 14 or more consecutive days.

Comment

To enable the monitoring of aircraft movements set out in the application transponders are required to be fitted to aircraft. It is acknowledged that aircraft are increasingly fitted with transponders and York Aviation advises that most helicopters will have transponders given the nature of their operations. A requirement to install transponders to maximise the effectiveness of the proposed monitoring arrangements is therefore necessary. Exemption for aircraft accessing the Airfield for maintenance can be logged by those undertaking the maintenance. In any case through reconciliation with the movement log the full number of movements can be recorded. A negatively worded form of the condition is set out in the recommendation.

The condition meets the six tests for a planning condition.

17. Movement Log: A log of all aircraft movements shall be maintained at the Airfield. The log shall record the runway in use and details of all flights including aircraft type, registration, name of pilot in command and time and date of arrival / departure. The log shall be kept up to date and made available to an authorised officer of the LPA within 7 working days of a written request for inspection. The log shall also be made available to the meetings of the Airfield's Liaison Committee.

Comment

A movement log is been kept at the Airfield and the owner has agreed to provide details of the log, however there is no requirement for the owner to provide the details. To enable the monitoring of aircraft movements set out in the other conditions a log of movements is essential.

The condition requires disclosure of the details to the Airfield's Liaison Committee; the submitted Planning Obligation refers to the Bagby Aerodrome Joint Consultative Committee and the wording requires amendment to ensure consistency of wording.

The condition with amendment to the wording meets the six tests for a planning condition.

18. Hangar Usage: The use of hangars shall be outlined in this Planning Application, including:

- a) Hangars A, C1, E, F, G and H as shown on drawing 1452-10, shall be used solely for the purpose of aircraft storage and ancillary maintenance of aircraft for the purposes of keeping aircraft airworthy. No commercial maintenance activities to be permitted;
- b) Hangar B, as shown on drawing 1452-10, shall be used solely for the purpose of aircraft maintenance by commercial engineering firms. No aircraft shall be stored in Hangar F other than those awaiting maintenance in relation to the primary use of the building.

Comment

The assessment of the proposals has been undertaken with the uses of hangars distributed as shown in the submissions. To ensure that the impacts of the use do not exceed that assessment control of the use of the hangars is necessary. If Hangar B is not made available for the use of a commercial aircraft engineer the viability of the Airfield and the contribution to the local economy may be harmed and

this would be contrary to the assessment made in this report of the economic benefits of the proposal.

The condition meets the six tests for a planning condition.

19. Engine Ground Running: With the exception of Low Rev engine running, all ground running and High Rev testing of engines may only take place at the threshold of Runway 06.

Comment

The control of noise from ground testing of engines relies upon the location and orientation of the aircraft. The location of the threshold of Runway 06 (part of the east-west runway) is the location least likely to give rise to annoyance due to noise.

The condition meets the six tests for a planning condition.

20. Hangar B Insulation: Prior to occupation for the purposes of aircraft maintenance, Hangar B, as shown on drawing 1452-10, shall be lined with appropriate sound insulating materials to a standard to be agreed with the Local Planning Authority.

Comment

The control of noise from aircraft engineering works within Hangar B has been assessed on the basis of a suitability insulated building. The provision and maintenance of insulation is appropriate to avoid annoyance due to noise. A negatively worded form of the condition is set out in the recommendation.

The condition meets the six tests for a planning condition.

21. Hangar B Operation: The aircraft access doors on Hangar B, as shown in drawing 1452-10, shall remain closed at all times except to allow access to and from the building for aircraft.

Comment

The control of noise from aircraft engineering works within Hangar B has been assessed on the basis of a suitability insulated building including the doors being kept closed during works within. Keeping the doors closed during work is appropriate to avoid annoyance due to noise.

The condition meets the six tests for a planning condition.

22. Aircraft Movement on Site: No aircraft of any type shall enter the area on the northern side of the runway at any time save for the purpose of access and egress from and to the hangars.

Comment

The exclusion of aircraft from the land on the north side of the runway prevents a creeping expansion of the aerodrome use on to land in agricultural use (albeit that there is no physical boundary) closer to noise sensitive property. The condition would safeguard the amenity of the community.

The data from the monitoring equipment required by condition 15 will make the condition enforceable. Greater clarity can be achieved by making reference to the code Runway 06/24 (the east-west runway) to describe “the runway”.

In amended form the condition meets the six tests for a planning condition.

23. Runway Usage: Except in cases of emergency, Runway 15/33 shall not be used for aircraft movements at any time and must be shown as unavailable for general use in published documents.

Comment

The runway 15/33, the north-south runway, is mainly to the north side of the runway 06/24. Condition 22 precludes access to most of 15/33. The condition makes clear that not only is the use of the runway 15/33 prohibited as required by the decision on appeal that upheld the enforcement notice but also that pilot guides to the airfield are also to show the runway 15/33 to be unavailable.

The term “except in case of emergency” does not override the provisions of the enforcement notice, however a decision on whether enforcement action should be taken following any breach of planning control would require consideration of the facts leading up to the decision to use the runway 15/33 for an aircraft movement.

As an enforcement notice and condition 22 preclude use of the runway 15/33 the wording is superfluous, a requirement to state that it is not available in published documents is all that is required additional to the enforcement notice and condition 22.

It is considered that the requirement for wording in published documents that prohibits the use does not meet the ‘necessary’ test as this is a matter for the owner to ensure that users do not breach the terms of the enforcement notice.

24. Complaints: A log of all complaints shall be kept by the Airfield. The log shall identify as a minimum the name of the complainant, the nature of the complaint made, the date and time recorded and any action taken by the airfield.

Comment

The requirement to log complaints enables the operator to manage the compliance with the preceding conditions regarding use of the Airfield. The condition as written does not provide sufficient detail of how the data would be used and there is no means for the Local Planning Authority to measure compliance with the requirements of the condition. Accordingly as written the condition would not be enforceable and would fail at least the six tests for a condition.

The requirement would however be an appropriate matter for a Planning Obligation and such provision is made in the Bagby Aerodrome Flight Policy that is part of the proposed Section 106 Agreement prepared by the Applicant.

25. Runway Lighting: Other than the existing runway lighting and /or its replacement, no additional external lighting shall be installed other than in respect of fuel installations or in complete accordance with a scheme that has been previously approved in writing by the Local Planning Authority.

Comment

The preclusion of additional external lighting to a runway or other areas is appropriate to the rural setting and would limit the scope for expansion of the use of the Airfield during darkness. Lighting to enable safe movement of people around the Airfield during darkness is appropriate. Limiting lighting that would cause light pollution or encourage activities that would give rise to noise or loss of amenity to neighbours for other reasons is in line with the LDF Policy CP1 and DP1.

The condition requires knowledge of the existing runway lighting, and other external lighting on the airfield and as written would not be enforceable however a survey can be undertaken to record the details and enable the condition to meet the six tests for a condition.

26. Jet Aircraft: Except in cases of emergency, Bagby Airfield shall not be used by any fixed-wing turbo-jet or turbo-fan aircraft, excluding fixed wing turbo-prop aircraft.

Comment

Banning the use of fixed-wing turbo jet or turbo-fan aircraft (what may be described as jet aircraft) would be expected to be precluded by the noise certification condition 10. In the circumstance that a jet aircraft meets the exceptions within condition 10 this condition would prevent the use at the Airfield. The condition would safeguard the amenity of the local community. The use of the airfield by jet aircraft is not a feature of the Business Case and a control is accordance with the LDF Policies CP1 and DP1.

The condition meets the six tests for a condition.

- 19.2 The Council has sought to control development of the infrastructure at the Airfield to prevent a loss of amenity to local residents and has taken enforcement action on the improvement and extension of apron, taxiway and runway areas. The development proposal presents an opportunity to exercise control by means of a planning condition that would remove any rights to undertake any works other than to maintain areas. Maintenance of an approved layout of spaces such as clearance of vegetation and replacement of degraded surfaces to an “as new” standard is considered reasonable in the light of an application that provides scope to exercise control over matters of improvement and extension. It is pertinent for control over improvement or extension of areas of aircraft apron, taxiway, runway or parking areas (for aircraft or other plant or vehicles). A condition can be prepared to allow the implementation of the proposed scheme of improvements and extensions to apron areas and parking shown in this application but allow no more works without the benefit of planning permission. Control that safeguards the amenity of the local community from potentially small incremental changes with reference to the authorised block plan would meet the six tests for a condition.

27. **Removal of rights to undertake works:** No works of improvement or extension to any area of aircraft hangar apron, taxiway, runway or parking area (for any purpose) shall be undertaken without approval of an application under Part 3 of the Town and Country Planning Act 1990.

Planning Obligation

- 19.3 York Aviation has correctly identified that the control of airborne craft cannot be achieved by planning conditions, the control of airborne craft is covered by Air Navigation Order. A Section 106 Agreement is a means by which control can be achieved for those matters which relate to planning and meet the tests set out in the NPPF which cannot be covered by Planning Conditions. Failure to comply with the terms of a Section 106 Agreement could lead to action through the courts for a breach of contract.
- 19.4 A planning obligation (deed) has been prepared to conditional upon the grant of this planning application to:
- a) (within 3 months of the grant of permission) submit a scheme for the creation of a Bagby Aerodrome Joint Consultative Committee (under the Guidelines for Airport Consultative Committees issued by the Department for Transport),
 - b) before first use of the development to submit the Bagby Aerodrome Flight Policy that is to include:
 - i) Policies to minimise aircraft noise generated within Bagby Aerodrome's area of influence;
 - ii) The Code of Conduct; and
 - iii) Disciplinary Measures that will be taken in the event of any breaches in adherence to the Bagby Aerodrome Flight Policy.

Upon adoption of the Bagby Aerodrome Flight Policy the Airfield is to:

- i) Notify the writers and publishers of flight guides used by pilots flying in UK airspace of the specific flight paths for the use of Bagby Aerodrome; and Notify the owners and operators of aircraft based at Bagby Aerodrome of the specific flight paths for the use of Bagby Aerodrome; and Arrange for a copy of the Bagby Aerodrome Flight Policy to be supplied to the Bagby Aerodrome Joint Consultative Committee.

Thereafter to follow the terms of the Bagby Aerodrome Flight Policy including the disciplinary policy in case of a breach of the Policy.

c) Within 6 months of the first meeting of the Bagby Aerodrome Joint Consultative Committee to adopt a Bagby Aerodrome Complaints Policy to taking the response of the District Council and the Bagby Aerodrome Joint Consultative Committee and thereafter to follow the Complaints Policy. To include investigation of complaints and:

Not less than once in any four month period report complaints and steps taken to resolve and address complaints to the BAJCC and take into account any responses made by the BAJCC as a result of the submission of the said report and, acting reasonably, implement any recommendations made by the BAJCC.

d) The owner shall ensure that a permanent member of staff is on duty at all times during operating hours of the Bagby Aerodrome.

19.5 Within the Code of Conduct the following measures are advised by York Aviation to be required:

- 1 All circuit training (where aircraft take-off, circle the airfield and return to the runway to land or undertake a touch and go) will be banned prior to 0900 on Monday to Saturdays and after 2000 on Monday to Friday and after 1300 on Saturdays and all day Sundays.
- 2 All Circuit training must follow the approved circuit as provided to the Local Planning Authority.
- 3 Helicopters approaching or leaving Bagby Airfield must use the designated helicopter flight path as provided to the Local Planning Authority;
- 4 No helicopter hover practice shall take place from Bagby Airfield.
- 5 Helicopter circuits (where aircraft take-off, circle the airfield and return to the runway to land or undertake a touch and go) whether landing, taking off or training shall be limited to 2 circuits per helicopter and shall not exceed 10 minutes in duration.

- 6 Quiet Periods – Bagby & Balk Parish Council can request quiet periods when all helicopter flights to and from the airfield will be banned save in relation to emergencies. Notice of such a quiet period must be given at least 1 month before its intended operation. (This is intended to cover particularly noise sensitive activities in the village such as weddings & christenings. In addition, if a quiet period is required for a funeral then if the period is specified only 24 hours notice need be given). The request will be determined in conjunction with the Consultative Committee.
 - 7 No aircraft shall take off from Bagby Airfield for the purposes of performing aerobatics overhead the airfield or within a circle radius 2 nautical miles.
 - 8 Aerobatics over the airfield shall be limited to fly-in days pre-arranged by the Management of Bagby Airfield. Prior Notification of the fly in days will be given to the Local Planning Authority in writing.
- 19.6 Bickerdike Allen Partners consultant acousticians to the Council at 4.2 of their report find that:
- The proposed restrictions represent a large improvement over the current situation (Voluntary Code of Conduct) as they put in place restrictions on the level of activity, the noise characteristics of the aircraft operating and the manner of operation.*
- 19.7 Caution is required in considering the weight to be given to the provision of “quiet periods” as the agreement to requests lies with the Airfield alone. Whilst there (i) is scope for review of the Bagby Aerodrome Flight Policy by the Bagby Aerodrome Joint Consultative Committee; and (ii) decisions about requests for “quiet days” can be reviewed by the Bagby Aerodrome Joint Consultative Committee; (iii) a commitment is given by the owner to give consideration to the views of the Bagby Aerodrome Joint Consultative Committee the decision ultimately rests with the owner.
- 19.8 It is appropriate to define the scope of complaints that would be dealt with under this process as being limited to aircraft movements and anything that might constitute a breach of the Bagby Aerodrome Flight Policy.

Planning conditions not relating to aviation

- 19.9 In order to ensure that the operational development is undertaken in a way that does not breach local and national policy further conditions are required relating to the construction of the access, drainage, pollution control, landscaping.

Access

- 19.10 The proposed new access from Bagby Lane to the location of the buildings is required to have adequate inter-visibility splays between the access and the adopted highway, the construction of the new access road and drainage of the access are necessary to safeguard highway safety. Control of external lighting of the access is necessary to avoid light pollution, consistent with LDF Policies CP1 and DP1.

Drainage

- 19.11 The new access road and new areas of parking and aircraft aprons generate new hard surfaces that can be drained using sustainable drainage systems. Requirement that the drainage is managed to reduce the potential for flooding of property is consistent with LDF Policies CP21 and DP43.
- 19.12 Drainage of foul water to the public sewer is the preferred means of disposal. The disposal of foul water is controlled by the Building Regulations and further condition in this instance would duplicate controls and would not be necessary or reasonable.

Pollution control

- 19.12 The proposed above ground fuel storage and dispensing facilities present a risk of contamination of ground water and soils and measures to contain spillage or leakage are appropriate and consistent with the LDF Policies CP21 and DP42. The requirement to form hard surface to contain fuels including any bund can be achieved through a planning condition.
- 19.13 It has been established through planning enforcement proceedings that mobile fuel facilities on the Airfield have not required planning approval. The provision of fixed infrastructure is development and conditions can be imposed to reduce the risks of contamination. Other risks (such as fire) associated with the handling of fuel are controlled by other measures including those of the Petroleum Enforcement Authority and under Health and Safety Law applicable to the operator of the Airfield. Accordingly the NPPF states that Local Planning Authorities should not seek to repeat such controls.

Landscaping

- 19.14 The proposed development results in removal of part of a landscape feature to create an opening through the agricultural hedge that bounds Bagby Lane. The planting of hedges to maintain the quality of the predominantly agricultural landscape is a consistent with the requirements of LDF Policy CP1, CP4, CP16, CP17 and DP30.

Further landscape works to provide a net gain in terms of biodiversity as sought by the NPPF can be secured by planning condition. Enhancement of biodiversity is a material consideration that can be weighed in the planning balance.

Enforcement of planning controls

- 19.15 The enforcement of planning control differs between Planning Conditions and a Section 106 Agreement. Both require evidence of a breach to have been gathered and consideration of the harm that has arisen from the breach of control (in accordance with Part VII of the Town and Country Planning Act 1990).
- 19.16 A breach of planning control can often be addressed by drawing the breach to the attention of the landowner and through negotiation find a ready means to ensure that the breach is rectified without the need for formal action. Where an informal approach is inappropriate or unsuccessful a Breach of Condition Notice or Enforcement Notice can be considered. Details of the Council's approach to enforcing planning controls are set out in the Local Enforcement Plan, adopted March 2017.
- 19.17 A breach of the Section 106 Agreement would be enforced by injunction (s.106(5)) requiring the compilation of evidence demonstrating the breach of the obligation, followed by an application to the Court.
- 19.18 Consideration of the tests for use of planning conditions have been given and found in each case that the conditions are enforceable. The monitoring of the aircraft movements is critical to the successful management and enforceability of the conditions by the Airfield and the Local Planning Authority. Failure to establish the monitoring arrangement is enforceable and as such considerable weight can be given to the suite of conditions. Similarly the main terms of the Section 106 Agreement is also enforceable and considerable weight can be given to the Planning Obligation. The planning controls set out are extensive and may require expert support to ensure that the schemes required are enforceable in the short and long term.

20.0 The Planning Balance

- 20.1 In reaching a decision on this planning application consideration must be given as required by the Planning and Compulsory Purchase Act 2004 section 38(6) first to the development plan then to other material planning considerations. Planning policies may have competing demands and consideration of all of the development

plan policies and other material considerations requires a balancing exercise – the Planning Balance.

- 20.2 This report has set out the policies of the development plan that are relevant to the proposals and has given consideration to the other policies that are relevant, including but not limited to the NPPF and the Governments policy on noise and general aviation.
- 20.3 Representations have been received by statutory consultees and from those living in the local community as well as those who are users of the Airfield. The report gives consideration to responses received and alongside this report details will be supplied to the Committee of any submissions made after publication of the Committee Agenda.
- 20.4 The planning history of Bagby Airfield is well known to the Planning Committee. It is long and complex and the site has been the subject of an unprecedented number of enforcement notices. This application has been made to achieve certainty for the Airfield to enable it to invest in replacement of dilapidated buildings to achieve economic gains for the business (in accordance with policy) and to gain certainty for the operator and local community and others by setting limits on the use, in order to provide protections for residential amenity. The need to regain control via robust and enforceable conditions was, and continues to be, a core feature of complaints to the Council and the basis of the critical decision by the Local Government Ombudsman.
- 20.5 Regaining control requires planning controls to be binding upon the airfield in perpetuity and to limit harm to the amenity of local residents to acceptable levels. Suitably worded and agreed conditions, that meet the tests set out in the NPPF and the National Planning Practice Guidance are therefore critical to the balancing of issues in this application. It is considered that the recommended conditions are reasonable and enforceable.
- 20.6 The proposal has the potential to achieve gains to the local economy during the period of investment in the proposed building works; this would result in a modest gain to the local economy (for the reasons considered in the York Aviation report and above). The operational use of the proposed buildings and businesses of the operation of the clubhouse facilities and the aircraft engineering business in improved and enlarged premises would create jobs and trickle-down benefits to other businesses both locally and wider based. Government has set out, in the General Aviation Strategy, how it views General Aviation as important to the economy. The York Aviation report sets out that the approach to calculating the economic benefit

does not follow standard technique, however York Aviation also find that a reasonable chance that the site would develop with regrowth in higher value movements and through the creation of a restaurant a positive impact on the local economy. York Aviation notes that given the limitations it identifies because a non-standard technique has been followed for calculating the economic benefit the weight attached to the calculation of the economic benefit must be reduced. Nonetheless the proposal is found to have economic benefit and it is appropriate to give weight to those economic benefits.

- 20.7 The control over the operation of the airfield through planning conditions and planning obligation has the potential to deliver significant social gains. The conditions and planning obligation can restrict the level of noise to avoid undue disturbance to neighbouring communities. The proposed restrictions on the number of movements, by time of day and day of week and by control over the noisiest aircraft are of particular importance.
- 20.8 The environmental benefits through control of noise and the provision of landscaped areas around the site have the potential to reduce the level of disturbance to wildlife and to promote habitat quality to an acceptable level.
- 20.9 It has been found that the proposal would not result in harm to the significance of any heritage asset provided that conditions and planning obligation control the impact upon the assets and any impact on the setting of the heritage assets as set out in section 6.3 of this report.
- 20.10 The proposal has been considered against the policies of the LDF particularly CP1, CP2 and CP4. The location of the development has been found to be fixed by the nature of the development and the relationship to the lawful use and development of land at the Airfield. It simply would not be reasonable to locate the uses and development off the Airfield and the proposal therefore meets the text of LDF Policy DP25iii and the corresponding location based requirements of CP1, CP2, and CP4.
- 20.11 Consideration has been given to the LDF policies relating to the principal impacts of the development on the environment and particularly the amenity of neighbours and the scope to safeguard the impacts of the proposed development. It is found that planning conditions and a planning obligation can provide a reasonable degree of protection from the adverse effect of noise from the proposed ground based activities and achieve control over the types and numbers of aircraft that may operate from the Airfield. Measures in a planning obligation to provide further scope for quiet days do not give absolute protection for the local community but through a binding

requirement to create Joint Consultative Committee would provide a basis for engagement between the Airfield and the local community that has hitherto been lacking. The General Aviation Strategy and the York Aviation report find that Consultative Committees can be effective in addressing community concerns and the latest publication from Government the consultation document “Aviation 2050” restates the case for community consultation to discuss and develop solutions to problems. (Secretary of State for Transport; Aviation 2050: The future of UK aviation)

20.12 The analysis of this application finds that the proposal is in compliance with the Development Plan as a whole. The proposal, subject to planning controls, would safeguard amenity of the local community and provide a basis for future investment in the local economy in the operation of the Airfield businesses. Subject to the controls described above, the proposal would not give rise to significant harm to the natural or man-made environment and any harm would be outweighed by the combined economic and social benefits of the proposal.

20.13 The development is in compliance with the policies of the Development Plan, the NPPF, the General Aviation Strategy and giving other material considerations due weight in the planning balance including those matters set out in representations the proposal is considered to be on balance a sustainable development that is, subject to planning controls, capable of support.

Other legal and procedural duties

The Human Rights Act 1998

21.1 The Human Rights Act 1998 is applicable to decisions made by a Local Planning Authority.

21.2 Article 6 and article 8 are to be considered. Article 6 requires a “right to a fair trial” this is achieved by the provisions of planning law with particular note that a fair and public hearing is held. Article 8 requires “respect for your private and family life”. The Equality and Human Rights Commission that state “there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.” Protocol 1, Article 1 “protects your right to enjoy your property peacefully” and is noted by the Equality and Human Rights Commission that “the

government must strike a fair balance between your interests as a property owner and the general interests of society as a whole.” The Planning and Compulsory Purchase Act 2004 requires at Section 38(6) that the decision taker is to consider first the policies of the Development Plan and then the other material considerations, including the NPPF, provide assistance to the decision maker in reaching that balance.

- 21.3 The approach taken in the consideration of this application including the detail contained in this report follows the requirements of the Human Rights Act 1998.

Public Sector Equality Duty

- 21.4 The Public Sector Equality Duty supports good decision making, it requires that public bodies have to consider all individuals when carrying out their day to day work and to have due regard to (i) the need to eliminate discrimination; (ii) advance equality of opportunity; and (iii) foster good relations between different people when carrying out their activities.

- 21.5 Public bodies need to consciously think about the three aims as part of the decision making process. There is no reason to conclude that a decision on the application would either cause or eliminate discrimination or that it would address equality opportunity; however the prospect of a Joint Consultative Committee has the prospect of fostering improved relations between those opposed to the Airfield and the owner, employees or users of the development.

- 21.6 The proposal has been considered in the light of adopted local and national policy and the procedures of The Town and Country Planning Act 1990 as amended and the Environmental Impact Assessment Regulations 2011 have followed. Those who may be aggrieved by the decision to be made on the application have rights of appeal and challenge in accordance with the provisions of the Act.

Environmental Impact Assessment Regulations 2011

- 21.7 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) Part 1, 3(4) require:

The relevant planning authority or the Secretary of State or an inspector shall not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.

21.8 The recommendation on this application has been made following consideration of the environmental information submitted with the application and that information available in publicly held records.

22.0 RECOMMENDATION:

22.1 That subject to any outstanding consultations and the completion of a Planning Obligation to control matters relating to airborne aircraft and the following conditions the application is **GRANTED** subject to the following conditions:

Time condition

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

Approved plans

2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing detailed below received by Hambleton District Council on the dates shown.

Site location plan

Proposed Site layout

Proposed Block plan

Proposed Elevation drawings

Tractor shed

Club house

Replacement aircraft hangars

Fuel facility

Camera and surveillance details

Pre-commencement conditions

Movement Monitoring:

3. Aircraft Surveillance Cameras and Virtual Radar provision shall be installed in accordance with a scheme that has been submitted in writing to and approved in writing by the Local Planning Authority and maintained in accordance with the approved scheme and provide the data in accordance with the approved scheme on a freely and publicly accessible website(s).

Precautions to prevent mud on the highway:

4. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority agrees in writing to their withdrawal.

Discharge of surface water:

5. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.

Private Access/Verge Crossings: Construction Requirements

6. There shall be no excavation or other groundworks (except for investigative works) or the depositing of material on the site until the access to the site has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
 - (a) The access shall be located as shown on drawing no. "Figure 8.1" and be formed with 6 metre radius kerbs, to give a minimum carriageway width of 5 metres, and that part of the access road extending 10 metres into the site shall be constructed in accordance with Standard Detail number A2; and
 - (b) Any gates or barriers shall be erected a minimum distance of 10 metres back from the carriageway of the existing highway and shall not be able to swing over the existing highway. All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Bunding of fuel facility

7. Within 3 months of the date of this decision above ground fuel storage tanks must be sited on impervious bases and surrounded by impervious bund walls in accordance with details that have previously been submitted to and approved in writing by the

Local Planning Authority. (The bund must have a capacity to contain the largest predictable spillage. A bund capacity of 110% of the capacity of the largest storage vessel located within the bund or 25% of the total capacity of tanks in the bund, whichever is the greater will normally be regarded as the minimum. When estimating the bund capacity the space occupied by other tanks should be taken in account, and there must be a suitable sealed drainage system. Reference should also be made to health and Safety Executive guidance document "HSG 176 Storage of Flammable Liquids in Tanks", which provides additional guidance on the design, construction and drainage of bunds.) The bund shall be retained and maintained in accordance with the industry best practice guidance at all times that fuel is stored within the bund.

Bunding of outdoor oil storage

8. No oils shall be stored outdoors unless impervious bund walls have been formed in accordance of details previously submitted to and approved in writing by the Local Planning Authority. The bund shall be retained and maintained in accordance with the industry best practice guidance at all times that fuel is stored within the bund.

Pre-occupation conditions

Visibility Splays:

9. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 120 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres.

Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Ditch to be piped:

10. There shall be no access or egress by any vehicles between the highway and the application site until:
 - a. full technical details relating to the bridging/culverting of the watercourse adjacent to the site have been submitted to, and approved in writing by, the Local Planning Authority; and
 - b. The surface water ditch adjacent to the site has been piped in accordance with the approved details by the Local Planning Authority.

Thereafter the approved scheme shall be retained in accordance with the approved details in perpetuity.

Access road:

11. The approved access road shall be constructed and be brought in to use prior to the commencement of any other part of the development approved by this permission (other than the provision of the aircraft movement monitoring facilities).

Sound insulation to hangar B:

12. If within 3 months of the date of this permission details shall have not been provided to show the sound insulating materials to be used Hangar B the Hangar shall not be used for the purposes of commercial aviation engineering. Upon approval of a scheme of sound insulation the scheme shall be implemented within 3 months and thereafter be maintained in perpetuity in accordance with the approved details.

Operating conditions

Planning conditions relating to airfield operations

1. **Maximum Permitted Aircraft Movements:** The number of all movements at the Airfield shall not exceed 8,440 per calendar year of which:
 - a) A maximum of 676 may be by helicopters;
 - b) A maximum of 1,700 may be Touch & Go movements; and
 - c) There will be a maximum of 1,518 movements of all types in any calendar month.

2. Operating Hours:

The airfield operating hours shall not exceed:

- a) 0700-2200 local time Monday to Friday for **resident** aircraft, with no movements permitted outside of these hours except in the case of emergencies;
- b) 0800-2100 on Saturdays, Sunday and Bank Holidays for **resident** aircraft, with no movements permitted outside of these hours except in case of emergencies;
- c) 0900-1900 each day for **non-resident** aircraft, with no movements permitted by non-resident aircraft outside of these hours except in case of emergencies.

3. Maximum Permitted Movements between 0700 hours and 0900 hours Monday to Friday:

No more than 5 aircraft movements may occur between 0700 and 0900 hours local time, Monday to Friday, of which a maximum of 2 may operate between 0700 and 0730 hours.

4. Maximum Permitted Movements between 0800 hours and 0900 hours on Saturdays:

No more than 4 aircraft movements may occur between 0800 and 0900 hours local time on Saturdays.

5. Maximum Permitted Movements between 0800 hours and 0900 hours on Sundays and Bank Holidays:

No more than 2 aircraft movements may occur between 0800 and 0900 hours local time on Sundays and Bank Holidays.

6. Maximum Permitted Movements between 2000 hours and 2200 hours Monday to Friday:

No more than 6 aircraft movements may occur between 2000 and 2200 hours local time, Monday to Friday, of which a maximum of 2 may operate between 2100 and 2200 hours.

7. Maximum Permitted Movements between 2000 hours and 2100 hours on Saturdays, Sundays and Bank Holidays:

No more than 4 aircraft movements may occur between 2000 and 2100 hours local time, on Saturdays, Sundays and Bank Holidays.

8. Maximum Permitted Daily Helicopter Limits:

No more than 10 helicopter movements may occur on any day.

9. Weekend and Bank Holiday Non-Resident Helicopter Limits:

No more than 4 non-resident helicopter movements may occur on Saturdays, Sundays and Bank Holidays.

10. Fixed Wing Aircraft Operating Restrictions:

1. No fixed wing aircraft may operate at other than in accordance with the following requirements:

a) In the case of aircraft with Noise Certification in the UK under Chapter 6 Noise Register with a maximum overflight limit of 79.6 EPNdB or

b) In the case of aircraft with Noise Certification on the UK Register under Chapter 10 Noise with a maximum overflight limit of 82.7 EPNdB.

Fixed wing	Movement	Limit EPNdB
Chapter 6	Overflight	79.6
Chapter 8	Overflight	82.7

c) In circumstances where fixed-wing aircraft do not have a Noise Certificate on the UK Register no aircraft with a certified Maximum Take-Off Weight (MTOW) of greater than 2,730kg may operate.

(The relevant data for UK registered aircraft is available on the G-INFO website)

2. On notified fly-in days only aircraft that do not meet a) or b) above may operate when they are proven to have at least two of the three following characteristics:

- 1) The aircraft was first manufactured more than 50 years prior to the current date;
- 2) They do not currently have an internationally recognised certification basis;
- 3) They can evidence that the aircraft (or their type) were at one time, on a military register.

Any aircraft operating under 2 above shall not arrive more than 48 hours prior to the commencement of a fly-in day. The aircraft may not depart from and return to the airfield prior to or during the fly-in day. The aircraft shall leave either on the day of the fly-in day or at the earliest reasonable opportunity thereafter consistent with weather related conditions, at Bagby, their intended destination, any diversion and the en-route weather. No return shall be permitted after departure from the fly-in day.

11. Helicopter Operating Restrictions

No helicopters may operate other than in accordance with the following requirements:

a) In the case of aircraft with Noise Certification on the UK Register under Chapter 8, a maximum Take-Off limit of 92EPNdB and a maximum Approach limit of 94dB(A); or

b) In the case of aircraft with Noise Certification on the UK Register under Chapter 11, a maximum overflight limit of 84dBA SEL (single event limit).

Rotary wing	Movement	Limit
Chapter 8	Take-Off	92 EPNdB
Chapter 8	Approach	94 EPNdB
Chapter 11	Overflight	84 dBA SEL

c) In circumstances where a helicopter does not have a Noise Certificate on the UK Register no aircraft with a certified Maximum Take-Off Weight (MTOW) of greater than 2,730kg may operate.

(The relevant data for UK registered aircraft is available on the G-INFO website.)

12. Refuelling Location:

Jet Turbine and/or twin-engined helicopters shall not be refuelled within 40 metres of the fuel storage facility.

13 Fly-In Days:

No more than 3 fly-in days shall be permitted in any one calendar year, each of which shall have been previously notified to the Local Planning Authority at least 30 days in advance. There shall be a maximum of 150 aircraft movements on any Fly-In day.

14 Rotors-Running Helicopter Refuelling:

No helicopter shall be refuelled unless all engines have been shut down, except for emergency helicopters engaged in emergencies and essential utility aircraft engaged in powerline works at times of power outages. A detailed log of each rotors-running refuelling shall be maintained covering the date, time, helicopter operator and reason justifying a rotors-running refuelling. This log shall be available to the Local Planning Authority upon request.

15 Aircraft Transponder Requirements:

No development authorised by this permission shall commence until a scheme for the provision and enforcement of transponders on aircraft has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include provision for:

(i) a list of all resident aircraft; and

(ii) all resident aircraft must be fitted with transponders compatible with the virtual radar required in condition 16.

The agreed scheme shall be implemented as agreed and retained thereafter.

16 Movement Log:

No development authorised by this permission shall commence until a scheme for aircraft movement recording, aircraft surveillance and virtual radar has been submitted to and agreed in writing by the Local Planning Authority. The schemes shall include provision for:

- (i) the surveillance of each and every air movement on the application site;
- (ii) details of time and date of each air movement;
- (iii) reporting requirements; and
- (iv) public access by website.

The agreed schemes shall be implemented as agreed and retained thereafter.

17 Hangar Usage:

Hangars A, C1, E, F, G and H as shown on drawing 1452-10A, shall not be used other than for the purpose of aircraft storage and ancillary maintenance of aircraft for the purposes of keeping aircraft airworthy. No commercial maintenance activities to be permitted;

Hangar B as shown on drawing 1452-10A, shall not be used other than for the purpose of aircraft maintenance by a commercial engineering firm(s). No aircraft shall be stored in Hangar B other than those awaiting maintenance in relation to the primary use of the building.

18 Engine Ground Running:

With the exception of Low Rev engine running, all ground running and High Rev testing of engines may only take place at the threshold of Runway 06. Low Rev testing of engines associated with the use of Hangar B, as shown on drawing 1452-10, must take place only to the immediate west of the entrance to this building.

19 Hangar B Operation:

The aircraft access doors on Hangar B, as shown in drawing 1452-10, shall remain closed at all times except to allow access to and from the building for aircraft.

20 Aircraft Movement on Site:

No aircraft of any type shall enter the area on the northern side of the runway shown on the attached plan.

21 Runway Lighting:

Other than the existing runway lighting and /or its replacement, no additional external lighting shall be installed other than in complete accordance with a scheme that has been previously approved in writing by the Local Planning Authority.

22 Jet Aircraft:

Bagby Airfield shall not be used by any fixed-wing turbo-jet or turbo-fan aircraft, excluding fixed wing turbo-prop aircraft.

Planning conditions relating to operational development – on going requirements

23 Lighting

No external lighting for the access or access road or parking areas shall be provided other than in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority.

24 Landscaping

Within the first planting season after the formation of an opening in the boundary hedge on Bagby Lane to create the vehicle access shown on the Development Planning Limited ES Volume 1 (drawing 2014069) Figure 8.2 a scheme of landscaping planting that is to include the planting of indigenous species hedgerows.

Planning Obligation

A Section 106 Agreement is required to cover areas for which control is sought, but which cannot be covered by Planning Conditions due to these being covered by the Air Navigation Order.

Matters included are the Bagby Aerodrome Joint Consultative Committee, Bagby Aerodrome Flight Policy, Code of Conduct and Bagby Aerodrome Complaints Policy as detailed in paragraphs 19.4 to 19.7.

The Bagby Aerodrome Flight Policy seeks to minimise aircraft noise generated within Bagby Aerodrome's area of influence including a code of conduct and Disciplinary Measures that will be taken in the event of any breaches in adherence to the BAFP. It also specifies a commitment to publicise the BAFP by notification to the writers and publishers of flight guides used by pilots flying in UK airspace of the specific flight paths for the use of Bagby Aerodrome; and to notify the owners and operators of aircraft based at Bagby Aerodrome of the specific flight paths for the use of Bagby Aerodrome; and to arrange for a copy of the BAFP to be supplied to the BAJCC.

Further noting that in the event of the first breach of the BAFP by a pilot the Owner shall issue a written first warning to that pilot and in the event that a pilot who has received a first warning again breaches the BAFP within 1 calendar year of receiving that first warning.

The Heads of Terms of this agreement are as follows:

1. All circuit training will be banned prior to 0900 on Monday to Saturdays and after 2000 on Monday to Friday and after 1300 on Saturdays and all day Sundays.
2. All Circuit training must follow the approved circuit [as shown on the circuit plan] as provided to the Local Planning Authority.
3. Helicopters approaching or leaving Bagby Airfield must use the designated helicopter flight path [as shown on the flight path plan] as provided to the Local Planning Authority;
4. No helicopter hover practice shall take place from Bagby Airfield other than for the purposes of taxiing, landing or taking off from the airfield.
5. Helicopter circuits whether landing, taking off or training shall be limited to 2 circuits per helicopter and shall not exceed 10 minutes in duration.
6. Quiet Periods – Bagby & Balk Parish Council can request quiet periods when all helicopter flights to and from the airfield will be banned save in relation to emergencies. Notice of such a quiet period must be given at least 1 month before its intended operation. (This is intended to cover particularly noise sensitive activities in the village such as weddings & christenings. In addition, if a quiet period is required for a funeral then if the period is specified only 24 hours notice need be given).
7. No aircraft shall take off from Bagby Airfield for the purposes of performing aerobatics overhead the airfield or within a circle radius 2 nautical miles.

8. Aerobatics over the airfield shall be limited to fly-in days pre-arranged by the Management of Bagby Airfield. Prior Notification of the fly in days will be given to the Local Planning Authority in writing.

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18/00524/FUL

Retrospective application for the temporary siting of a portable aircraft engineer's office and document storage cabin at The Airfield, Bagby, North Yorkshire YO7 2PH for Mr M Scott.

The application is report to Planning Committee as it is inherently linked to the consideration of that application 16/02240/FUL

1.0 PROPOSAL AND SITE DESCRIPTION

- 1.1 The proposal seeks to gain temporary approval for the siting of a cabin used as an office and document store for an aircraft engineering business operating at the Airfield.
- 1.2 The site of the temporary cabin is to the north east and close to Hangar B, on the south side of the east-west runway. The cabin is positioned upon an area of hard-surface previously occupied by a fuel tank; a footway connects the cabin and Hangar B. A power supply to the cabin is taken from Hangar B. The cabin is 3.06m wide, by 10.27m long and 2.7m high comprising two small offices, an entrance space incorporating copying space and store. The cabin was brought to site in one piece and is noted in the application to be a standard unit of galvanised steel frame covered in plastic coating with paint finish to doors and windows.
- 1.3 The application 16/02240/FUL is inherently linked to this proposal as it seeks approval for the use of Hangar B for the purposes of an aircraft engineering business and proposes the formation of a small office within the Hangar B, which would provide an alternative to the current arrangement that this application seeks to regularise. The agent for the application writes in respect of the formation of the office:

It is hoped that this would be within the next 6-12 months. However, given there is an uncertainty of if and when planning permission is granted for application (16/02240/FUL) and the change of use of Hangar B, this application applies for the temporary siting of the cabin for 24 months to allow for planning permission to be obtained and building works undertaken to regularise the use. The cabin would then be removed the Site.

- 1.4 Full details of the context of the site of Bagby Airfield is set out in the report 16/02240/FUL and to avoid repetition the reader is directed to that Planning Report.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 2.1 An enforcement case 17/00253/CAT3 relates to the arrival of a portable office building at the site initially located to the west side of the Maintenance Hangar. The location of the portable office building has been moved during the period between the submission and validation of this application.
- 2.2 The full planning history of Bagby Airfield is set out in the report 16/02240/FUL and to avoid repetition the reader is directed to that Planning Report.

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP2 - Access
Core Strategy Policy CP4 - Settlement hierarchy
Core Strategy Policy CP15 - Rural Regeneration
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Core Strategy Policy CP17 - Promoting high quality design
Development Policies DP1 - Protecting amenity
Development Policies DP18 - Support for small businesses/working from home
Development Policies DP25 - Rural employment
Development Policies DP30 - Protecting the character and appearance of the countryside
Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation
Development Policies DP32 - General design
Development Policies DP33 - Landscaping
Development Policies DP9 - Development outside Development Limits
National Planning Policy Framework - published 24 July 2018
National Planning Practice Guidance

4.0 CONSULTATION

4.1 Bagby and Balk Parish Council – No comments received.

4.2 Public comments – None received.

5.0 OBSERVATIONS

5.1 The main issues for consideration in this application are: (i) the principle an office use on a site outside the Development Limits of a settlement; (ii) the visual impact of the development; and any matters of (iii) highway safety or (iv) residential amenity arising from the use of the development. It is also necessary to consider the issue of Environmental Impact Assessment.

Principle

5.2 The policies of the Local Development Framework and the NPPF that are relevant to development at Bagby Airfield are set out in the report 16/02240/FUL and whilst details pertinent to this case are as set out below the reader should also take account of the details within that Planning Report.

5.3 Policy CP15 relating to rural regeneration sets out that new development outside of the Development Limits of settlements will be supported where it, amongst other things, relates to the retention or expansion of appropriate business. In all cases development should be designed to be sustainable consistent with other policies of the plan and not conflict with the environmental protection policies and provide mitigation and compensation to address harmful implications. Policy DP25 provides further support for employment development and requires development to satisfy five criteria. These are tested as follows:

i. The development is small in scale

5.4 The proposed cabin at 31.4sqm is small and no additional jobs are noted to be provided by the development.

- ii. It comprises conversion and re-use or replacement of existing rural buildings of sound construction, or appropriate extensions of building or existing uses which are otherwise acceptable in terms of other LDF policies
- 5.5 The office replaces a smaller office space that had been used within the former engineer's workshop. The CAA licencing requirement for improved file storage and the relocation of the aircraft engineering business to Hangar B made the continued use of the office within the former engineer's workshop impractical. The proposal does not meet the requirement of this criterion.
- iii. The development is not capable of location within a settlement with Development Limits, by reason of the nature of the operation or the absence of suitable sites
- 5.6 The close functional relationship between the Airfield, the aircraft engineering business and the office and file storage make the development incapable of location within a settlement with Development Limits.
- iv. It is supported by an appropriate business case which demonstrates that support will be provided to the local economy, which in turn would help sustain rural communities
- 5.7 The business case is central to the consideration of the proposal. The justification for the siting of a portable office building and records storage is made by the Applicant's agent following consideration of the suitability of the previous facilities by the CAA. Record keeping is essential to demonstrate the airworthiness of the aircraft that have been maintained by the aircraft engineer. The extent of records required to be maintained by the operator of the aircraft maintenance business is substantial and exceeds the space available within the former aircraft engineering office.
- 5.8 The operation of the aircraft engineering business requires staff. The employment of staff based locally contributes to the local economy. Purchases of office supplies and aviation supplies for the aircraft engineering business may provide other contributions to the local economy but these have not been quantified. From the evidence of history, without appropriate office and file storage space the CAA licence requirements would not be met and the permit to operate an aircraft engineering business may be withdrawn. The loss of CAA licence would restrict the function of an aircraft engineer and would be expected to harm the local economy.
- 5.9 The application notes that the portable building is only required for the purposes of the maintenance operation. It is noted in the application that if the proposal for the use of Hangar B is refused the portable building would no longer be required.
- v. The development would not adversely impact on the economy of the Service Centres
- 5.10 As noted above, the business location is tied to the existence of the Airfield. There is no evidence that office and store would cause any harm to the economy of any Service Centre.
- 5.11 It is considered that the proposal meets the requirements of CP15 and DP25 except in respect of criterion ii; however as a temporary use for about 12 months that would subsequently be replaced by the re-use of part of an existing building, which would meet the requirement of criterion ii, there is no significant harm caused by the breach of the criterion.
- 5.12 However, it is noted in the report on application 16/02240/FUL that an Enforcement Notice prevents use of Hangar B for aircraft engineering. The issue is dealt with in that report but it should be noted and understood that this application seeks

permission for a building ancillary to an unauthorised activity. The impact of the temporary siting of the cabin is considered in the remainder of this report.

Visual impact

- 5.13 The application documents note that the portable building is only required for the purposes of the maintenance operation. It is noted in the application that if the proposal for the use of Hangar B (part of application 16/02240/FUL) were refused the portable building would no longer be required.
- 5.14 The visual impact of the development is to be assessed in the light of LDF Policies CP16 and DP30. The structure is in the open landscape of the Airfield; however reference to the position of the cabin and the vantage points available to the public is relevant. The cabin is visually related to the scale, design and materials of Hangars A and B against and alongside which it is viewed. There are very limited opportunities for public views of the cabin due to the distance from public vantage points, the intervening trees, hedgerows, landform and other buildings. It is notable that there is no public comment and no comment from others of any visual impact of the proposal. Any visual impact would in any event be limited to the temporary period for which permission is sought and at the end of the period the removal of the cabin would fully remove that impact.

Highway safety

- 5.15 The office and store form part of the relocation of a business within the Airfield and there is no evidence that it has generated additional vehicle movements. As such it does not have any significant impact on highway use or safety.

Residential amenity

- 5.16 The use of the office and store would not give rise to any harm to amenity of neighbours; nor is there any evidence of any impact while the building has been in place and in use. The office and store are ancillary to the use of Hangar B by an aircraft engineer. The use of Hangar B as an aircraft engineers does result in aircraft movements and those aircraft movements give rise to noise in the environment and the engineering works may give rise to noise. The approval of the cabin as an office and store would temporarily support the aircraft engineering business. However this is not an application for the use of Hangar B for the purposes of an aircraft engineer, that proposal is for consideration in the application 16/02240/FUL and the report for that application gives consideration to the noise impacts of that use.

Environmental Impact Assessment (EIA)

- 5.17 The development of the siting of a temporary portable aircraft engineer's office and document store is not EIA development. It falls below the thresholds for EIA development. However, the development is to be considered cumulatively with the EIA development in the application 16/02240/FUL for which an Environmental Statement (ES) was required under the EIA Regulations 2011.
- 5.18 The ES for 16/02240/FUL is reported at section 6 of the report under the Regulations of 2011 as the proposal was made before 16 May 2017. The EIA Regulations 2017 would be applicable to this application, as it was made after 16 May 2017.
- 5.19 The ES submitted with application 16/02240/FUL and environmental information in publicly held records has been assessed and the conclusion reached that the development in this application would not result in significant effects individually or cumulatively.

6.0 RECOMMENDATION

6.1 That subject to any outstanding consultations the application is **GRANTED** subject to the following conditions:

1. The planning permission for the siting of a temporary portable aircraft engineer's office and document store is valid until 8 March 2020.
2. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 1452-27 and 28 received by Hambleton District Council on 9 March 2018 unless otherwise approved in writing by the Local Planning Authority.

The reasons are:

1. To ensure that the development is not retained beyond the period necessary in order to complete the works to provide a permanent replacement office and document store and thereby preclude the creeping expansion of the Bagby Airfield infrastructure without control and due consideration of the impacts of the Development Plan by the Local Planning Authority.
2. To ensure extent of the development permitted is defined by the relevant details of siting, size of structure and appearance particularly so that no harm is caused to the landscape as sought by the Local Development Framework Policies CP16 and DP30.

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