

# **Scoping Opinion**

## **request by Mr Martin Scott**

Request received 1<sup>st</sup> July 2016  
Determination due date 5<sup>th</sup> August 2016

Relating to land at

**Bagby Airfield**  
**The Airfield, Bagby, North Yorkshire YO7 2PH**

Local Planning Authority reference number 16/01524/SCP

Scoping Opinion date 03 August 2016

## **1.0 BACKGROUND**

- 1.1 In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) a request has been received to provide a Scoping Opinion which follows a Screening Opinion adopted by the Local Planning Authority and a subsequent Screening Direction adopted by the Secretary of State (SoS), which both confirmed that the proposals constituted EIA development under the remit of Schedule 2, 10(e) construction of airfields.

## **2.0 THE SITE AND DEVELOPMENT PROPOSALS**

- 2.1 The Local Planning Authority has had regard to the information submitted as part of the Screening Opinion and SoS Screening Direction exercise as well as the information submitted in the applicant's Scoping Report.
- 2.2 The development description has not been defined however the detail of the application is outlined at 2.5-2.8 of the Applicant's Scoping Report.

### The Environmental Statement

- 2.3 The Environmental Statement should include a detailed breakdown (preferably in a table, and in supporting plans) of the floorspace of each building (existing and proposed), new and existing areas of hardsurfacing, alterations to the runway and the new access. Details of proposed landscaping and landscape management should be also included, including details of topographical information and site sections (existing and proposed).

### Proposed Development Description

- 2.4 The Local Planning Authority offers the proposed development description: "Proposed new hangars, maintenance facility and tractor shed, together with alterations and extensions to airfield buildings, runway, apron and hardsurfacing areas, new access, landscaping and demolition works including an increase of Aircraft Movements to 9500AMs per annum. The application is supported by an Environmental Statement."

## **3.0 PLANNING HISTORY**

- 3.1 The Local Planning Authority, in its Screening Opinion adopted and provided a detailed planning history of the site. Attention is drawn to this history and the recent planning appeals. It is noted that a Public Inquiry scheduled for May 2016, into further enforcement issues at the airfield was postponed until 24 January 2017. As proofs of evidence have been exchanged, the Environmental Statement should recognise the status of these appeals.
- 3.2 On 28 June 2011 a decision was issued on 4 appeals (3 planning and an enforcement appeal). Hereafter referenced as "2011 Appeals". These being:
- 3.3 Planning Appeal A Ref: APP/G2713/A/10/2136646 (related to 10/01272/FUL) was dismissed. The development proposed was an airfield clubhouse with three bedrooms, new/extended hangars with concrete aprons, new workshop/maintenance hangar, artificial matting on main runway, relocated fuel line, access and car parking.
- 3.4 Planning Appeal B Ref: APP/G2713/A/10/2123181 (related to 09/04039/FUL) was also dismissed. The development proposed was a replacement helicopter landing pad and jet fuel stop facility.

- 3.5 Planning Appeal C Ref: APP/G2713/A/10/2123183 (related to 09/03959/FUL) was allowed and planning permission was granted for the provision of geo-textile matting to east-west runway and concrete apron to hangar A at The Airfield, Bagby, Thirsk in accordance with the terms of the application, Ref: 09/03959/FUL dated 24 November 2009, subject to the following condition:
1. No additional matting shall be installed on the east-west runway and the concrete apron to hangar A shall not be extended without the prior written approval of the local planning authority.
- 3.6 Enforcement Appeal D Ref: APP/G2713/C/09/2114975 was allowed, the enforcement notice was quashed, and planning permission was granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of aircraft hangar E, the concreting of the apron to aircraft hangar E and the concreting of part of the main east-west runway as referred to in the notice subject to the following conditions:
1. No additional concrete shall be installed on the east-west runway and the concrete apron to hangar E shall not be extended without the prior written approval of the local planning authority.
  2. No lighting or additional lighting shall be installed on hangar E without the prior written approval of the local planning authority.
- 3.7 In addition, enforcement appeals under the following references were determined on 30 June 2012. Hereafter referenced as “2012 Appeals”
- Appeal 1 - Ref: APP/G2713/C/11/2165522  
Appeal 2 - Ref: APP/G2713/C/11/2167446  
Appeal 3 - Ref: APP/G2713/C/11/2167211  
Appeal 4 - Ref: APP/G2713/C/11/2167443  
Appeal 5 - Ref: APP/G2713/C/11/2167438  
Appeal 6 - Ref: APP/G2713/C/11/2167441  
Appeal 7 - Ref: APP/G2713/C/11/2167436  
Appeal 8 - Ref: APP/G2713/C/11/2167163  
Appeal 9 - Ref: APP/G2713/C/11/2167167  
Appeal 10 - Ref: APP/G2713/C/11/2167171  
Appeal 11 - Ref: APP/G2713/C/11/2167216  
Appeal 12 - Ref: APP/G2713/C/11/2167218  
Appeal 13 - Ref: APP/G2713/C/11/2167222
- 3.8 Of the above, Appeal 13 was allowed on ground (c) and the enforcement notice, as corrected, was quashed. Appeal 4 was allowed on ground (g) and the enforcement notice was upheld with a variation to the period for compliance. Appeals 1, 5, 6, 7 and 8 were dismissed and the enforcement notices were upheld. Appeals 9 and 10 were dismissed and the enforcement notices were upheld with corrections. Appeals 2, 3, 11 and 12 were withdrawn.
- 3.9 On 22 January 2014 two further enforcement appeals were determined. Hereafter referenced as the “2014 Appeals”.
- 3.10 Appeal 1 Ref: APP/G2713/C/13/2192289 - The breach of planning control as alleged in the notice was: “Without planning permission, the material change of use of the site from an airfield with annual air traffic movements of 3,678 to an airfield and heliport with annual air traffic movements of 7,044 (1 June 2011 to 31 May

2012). 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". The appeal was allowed and the enforcement notice as corrected was quashed.

3.11 Appeal 2 Ref: APP/G2713/C/13/2192293 - The breach of planning control as alleged in the notice was: Without planning permission, operational development comprising a fuel facility, the component parts of which comprise:

- i. A fuel tank;
- ii. A blockwork wall which surrounds the fuel tank;
- iii. A pipe connecting the fuel tank to a sampling unit;
- iv. A fuel dispenser and sampling unit including a pump.

The appeal was dismissed and the enforcement notice was upheld with a correction and variations.

3.12 The two enforcement notices that are pending consideration by appeal relate to the formation of additional areas of tarmac to widen taxiways (APP/G2713/C/14/3000758) and the provision of fuel facilities (APP/G2713/C/15/3087177).

#### **4.0 PLANNING POLICY AND LEGISLATION**

4.1 The relevant legislation is the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regulations) – SI 2011 No. 1824, as amended by the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015 (No 660).

4.2 Regard is had to case law including Baker vs Bath and North East Somerset Council [2009] EWHC 595 (Admin), Commercial Estates Group v Secretary of State [2014] EWHC 3089 (Admin) and more recently Mackman vs SoSCLG [2015] EWCA Civ 716. R (Ex parte Catt) v Brighton & Hove City Council [2013] EWHC (Admin) 977 and R (ex parte Hockley) v Essex County Council and Another [2013] EWHC 4051 (Admin) are also noted. These cases were primarily related to the accumulation of development and the consideration of how this is dealt with within the EIA Regulations. R (Bateman) v South Cambridgeshire District Council [2011] EWCA Civ 157 considered the adequacy of reasons in a screening opinion for the purposes of the EIA Regulations.

4.3 The Planning Practice Guidance (PPG) also provides guidance on matters relating to the Environmental Impact Assessment and due regard is given to the PPG in the preparation of this Scoping Opinion. There is no statutory provision as to the form of an Environmental Statement. However, it must contain the information specified in Part II of Schedule 4, and such of the relevant information in Part I of the Schedule 4 as is reasonably required to assess the effects of the project and which the applicant can reasonably be required to compile. It may consist of one or more documents, but it must constitute a "single and accessible compilation of the relevant environmental information and the summary in non-technical language" (Berkeley v SSETR [2000] 3 All ER 897, 908).

4.4 For the purposes of Section 38(6), the Development Plan is defined as:  
i) Hambleton Local Development Framework – Core Strategy (2007)  
Relevant policies are: CP1, CP2, CP3, CP4, CP15, CP16, CP17, CP18, CP19 and CP21. Please note that Policy CP4 has been updated and amplified by the Council's Interim Planning Guidance Note.

ii) Hambleton Local Development Framework – Development Policies (2008)  
Relevant policies are: DP1, DP3, DP4, DP6, DP8, DP9, DP10, DP25, DP28, DP29, DP30, DP31, DP32, DP33, DP34, DP36, DP37, DP39 and DP44

iii) Hambleton Local Development Framework – Allocations and Proposals Map (2010)

- The site is within the Aerodrome Safeguarding Area for RAF Topcliffe

4.5 The Council is in the process of a Local Plan Review. It is anticipated that a number of key evidence base documents will be published in the near future (for the Council's Cabinet in September 2016) alongside the Preferred Options Consultation. This will include the Council's Landscape Character Assessment for the District, for example. Regard should be had to this base document within the preparation of the Environmental Statement.

## **5.0 CONSULTATION RESPONSES**

5.1 The Local Planning Authority has consulted with Statutory Consultees as part of the consideration of the Scoping Report. The following responses have been received.

5.2 County Highways – As part of previous applications for this site the Local Highway Authority has recommended conditions relating to the access construction, visibility splays and highway improvements. It is noted that a new access is proposed and therefore similar conditions as previously recommended are likely to remain applicable.

5.3 Natural England – A detailed response has been given and this is appended to this Opinion. Whilst these issues are covered below, you are invited to consider the comments which are publically available on the Local Planning Authority's website under the scoping opinion reference (16/01524/SCP)

5.4 County Planning Authority - no comments to make regarding the proposed development.

5.5 Local Lead Flood Authority - Any planning application will be assessed on the basis of North Yorkshire County Council SuDS Design Guidance.

5.6 Environment Agency – No comments

5.7 Swale and Ure Drainage Board – No comments

5.8 Environmental Health – Contained in the advice below.

5.9 The following consultees have not responded to the Scoping Opinion response which may have a bearing on the content of the Environmental Statement. Wherever practical the Local Planning Authority has sought to identify known issues which should be included in the Environmental Statement. The consultees that have not responded are:

- Civil Aviation Authority

- Trading Standards (North Yorkshire County Council) – Petroleum Licencing

- Ministry of Defence (Safeguarding)

- Historic England

5.10 The two local Parish Councils (Bagby & Balk Parish Council and Thirkleby Parish Council) and the Local Action Group (Action4 Refusal) have also been notified.

Responses from Thirkleby Parish Council, Bagby & Balk Parish Council and the Local Action Group have been received. Bagby & Balk Parish Council have also submitted a representation on behalf of local residents of Bagby. These are detailed and appended to this Opinion for reference and the comments are publically available on the Local Planning Authority's website under the scoping opinion reference (16/01524/SCP).

## **6.0 TOPIC AREAS**

6.1 It is noted that particular areas of environmental significance have been identified in the Screening Direction and Screening Opinion by the Local Planning Authority as noise and air movements. Other topic areas should not be excluded from the Environmental Statement (ES) which should form a comprehensive and full assessment of the Environmental Impact. It is the view of the Local Planning Authority, that in accordance with the criteria set out in Schedule 4 (Appended), the Environmental Statement should include and assess the impact on the following areas.

### **Noise, Vibration and Air Movement**

6.2 In respect of Noise and Vibration Part I of Schedule 4 should be followed.

#### *Air Movements*

6.3 In the consideration of Noise, Vibration and Air Movements the issue of Aircraft Movements (AMs) are a key consideration. The scoping report prepared by Barton Willmore assumes that 9500AMs is a justifiable and evidenced position. The Screening Opinion of the LPA and the Secretary of State (SoS) Direction, disagreed, and the Environmental Statement (ES) needs to reflect the established position in appeal decisions. The Scoping Report is therefore inadequate in this aspect.

6.4 The starting point therefore is the evidence that has been considered at the *2011 Appeals* the Inspector considered this matter at length (paragraphs 31 to 57). He noted the position of all parties; the Appellant claimed 1000 AMs per month and 100 AMs per day; the Council, 477 AMs per month, 110 AMs per week and 16 AMs per day; and A4R, 84 AMs per week and 12 AMs per day which equates to about 360 AMs per month. The Inspector concluded that 703 AMs per peak month is the likely fall-back position.

6.5 The *2014 Appeals* Inspector concluded that 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 (Paragraphs 68-84). There was general agreement in closing submissions at the end of the inquiry that the quantitative information is only part of the evidence. The material change in character of the airfield is also associated with the impact of developments on the airfield upon the uses (and users) of land outside the planning unit of the airfield. The Inspector concluded 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. The appeal succeeded on ground (c), that there had not been a breach of planning control.

6.6 The evidential basis for this figure (in the light of the 2014 Appeals) is not brought forward in the Scoping Report. Under the Regulations in particular Article 13, paragraph (3) an authority receiving a request under paragraph (1) shall, if they consider that they have not been provided with sufficient information to adopt a scoping opinion, notify the person making the request of the points on which they require additional information. Given that the 9,500 AM figure is in excess of previous assessments, and the substantive evidence in 2011 and 2014, it is the view of the LPA that the ES should not seek to re-rehearse arguments. There is insufficient

information in the Scoping Report to contradict detailed evidence and conclusions at previous appeals.

- 6.7 Appendix 3 of the Scoping Report indicates flight numbers at 6335 for 2013, 5199 for 2014 and 8,294 for 2015 (up to 7 November). The evidence submitted in the Scoping Report that there is substantive evidence that 9500 AMs is the fall-back position is not accepted. It is considered that the previous conclusions of Inspectors are sound and that the evidence does not support a fall-back position of 9500 AMs.
- 6.8 European Guidance describes cumulative impact as being “impacts that result from incremental changes caused by other past, present or reasonably foreseeable actions together with the project.” The consequential development and impact of the proposals is that the development proposed could establish a capacity for higher levels of activity (both flights and maintenance works), larger planes and increased Air Movements combined with an improved layout would allow for movements at longer periods as a consequence of altering the runway and apron.

#### The Environmental Statement

- 6.9 The proposed plans show additional aircraft storage floorspace and that the maintenance space will increase. The number of aircraft kept and maintained on the airfield should be identified and form part of the ES submission, including the theoretical capacity of the maintenance facilities.
- 6.10 The ES should consider the cumulative impact of AMs including fuel operations, sales and rental activity, maintenance facilities, helicopter movements which are shown to be potentially substantively expanded based on the size of the buildings proposed and new additional apron areas.
- 6.11 The ES should provide a breakdown in the type of aircraft, engine number and engine type, microlights and helicopters stored and used at the airfield including the numbers, frequency of use by times of day, days of the week, per month and per year. The maintenance schedule required for each aircraft, fuel and servicing requirements should also be outlined and where this is carried out.
- 6.12 The ES, on the basis of the Scoping Report and detailed appeal decisions and considerations, does not justify 9500 AMs. This is therefore an increase in flight numbers and the ES should assess the cumulative and consequential increases that this holds to activity at the airfield (including but not exclusively the storage of aircraft, maintenance requirements, fuel, servicing and repair).
- 6.13 Should the applicant wish to progress with 9500 AMs as the fall-back position rather than as proposal for increase in the application for planning permission a further Scoping Report can be resubmitted with the full evidence to support 9500 AMs as the fall-back position.

#### *Noise and Vibration*

- 6.14 Noise pollution and nuisance (at least in part) is derived from the level of AMs, and is especially dependent on the type of aircraft undertaking such AMs. Also to be considered is the level of maintenance operations, helicopter flights and other ancillary operations. Having regard to all the evidence (of previous appeals and evidence submitted) the proposals would result in significant environmental impacts. Pollution and nuisance, particular arising from the noise of ground activities and AMs should form part of the ES.

- 6.15 The most sensitive receptor are likely to be residential occupiers of property with gardens which back onto the airfield and any with direct line of sight of activities. These are at distances of 235 metres from the proposed tractor shed and edge of the hard surfacing, 260 metres from the existing hangar (proposed maintenance facility) and 340 metres from the nearest helipad. The potential increase in numbers and an increase in activity are of particular concern that needs to be assessed.

#### The Environmental Statement

- 6.16 Noise monitoring and impact assessment should take place from numerous positions within the village particularly from positions at those properties facing the airfield. The positions of noise monitoring should include multiple positions (at least 3) along the northern boundary of the airfield with Bagby village, at appropriate points on the approach and take-off flight path and from Thirkleby Hall Caravan Park to the south. The monitoring should take place over representative periods of the year (i.e. one week a month over August, September, October and November), measuring individual events. An individual period during a busy period should not be used to extrapolate the noise impact.
- 6.17 If readings have been taken within the village they will be susceptible to local traffic noise of vehicles in the village. Depending on the reading positions and screening from airfield activity they may also be influenced by activity at the properties themselves and by road traffic on the A19.
- 6.18 The Noise and Vibration Assessment of the ES should take into account the following:
- (i) Establish the existing background noise environment at the nearest noise sensitive premises
  - (ii) Details of the changes to the type of noise to be introduced such as aircraft, microlight and helicopter type, and size.
  - (iii) Potential noise variables such as repetitive training flights, intensification at weekends, or summer months.
  - (iv) Changes in activity on the site such as the use of maintenance facilities, helicopter refuelling point. Although noise on the ground can be assessed through other provisions such as BS4142 (2014), the Secretary of State has issued the Air Navigation (General) Regulations 1993, Regulation 13 this lays down situations in which aircraft may make noise and vibrations without there being any legal comeback from people suffering as a result. For example:
    - a) when the engines are being operated in the aircraft for the purpose of ensuring their satisfactory performance;
    - b) for the purpose of bringing them to a proper temperature in preparation for, or at the end of, a flight; or
    - c) for the purpose of ensuring that the instruments, accessories or other components of the aircraft are in satisfactory condition.
  - (v) Noise from aircraft and helicopters to be assessed separately. It could be anticipated that the number of recreational helicopters accessing the site since the original planning permission was granted could have increased due to the introduction of smaller cheaper aircraft and accessibility of this type. Planes are predominantly noisy during take-off but helicopters are noisy during all activities and the noise can last for longer periods of time, be non-directional, has a pulsating character and contains more low frequency noise. Helicopter noise has different characteristics from that of fixed wing aircraft and is regarded as louder, more



intrusive or more annoying by approximately 15 dB (Defra 'Research into the improvement of the management of helicopter noise' 2008 page 2) depending on the type of helicopter.

(vi) A noise assessment using LAeq (16 hour) and impact on noise sensitive premises would not be considered appropriate.

(vii) Peak noise levels (LAmax) from individual noise events should be determined at noise sensitive premises.

(viii) Noise from the proposed service activities such as the operation of the aviation workshop. The type of work to be carried out, scale, the hours of use, what work has done inside the buildings for which noise mitigation could be applied and what would be done outside for which noise mitigation could not be applied.

(ix) Noise from the proposed service activities such as the operation of the helicopter refuelling pad. It is understood that that during rapid refuelling (hot refuelling) helicopter blades remain in operation. This process can be lengthy depending on the machine. The machinery used should be detailed and the length of time taken refuelling of each type of aircraft, microlight and helicopter and method (with or without rotors turning) should be detailed.

(x) Proposed mitigation measures, management and conditions.

- 6.19 Noise emission criteria have been determined based on a peak noise levels. Maximum noise levels are those which are most intrusive and have the potential to affect local residents both inside and outside their homes. These have not been identified or addressed. Previously noise measurements taken on the airfield are frequently seen to rise above 80dB. If further activity is found, the detail of what other activity is taking place on the airfield to generate such high levels should be recorded.

#### **Landscape, Access and Recreation**

- 6.20 In respect of Landscape, Part II of Schedule 4 should be followed. The nearest Area of Outstanding Natural Beauty (AONB) is the Howardian Hills the boundary to the AONB is approximately 7.4km to the southeast and the distance to the North York Moors National Park is approximately 3.5km east of the airfield. Prominent views from these aspects should be considered and an assessment of landscape character should follow the guidelines set out. Natural England's response is relevant to these considerations.
- 6.21 The site falls within the North York Moors Fringe area of the District and is generally sensitive to built development, particularly in the most secluded and tranquil locations. There are many areas just outside the National Park that are of similar landscape character and quality to adjacent areas within the National Park. The landscape in this area is small-scale and complex, gradually opening out towards the simpler landscapes of the Vale of Mowbray to the west. As such this is a transitional area with accordingly higher sensitivity to large scale development. There are overt modern features in this landscape, including the A19 and overhead power line, and these have a localised effect on landscape sensitivity. However, they do not reduce the potential for effects on the National Park fringe that development in this area could have.

### *Landscape Character Assessment*

#### The Environmental Statement

- 6.22 It is noted that Natural England advise that the ES should include the consideration of landscape impacts and should reflect the approach set out in the *Guidelines for Landscape and Visual Impact Assessment* (Landscape Institute and the Institute of Environmental Assessment and Management, 2013, 3rd edition), the *Landscape Character Assessment Guidance for England and Scotland* (Scottish Natural Heritage and The Countryside Agency, 2002) and good practice. The assessment should also include the cumulative effect of the development with other relevant existing or proposed developments in the area.
- 6.23 The assessment should refer to the relevant National Character Areas which can be found on Natural England's website. Links for Landscape Character Assessment at a local level are also available on the same page of Natural England's website.

### *Access and Recreation*

#### The Environmental Statement

- 6.24 Natural England also advises that the ES should include a thorough assessment of the development's effects upon public rights of way and access to the countryside and its enjoyment through recreation. With this in mind and in addition to consideration of public rights of way, the landscape and visual effects on Open Access land, whether direct or indirect, should be included in the ES.
- 6.25 Natural England would also expect to see consideration of opportunities for improved or new public access provision on the site, to include linking existing public rights of way and/or providing new circular routes and interpretation. Reference should be made to relevant Right of Way Improvement Plans (ROWIP) to identify public rights of way within or adjacent to the proposed site that should be maintained or enhanced.

### **Heritage**

- 6.26 In respect of Heritage Part II of Schedule 4 should be followed. The nearest Scheduled Monument is a medieval moated grange located 160m south east of The Grange which is approximately 1.4km from the nearest point of the airfield site. Listed Buildings in the village of Bagby include Smithy Farm, Smithy Farm Cottage, Bagby Hall, East Farm Cottage, St Marys Church and Split Farthing Hall.

#### The Environmental Statement

- 6.27 The ES should detail the above Listed Buildings, consider the views and setting from these structures and also provide a desktop evaluation of archaeological records and likelihood of underground heritage assets being present.

### **Biodiversity and Geology**

- 6.28 In respect of Biodiversity and Geology Part II of Schedule 4 should be followed. The nearest ecological designation is Spring Wood, Thirkleby which is approximately 1.7km to the southeast which is an Ancient Woodland.

#### The Environmental Statement

- 6.29 As advised by Natural England, the Ecological Aspects of an Environmental Statement Natural England advises that the potential impact of the proposal upon features of nature conservation interest and opportunities for habitat creation/enhancement should be included within this assessment in accordance with appropriate guidance on such matters. Guidelines for Ecological Impact Assessment (EclA) have been developed by the Chartered Institute of Ecology and Environmental Management (CIEEM) and are available on their website.

- 6.30 EclA is the process of identifying, quantifying and evaluating the potential impacts of defined actions on ecosystems or their components. EclA may be carried out as part of the EIA process or to support other forms of environmental assessment or appraisal.
- 6.31 The National Planning Policy Framework (NPPF) sets out guidance in Paragraph 118 on how to take account of biodiversity interests in planning decisions.

*Internationally and Nationally Designated Sites*

- 6.32 Natural England undertakes an initial assessment of all development consultations, by determining whether the location to which they relate falls within geographical 'buffer' areas within which development is likely to affect designated sites. The proposal is located outside these buffer areas and therefore appears unlikely to affect an internationally or nationally designated site.
- 6.33 However, it should be recognised that the specific nature of a proposal may have the potential to lead to significant impacts arising at a greater distance than is encompassed by Natural England's buffers for designated sites.

The Environmental Statement

- 6.34 The ES should therefore thoroughly assess the potential for the proposal to affect designated sites, including Special Areas of Conservation (SAC), Special Protection Areas (SPA), Ramsar sites and Sites of Special Scientific Interest (SSSI). Should the proposal result in an emission to air or discharge to the ground or surface water catchment of a designated site then the potential effects and impact of this would need to be considered in the Environmental Statement. Local Planning Authorities, as competent authorities under the provisions of the Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations'), should have regard to the Habitats Regulations Assessment process set out in Regulation 61 of the Habitats Regulations in their determination of a planning application.
- 6.35 Statutory site locations can be found at [www.magic.gov.uk](http://www.magic.gov.uk). Further information concerning particular statutory sites can be found on the Natural England website.

*Protected Species*

The Environmental Statement

- 6.36 The ES should assess the impact of all phases of the proposal on protected species. Records of protected species should be sought from appropriate local biological record centres, nature conservation organisations, groups and individuals; and consideration should be given to the wider context of the site for example in terms of habitat linkages and protected species populations in the wider area, to assist in the impact assessment. There are records of bats within existing buildings but given the rural location and hedgerows and trees, which may be affected by the new access, for example, the impact on birds or small mammals should be assessed.
- 6.37 The conservation of species protected by law is explained in Part IV and Annex A of Government Circular 06/2005 *Biodiversity and Geological Conservation: Statutory Obligations and their Impact within the Planning System*. The area likely to be affected by the proposal should be thoroughly surveyed by competent ecologists at appropriate times of year for relevant species and the survey results, impact assessments and appropriate accompanying mitigation strategies included as part of the ES.

- 6.38 Natural England has adopted standing advice for protected species. It provides a consistent level of basic advice which can be applied to any planning application that could affect protected species. It also includes links to guidance on survey and mitigation. Natural England does not hold comprehensive information regarding the locations of species protected by law, but advises on the procedures and legislation relevant to such species.

*Regionally and Locally Important Sites*

The Environmental Statement

- 6.39 The ES should thoroughly assess the impact of the proposals on non-statutory sites, for example Local Wildlife Sites, Local Nature Reserves (LNR) and Regionally Important Geological and Geomorphological Sites (RIGS). We therefore advise that the appropriate local biological record centres, nature conservation organisations, Yorkshire Wildlife Trust and local RIGS group should be contacted with respect to this matter.

*Biodiversity Action Plan Habitats and Species*

The Environmental Statement

- 6.40 The ES should thoroughly assess the impact of the proposals on habitats and/or species listed in the UK Biodiversity Action Plan (BAP). These Priority Habitats and Species are listed as 'Habitats and Species of Principal Importance' within the England Biodiversity List, recently published under the requirements of S14 of the Natural Environment and Rural Communities (NERC) Act 2006. Section 40 of the NERC Act 2006 places a general duty on all public authorities, including local planning authorities, to conserve and enhance biodiversity. Further information on this duty is available in the Defra publication 'Guidance for Local Authorities on Implementing the Biodiversity Duty'.
- 6.41 Government Circular 06/2005 states that BAP species and habitats 'are capable of being a material consideration...in the making of planning decisions'. Natural England therefore advises that survey, impact assessment and mitigation proposals for Habitats and Species of Principal Importance should be included in the ES. Consideration should also be given to those species and habitats included in the relevant Local BAP.

**Climate Change Adaption - The Environmental Statement**

- 6.42 The England Biodiversity Strategy published by Defra establishes principles for the consideration of biodiversity and the effects of climate change. The ES should reflect these principles and identify how the development's effects on the natural environment will be influenced by climate change, and how ecological networks will be maintained. The NPPF requires that the planning system should contribute to the enhancement of the natural environment "by establishing coherent ecological networks that are more resilient to current and future pressures" (NPPF Para 109), which should be demonstrated through the ES.

**Contamination**

- 6.43 In respect of Contamination Part II of Schedule 4 should be followed. Contamination risks principally relate to the demolition stages of the development and the treatment and disposal of asbestos.

The Environmental Statement

- 6.44 The ES should identify locations of asbestos through an appropriate survey and assessment and detail methodology for treatment, disposal and management through the demolition process.

6.45 Other factors to consider are the storage of fuel and other materials associated with the maintenance facilities and the anticipated level of potential contaminants and hazardous materials anticipated within the existing and proposed building.

6.46 It is also noted that there may be historic sources of contamination as a result of previous activity, for example, fuel spillage, waste materials, asbestos, oil and other materials stored on the airfield should be investigated.

#### **Ground related Transport Movements**

6.47 In respect of Ground Related Transport Movements Part II of Schedule 4 should be followed.

#### **The Environmental Statement**

6.48 Responding to the comments of the Local Highway Authority details of construction management, routing of heavy goods vehicles and the impact on the local highway network should be contained with the ES and visibility splays and highway improvements to the new access including sections for the new access point should be included with anticipated timescales for the construction process.

6.49 Following completion of the construction programme the ES should also include anticipated vehicle movement related to the continued operations of the Airfield including the detail of movement from the maintenance facility, fuel supply, deliveries, staff and airfield customers.

#### **Flooding and Drainage**

6.50 In respect of Flooding and Drainage Part II of Schedule 4 should be followed. The application site is located in Flood Zone 1 however it would appear to introduce new areas of impermeable surfacing within the proposed development.

#### **The Environmental Statement**

6.51 The ES should outline the impact of such new areas and follow the criteria outlined within the North Yorkshire County Council SuDS Design Guidance.

#### **Air Quality**

6.52 In respect of Air Quality Part II of Schedule 4 should be followed. Air quality in the UK has improved over recent decades but air pollution remains a significant issue; for example over 97% of sensitive habitat area in England is predicted to exceed the critical loads for ecosystem protection from atmospheric nitrogen deposition (England Biodiversity Strategy, Defra 2011). A priority action in the England Biodiversity Strategy is to reduce air pollution impacts on biodiversity. The planning system plays a key role in determining the location of developments which may give rise to pollution, either directly or from traffic generation, and hence planning decisions can have a significant impact on the quality of air, water and land.

#### **The Environmental Statement**

6.53 The assessment should take account of the risks of air pollution and how these can be managed or reduced. Further information on air pollution impacts and the sensitivity of different habitats/designated sites can be found on the Air Pollution Information System ([www.apis.ac.uk](http://www.apis.ac.uk)). Further information on air pollution modelling and assessment can be found on the Environment Agency website.

#### **Socio-Economic - The Environmental Statement**

- 6.54 In respect of Socio-Economic Impacts Part II of Schedule 4 should be followed. In this respect the ES should outline the positive and potential negative impacts from the proposals and the impact on rural tourism facilities (e.g. at Thirkleby Hall) alongside the investment and job creation.

#### **Land use and Soils - The Environmental Statement**

- 6.55 In respect of Land use and Soils Part II of Schedule 4 should be followed. Natural England advises impacts from the development should be considered in light of the Government's policy for the protection of the best and most versatile (BMV) agricultural land as set out in paragraph 112 of the NPPF. Natural England also recommend that soils should be considered under a more general heading of sustainable use of land and the valuing of the ecosystem services they provide as a natural resource in line with paragraph 109 of the NPPF.
- 6.56 Soil is a finite resource that fulfils many important functions and services (ecosystem services) for society; for instance as a growing medium for food, timber and other crops, as a store for carbon and water, as a reservoir of biodiversity and as a buffer against pollution. It is therefore important that the soil resources are protected and used sustainably. The Natural Environment White Paper (NEWP) '*The Natural Choice: securing the value of nature*' (Defra, June 2011), emphasises the importance of natural resource protection, including the conservation and sustainable management of soils and the protection of BMV agricultural land.
- 6.57 Development of buildings and infrastructure prevents alternative uses for those soils that are permanently covered, and also often results in degradation of soils around the development as result of construction activities. This affects their functionality as wildlife habitat, and reduces their ability to support landscape works and green infrastructure. Sealing and compaction can also contribute to increased surface run-off, ponding of water and localised erosion, flooding and pollution.
- 6.58 Defra published a Construction Code of Practice for the sustainable use of soils on construction sites (2009). The purpose of the Code of Practice is to provide a practical guide to assist anyone involved in the construction industry to protect the soil resources with which they work.

#### **Cumulative Impact**

- 6.59 It will be important for any assessment to consider the potential cumulative effects of this proposal, including all supporting infrastructure, with other similar proposals and a thorough assessment of the 'in combination' effects of the proposed development with any existing developments and current applications. A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment. Military activity at Alanbrooke Barracks at Topcliffe and Gliding Activity at Sutton Bank together with the flight operations of RAF Leeming and RAF Linton-on-Ouse.

### **7.0 COMMUNITY CONSULTATION**

- 7.1 The Council's Adopted Statement of Community Involvement advises that dependent upon the nature and potential impact of a development proposal on the local community, applicants making major proposals, or those likely to have any significant impacts, will need to carry out their own pre-application public consultation. Planning applications for these proposals will need to be accompanied by a Consultation Statement. Examples of such proposals include developments requiring Environmental Impact Assessment which are accompanied by an Environment

Statement. Community consultation prior to the submission of an application is therefore expected.

- 7.2 The form of consultation needs to be tailored to suit the circumstances of the site, proposal and locality with developers needing to be clear and up front with the community about the stage in the process that the development has reached and what constraints the development has which cannot be overcome. If there is no opportunity for changing a particular part of a proposal, then this needs to be made clear and the reasons provided. Consultations should be carried out at an early stage and sufficient time allowed for consideration of the consultation outcomes before drawing up and submission of the application.
- 7.3 In accordance with the Statement of Community Involvement it is therefore recommended that the developer will be required to carry out appropriate pre-application consultations based on the following methods:
- informing local residents and neighbours by “flyer” or letter of the proposal, stating where further details can be found; (this should not just include a website, but also include convenient local access to printed and displayed material)
  - issue a press release on the proposal, with contact details for further information (including both telephone and web/email contact details); and
  - arrange a public event (meeting or display) at which their proposals will be explained, giving an opportunity for public comment and later feedback. This should take place in consultation with Bagby & Balk and Thirkleby Parish Councils. An event would be best held in the village of Bagby.
- 7.4 The public events will need to be held at a time and place, which allows for a wide section of the public to attend; this should normally include weekend and evenings and not conflict with other community events.
- 7.5 The Council expects communities to be offered genuine and a real opportunity to influence proposals in these consultation exercises. For probity reasons (ensuring that decisions are taken in a fair and open manner), the Council’s Planning Officers would not participate in public meetings or exhibitions.
- 7.6 As a minimum, the Consultation Statement submitted with the application should include:
- the residents businesses and local community groups consulted
  - methods and timing of consultation
  - a copy of the consultation details
  - evidence of use of open questions, flexible plans and a range of genuinely different options and choices, including alternative sites
  - a summary of all responses received
  - explanation of how public comments have influenced the design of the proposals
  - evidence of how developers have provided feedback to the Town and Parish Councils, community groups and ward members following their responses
  - explanation of what changes have been made as a result of all community comments
  - where suggestions have not influenced the proposed development the developer should state why these suggestions have not led to a change, and
  - Feedback and information on how this was addressed in the development proposal.
- 7.7 Contact details for Parish Councils:

Bagby & Balk Parish Council - bagbypcclerk@yahoo.co.uk  
Thirkleby High and Low with Osgodby Parish Council - thirkleby-pc@hotmail.co.uk

**8.0 SUBMISSION**

- 8.1 In accordance with Regulation 16, the Local Planning Authority requests that the applicant should submit two hard copies and 4 CDs copies of the Environmental Statement to the Local Planning Authority.
- 8.2 A further copy of the Environmental Statement for onward transmission by the local planning authority to the Secretary of State should also be submitted (unless advised that the applicant has sent a copy).
- 8.3 The applicant should also detail the name of everybody to whom the applicant has already sent, or intends to send, a copy of the Environmental Statement. Copies of the full Environmental Statement should be sent to both Parish Councils (Bagby & Balk and Thirkleby), and the Local Group known as Action 4 Refusal.
- 8.4 Applicants should also make copies of the Environmental Statement available to the public, either free of charge or at a reasonable cost reflecting printing and distribution costs. It is expected that the non-technical summary would be provided free of charge. Details of how a member of the public can obtain a copy of the Environmental Statement should be provided in the submission.



## APPENDIX 1 - SCHEDULE 4 OF EIA REGULATIONS 2011 (AS AMENDED)

### **PART I**

1. Description of the development, including in particular—
  - (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
  - (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
  - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc) resulting from the operation of the proposed development.
2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from—
  - (a) the existence of the development;
  - (b) the use of natural resources;
  - (c) the emission of pollutants, the creation of nuisances and the elimination of waste, and the description by the applicant or appellant of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant or appellant in compiling the required information.

### **PART II**

1. A description of the development comprising information on the site, design and size of the development.
2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
3. The data required to identify and assess the main effects which the development is likely to have on the environment.
4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.
5. A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.

## APPENDIX 2 – NATURAL ENGLAND RESPONSE

See associated pdf Natural England.



Appendix 2 - Natural  
England.pdf

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## APPENDIX 3 – BAGBY & BALK PARISH COUNCIL

### **EIA Scoping Opinion relating to improvements including the clubhouse, hangars and maintenance facilities.**

#### **Bagby Airfield, North Yorkshire**

#### **Attention Mr Harbottle**

Dear Sir

In response to your letter of 4.7.2016 inviting this Council to comment on the subject of this letter.

Our response can be summarised up as-

1. The EIA Scope does not accept decisions already made by three planning Inspectors.
2. It attempts to generate more noise measurement data which does not address the key problem with noise intensity at receptor properties caused by aircraft and pilots using this airfield and consequently seeks no solution to the environmental problems identified by two Planning Inspectors and HDC's EHO.
3. It claims a level of historic flying which has been rejected by the Planning Inspector. It fails to address the factor which creates unacceptable intrusive noise, which two planning inspector have already determined as unacceptable; namely to stop intrusive noise by controlling those aircraft and pilots that generate the intrusive noise. The greatest proportion of intrusive noise comes from Helicopters, (the intensity of which have increased over 10 years); stunt planes and some GA fixed wing planes as concluded by two Planning Inspectors.
4. It claims even more aircraft movements than was ever put forward at the 2013 Inquiry which was rejected by the Planning Inspector and fails to put any controls on aircraft movements by type, time, noise perpetration, training circuits, or other means.
5. It fails to address the extreme disturbance caused in the surround hamlets and villages caused by repetitive low level over-flying of people's houses and property by training and practising aircraft.
6. The adopted strategy to escape classification of the jet fuel tanks as fixed tanks means the tanks must be moved around the site and have already been moved nearer to Bagby village. It fails to recognise there is an increased hazard from noise, environmental spills and safety from aircraft refuelling from mobile tanks.
7. Contrary to claims the aircraft numbers will be unchanged, the maintenance of aircraft will increase if recent press reports are correct about a joint ventures with an Irish Aircraft Maintenance company and from a facility nearer to the village of Bagby, increasing environmental harm
8. HDC of course could act to control the sources of environmental harm clearly identified by two planning inspectors and their own EHO. By exercising their delegated

legal powers to control but repeatedly fail to do so, continuing to shift the effects of their planning failure onto residents as amenity loss.

9. In this proposal there is blinding evidence of bias with no intention to truly address the environmental issues, by this judgement residents will have no confidence that if this scope is allowed to be executed it will solve no problems at all but only create more and more confusions.

10. The proposal makes no reference to the existence of a children's playground immediately adjacent to the new road, buildings and aircraft maintenance facility and the possible harm this could cause which shows contempt by the authors of this report for people affected by the proposed project.

11. We would like HDC to reject this environmental scoping study and send BW away to resubmit a study which accepts legal decisions already made by Planning Inspectors and addresses these with meaningful win-win solutions which can be accepted by all and investigate areas that have the propensity to cause real environmental harm. That is the fundamental purpose of an EIA and this proposal evades this.

Attached is a report prepared by some of our residents identifying and backing up our conclusions above but in addition highlights un-quantified areas of environment harm which this EIA should address.

APPENDIX 4 – COMMENTS FROM RESIDENTS – SUBMITTED BY BAGBY & BALK  
PARISH COUNCIL

**Residents review of the proposed EIA Scope generated by Barton Willmore  
21.7.2016**

1. Independence-

- 1.1 Residents are very concerned this proposed EIA will have no independence. Consultants will be either Barton Willmore (BW) staff or consultants hired by them and paid for via the airfield. If this EIA is to go ahead then it must be done by an Independent party not under the control of BW or the Airfield.
- 1.2 Evidence for lack of independence lies in the repeated claim “*The approximate number of flights will not exceed 9500 per annum, which is based on historical flight movements which date back to 2003.*” This is repeating the claim by the airfield at the June 2013 Inquiry which was based upon an extrapolation back in time of a 2013 hypothesis that Aircraft movements are directly proportional to fuel sold at the airfield, which was NOT accepted by Inspector Lewis para 79.
- 1.3 At the 2013 Inquiry the historic number quoted by the airfield witness was 7854 per annum but since 2013 the figure has increased a further 21% for all aircraft types be they GA aircraft, microlights, training aircraft and helicopters. How can this be “historic” when changed at will?
- 1.4 The level of aircraft movements promoted by the airfield at the 2013 Inquiry was included in a set of conditions proposed by them. Inspector Lewis rejected these conditions in para 131 “*the identified harm would not be adequately mitigated by the proposed planning conditions*”.
- 1.5 Since 2007 this airfield or its planning representatives have quoted in written correspondence to HDC, Planning Inspectors and the CAA, the historic number of aircraft movements some 22 times with values ranging from 3640 to 14040 per annum, with the lowest quoted by on 17.7.2007 by the airfield owner in an application to the CAA for an aeronautical radio licence. This demonstrates there is no sound empirical evidence supporting any level of historic Aircraft movements.
- 1.6 The EIA proposal quotes the number of aircraft movements as 9500 per annum 21% higher than the number rejected by Inspector Lewis and does not differentiate whether this is helicopters, GA aircraft, touch and go’s, microlights or gliders, and because there are no controls at this airfield they could all be noisy helicopters.
- 1.7 Throughout this EIA proposal there appears an attempt to establish 2016 as the base line against which Environmental impact will be measured by rejecting large areas of environmental investigation as not required. This airfield has had no Environmental study since it was started in the 1980’s with authorised and unauthorised activity, growth and infrastructure development. Planning Inspectors have noted the change of use from a hobbyist airfield to a mixed commercial use airfield and Inspector Lewis noted the constant increase in helicopters using the site from the helicopter fuel volumes sold.
- 1.8 A Bagby resident accountant, who is a Chartered Accountant at the Lewis Inquiry gave evidence which showed that refuelling helicopters was the main income generator for this airfield which fully explains why helicopters have increased and will continue to increase at this airfield.
- 1.9 HDC must surely need to know the full extent of Environmental impact caused by this uncontrolled airfield over its life and judge the overall impacts against their planning and environmental guidelines, otherwise what is the purpose of the EIA?
- 1.10 HDC must insist that the judgement comment, conclusions and decisions of Planning Inspectors must be fully recognised.

2. Noise.

- 2.1 Two Planning Inspectors have said the noise is unacceptable as did the Environmental Health Officer of HDC in evidence in 2010/11.
- 2.2 The noise disturbance is described by Inspector Braithwaite in paras. 41,42, 43, and Inspector Lewis comments on the noise disturbance in paras. 64, 65, 71, 114, 115, 117, 118.
- 2.3 Inspectors Braithwaite and Lewis chose to evaluate the level of noise disturbance themselves because no standard of measurement or evaluation of that data covered loud bursts of high intensity noise in an otherwise quiet rural environment. Braithwaite concludes in para 40 and Lewis concludes in para 65, 71, 115 and 117 that noise from turbine helicopters has unacceptably impacted upon residents amenity. Braithwaite, paras 41, 42, 43, 51 describes the unacceptable noise created by helicopters, stunt planes and some GA planes, and concludes no noise standard covered this situation of intensive noise burst in the quiet rural environment. On helicopters it was noted this noise could be heard from miles away on the approach, whilst overhead, on the ground and also when leaving the vicinity.
- 2.4 This was also the conclusion of the HDC EHO, Joy Swithenbank, who even measured these high noise peaks and likened them to an alarm clock going off next to one's bed but one did not know when it would go off, or how long it would persist. She advocated the only control was fewer and quieter helicopters, but we have the exact opposite of this with more and more helicopters and probably more to come to boost the dwindling financial viability of this airfield.
- 2.5 Swithenbank also went on to describe the unacceptable differences in the noise characteristics of helicopter noise vs other noise sources emanating from this airfield.
- 2.6 Swithenbank also said, once a plane is in flight then Environmental law no longer applies and general aviation law is the control, which has no controls for noise created on the ground by an aircraft in flight. So the Local authority has very limited control options. One being to reduce the offending high intensity noise generating aircraft and pilots.
- 2.7 The definition of a flight from the instructions for filling out a pilots log book was- " a flight is from the moment the wheels of the aircraft move with the intention of being airborne until it comes to rest again" . For a helicopter it is probably "in flight" all the time its engine is running whether in the air or on the ground, (small to mid-sized helicopters have no wheels but skids). Therefore a local authority have no control of noise from such aircraft, they can only control by fewer helicopters and/or less noisy helicopters (if such things exist).
- 2.8 Yet the thing which is causing the primary unacceptable noise events and amenity loss are helicopters (Stunt planes also in 2010 and a few noisy GA aircraft). Helicopters are the very things the airfield keeps increasing numbers of and bringing in ever larger and noisy helicopters. HDC have lost and continue to loose control as concluded by the Local Government Ombudsman.
- 2.9 The intense noise measurements collected by Swithenbank for HDC, Saunders for A4R and Sharp and others for the airfield in 2010/11 have already been made public and will not change because the helicopters are the same although increasing. One wonders why the same noise measurements are to be made again and how this exercise will change the already legal determination by the Planning Inspectors that the noise from this airfield is not acceptable.
- 2.10 The proposals for evaluation of noise levels in the Scoping Report are largely based on the methods described in the KP Acoustics report. This is fundamentally unsatisfactory because these methods provide no way of determining or identifying what is an intrusive noise. They provide no way of quantifying the incidence of intrusive noises and therefore no way which might lead to controlling the incidence of intrusive noise.
- 2.11 The Scoping Report in Section 4.5 proposes a long term period of unattended measurements at locations considered to be representative of existing noise sensitive properties. If these measurements are of the same type as those used by KP Acoustics they too, will be of little value.

- 2.12 Section 4.5 also proposes a short period of attended source measurements of various activities at the airfield. Attended measurements at the sensitive sites, coupled with reliable monitoring of all aircraft activities would be of far more value (see Appendix 1)
- 2.13 It is doubtful that calculated noise contours can model high intensity intrusive noise effects at the village because of the effect of buildings and the contours of the ground.
- 2.14 The KP Acoustics report's conclusion contain an extraordinary statement not supported by any of the noise data that "noise emission from the proposed redevelopment will continue to have minimal impact on the amenity of nearby residents...". The clear implication being that noise emission is not a problem, despite two public inquiries confirming that it is. This leads one to believe this consultant is also biased, has preconceived ideas, has clearly not read the previous Planning Inspectors conclusions or the vast amount of previous evidence on the topic of noise from this airfield. A consultant showing this level of disregard for previous conclusions and evidence cannot be trusted by resident.
- 2.15 If sound recording technology is to be used to measure the incidence of high bursts of intrusive noise it needs to be conducted in a quite different way. By for example, identifying at the noise receptors location the aircraft or activity which causes the intrusive noise, then mitigate the identified source to acceptable levels. If mitigation cannot be done then the only way to achieve control of intrusive noise is to limit the actual perpetrator aircraft type or the pilot from using the airfield.
- 2.16 A recent change following the 2013 Inquiry is to have Jet fuel tanks on mobile trailers so they are not, in planning terms, fixed tanks. It follows therefore these tanks will be moved during their life otherwise they become static tanks whether on wheels or not and so become vulnerable again to Planning law. The two trailer mounted tanks have already been moved to different locations during the intervening time and one of those locations was on the north side of the airfield near to the maintenance facility and Bagby residents observed and heard helicopters being refuelled from this location. Any proposal for noise measurement must therefore measure helicopter noise refuelling at locations near to the villages of Bagby and Thirkleby. The noise intensity from helicopters would increase very significantly (50% based upon the reduction of distance to source) at the villages because there is no control to stop refuelling from such locations.
- 2.17 Planning Inspector Braithwaite also mentioned stunt planes and noisy GA planes. The cause of stunt plane noise in 2010, Mr Cassells, has left the airfield, but that does not stop the return of stunt planes because there is no control and "Wanna be" stunt pilots still do some stunt flying over the airfield and its environs. This too should be studied by any noise investigation.
- 2.18 There is a notable difference in noise received at the village from helicopters operating in the Autumn, Winter and Spring. There seems to be intensive helicopter power line inspection activity during periods when it is very wet with no leaves on the trees. A worst case (but real) must require noise measurement during these seasons.
- 2.19 It is also observed that the large helicopters hover much longer before they land and their approach is higher and slower during very strong winds and this increases the noise intensity experienced at receptors properties. When the large inspection helicopters land during the dark late afternoon and with rain and squalls they seem to hover even longer. It could be argued that we are not in our garden at such times but this is incorrect there is a lot of garden work in autumn and spring. Joy Swithenbank HDC EHO noted from a survey she did, that the noise penetrated double glazed windows into houses. This noise measurement is also missing from the proposal.
- 2.20 The new hangar for maintenance will be full of aircraft which cannot fly because they are being maintained, but they will be ground tested inside and outside the building and will taxi to and from the building creating noise and fumes nearer to Bagby Village. This is ignored in the proposed noise study.
- 2.21 Contrary to statements that maintenance activity on this site will remain the same, press reports in 2015 confirmed a joint venture agreement between Fox Aircraft

Maintenance of Bagby and an aircraft maintenance company in Eire. The press report described this joint venture would share aircraft maintenance and sales activity with aircraft flown between the two countries, quoting exchange rate differences as an upside benefit to the joint venture. This mean there will be more aircraft for maintenance and sales at Bagby airfield in and around the proposed maintenance facility, which is to be moved closer to Bagby village. Thus more noise and fumes and not reviewed as part of the proposed environmental study.

2.22 What is also totally missing from this Environmental proposal is the effect of aircraft repeatedly flying over peoples houses in outlying villages and Hamlets. Thirkleby residents are particularly affected with aircraft over-flying their houses every 5 minutes or so by training flight circuits and practice flying. The altitude is low and when outside conversation has to stop every 5 minutes which can go on for several hours. People have complained that when ill in bed the aircraft repeatedly disrupt them. Lazy pilots use ground features e.g. the church spire, as navigational way points so fly the same route over and over again.

### 3. Land Contamination

- 3.1. The land around the old Jet fuel location is already contaminated with Jet fuel which has knowingly been allowed to leak for some 4 years and likely more than this. During the site visit by Inspector Braithwaite 22.3.11 attended by residents and HDC, a strong smell of hydrocarbons was detected at the fixed location of the Jet fuel tank. The airfield management representative said there was a leak from this tank and it had been going on for some time. The tank sat on top of a filled in drainage gutter which ultimately finds its way to the River Swale. Evidence of Otters from the Swale have been found in drainage gutters as near as approximately 1000 m and down hill from from this site. No Soil contamination studies are proposed.
- 3.2. The ground report of 2008 by the Airfield's Civil Engineering consultant said there were hydrocarbons in the ground. HDC have been told about this by residents but nothing has been done about this to our knowledge. No Soil contamination studies are proposed
- 3.3. Hydrocarbon fuel in the ground is toxic and a hazard to health. Standards say ground contamination by Jet fuel must not be permitted and jet fuel storage tanks should have a (liquid) containment bund. The previous so called bund was not liquid tight and leaking jet fuel has drained into the ground. The current two mobile Jet fuel tanks have no liquid containment around them but are double skinned, but there appears to be no on site controls for other kinds of spills or ever has been. It is inevitable there will have been spills to ground during the life of this airfield. No Soil contamination studies are proposed
- 3.4. The previous Jet fuel tank is now mounted on and fastened to an agricultural trailer. This tank now sits higher and has more side wind exposure and being on a trailer could begin to lean over or be subject to dynamic loading when towed over uneven ground. Contrary to information received from HDC, NYCC have no authority or powers with respect to jet fuel storage and dispensing safety or integrity. This new tank arrangement should be checked for dangers of failure by a competent engineer to demonstrate a collapse or tank failure of this arrangement will not cause an environmental spill or conflagration.
- 3.5. None of the fuelling facilities on this airfield appear to have had any fuel spill containment or interceptors in the water ways. Containment of hydrocarbon spills is common practice. While small spills may seem unimportant, many local authorities look to the health of small waterways at a microbial level to determine the health of their water systems overall. No water ways contamination studies are proposed.
- 3.6. As mentioned above the jet fuel tanks are now deemed mobile fuel tanks or bowsers, and as such will be moved around the site. Moving large inventories of fuel is a hazard from collapse, overturning of the vehicle, collision with obstructions, other vehicles or aircraft, and confusion of those re fuelling finding the new location.



The CAA recommends a risk assessment is done when there is hazard. The EIA should do this and it must be independent. If the fuel tank splits or is penetrated or is in collision with something else there is a potential hazard of hydrocarbon leakage and ground contamination or conflagration.

- 3.7. It is believed the large hangar was insulated in whole or part with 2nd hand Polyurethane (PU) foam insulation (PU oxidises to a rich orange colour evident on slabs of this material stored on the airfield for many months prior to using the material). PU has cyanide based molecules and with incomplete combustion and/or heat it liberates toxic gases. The large pile of this material was noted by Inspector Mapson in 2012, para 58, 59, 60. The Airfield assured the Inspector the material would be taken to an offsite waste disposal centre. However the material was burned in a large bonfire on the site billowing copious amounts of black smoke for many hours into the next day with unknown impact upon environment, health, land, animals or people. PU was banned in household furniture for its flammability and liberation of toxic gas when burned. This EIA ignores that this may have contaminated land; this despite representatives of BW being told about it at their on-site presentation in 2015. How can residents believe there is any commitment to sound environmental management?
- 3.8. For the above reasons we believe a thorough environmental survey is required of soils and water ways.

#### 4. Building Contamination

- 4.1 Nothing is mentioned about asbestos on this site. The Civil Engineering report commissioned by the Airfield in 2007 states there is asbestos in some of the airfield buildings. Asbestos is a highly carcinogenic material as dust. The proposal makes no mention that this will be evaluated and precautions to safeguard residents during its removal and disposal. There should be an asbestos survey.
- 4.2 Some of the buildings will have been used over time for storage and use of liquid thinners, paints, lubricants etc. has the ground inside and outside of these buildings been contaminated?
- 4.3 Properties to the South of the airfield have complained to the Planning Inspectors about helicopter noise and fumes from Jet Fuel encroaching into their space and infiltrating their holiday Cottage business with significant effect. Investigation of this is not in the environmental proposal. This also begs the question; if Jet fuel can be easily detected at property some 400m away from the airfield there is also a serious fugitive emissions problem of airborne hydrocarbon emissions which significantly destroy the environment. There should be a fugitive emissions study.

#### 5. Buildings, aircraft and wild animals

- 5.1 The Aircraft housed in the "Pig shed" hangar seen during visits are covered in bird droppings and some aircraft were draped in dust sheets to stop this but a BW report says there are just abandoned nests and dismisses any further investigation. With the openness of this and other airfield buildings, the buildings are an active site for bird nesting and roosting. Migratory Swifts, Swallows, Starlings, arrive in Bagby in the spring and leave in the autumn. Other resident birds like sparrows must build nests there. What used to be common birds like sparrows, starlings and swifts are now on endangered species lists. Resident reptiles, flora and fauna, insects and mammals must also live on the site and some of these will be endangered, but no study is proposed to evaluate the effect this airfield has had on this.
- 5.2 Neither is it known if there has been any long term species damage by historic activity, which could be evaluated by comparison with land nearby having similar terrain features but not disturbed by aircraft activity but no study is proposed to evaluate this.

5.3 Appendix 2 lists species of birds that live around Bagby Airfield and the instigative behaviour of the bird species clashes with Aircraft activity. The proposed Environmental scope ignore such affects on such bird species, we have no idea if damage has already been done to a critical level.

## 6. Visual appearances

6.1 The proposal says nothing about the visual impact from higher ground. The Bagby airfield hangars can be seen from the top of Sutton Bank, Hood Hill, above the white horse and roads and footpaths along the lower levels of these hills. Also approaching from the west the buildings and runways can be easily seen. Is the visual impact going to be examined by an independent environmentalist or ignored when it affects the views from and to one of the most beautiful National park in England?

## 7. Road safety

7.1 The proposed new entrance junction with Bagby lane must be the subject of a traffic safety and drainage study. The junction is to the west of the 30MPH sign, on a down hill part of Bagby lane, just before a sharp bend and where vehicles accelerate before even reaching the 30MPH sign. The road floods in heavy rain, flooding which would be exacerbated by a new road entering from the airfield. Gutters to the side of Bagby lane have not been cleaned out by the adjacent land owner, the airfield, which also exacerbates flooding. In winter the wet road freezes and the down hill section before the bend becomes treacherous. This must be part of any EIA.

7.2 The junction between Bagby lane and the A19 has had some 4 fatal accidents in about 10 years. It is a very dangerous junction. Aircraft landing and taking off over this road barely 30m in the air cause a distraction to motorists. With improved club house facilities, proposed social events, and more training and aircraft maintenance there will be more traffic and more accidents. This too must be part of an EIA.

## 8. Oak Tree Children's play park

8.1 The environmental proposal fails to mention the existence of a children's play park within 20m of the new road and enlarged maintenance area and vulnerable to the risks of noise, traffic, fumes, construction noise, dust and other forms of pollution. A risk assessment must be done for any impact of past, present and future activity which may impact children in the park. The play park is used by families from the whole region not just the village of Bagby. Independent bodies and residents must lead that risk assessment.

## 9. General observations

9.1 The proposal fails to say the N-S runway was rejected by Planning Inspector Mapson, The N-S runway does not exist and should not appear on any plan or in the description.

9.2 The diagrams show a RED line around the site, a similar theme of the consultation day where BW were told in planning terms the red line was very significant. The Planning Decision of 30.7.12 by Inspector Mapson made it clear that in planning terms such a red line defining a whole site was incorrect but BW perpetuate the red line, why?

9.3 In the past tree screens have been required on the airfield site by the Local authority; these were planted but have long gone. There appears no long term commitment by the airfield to abide by environmentally requirements.

9.4 Residents are told there will be a Construction Environmental Manage Plan, but the airfield management have produced no environmental management plan or safety plan (a CAA recommendation for a risk based safety plan) to allay residents concerns over the last 20 years. By examples given here, residents have little confidence such plans will be worked in practice.

## APPENDIX 5 – THIRKLEBY PARISH COUNCIL

Having viewed the proposed EIA from Barton Willmore, the Parish Council considers that it is imperative that HDC is robust in their approach and conditions to the EIA scoping and that it applies some measure of independent scrutiny to the report that is produced.

We also consider that the EIA report should take note of the Planning Inspectors comments and reports from previous planning inquiries regarding the airfield which are highly relevant.

In 4.5 Barton Willmore state that “*unattended measurements at locations considered to be representative of existing noise sensitive properties for a period of approximately one month during the 92 day summer period in order to capture the prevailing noise climate around the airfield at the busier times of the year*”.

We consider it important that locations in surrounding villages that are overflown are included in these *selected locations* and not just sited at Bagby. Thirkleby for instance is a no through road village and is by nature a quiet and peaceful place.

Following this in 4.5 it also states “*The second part of the noise monitoring would include short term, attended source noise measurements of the various activities at the airfield including (but not limited to) ground noise from helicopters, ground noise from fixed wing aircraft, taxiing noise,*”

We would request that these short term attended measurements are also done in the surrounding villages where overflying takes place. From this, sound mitigating solutions as described by Barton Willmore (such as specified flight paths with no fly zones) could be adopted to avoid overflying quiet villages such as Thirkleby.

In your proposed Local Plan you state your intention to “look to protect and enhance our countryside”. To this end we would look to you to protect our rural amenity with a robust EIA particularly in relation to noise.

## APPENDIX 6 – ACTION FOR REFUSAL COMMENTS

See associated pdf



Appendix 6 - Action  
4 Refusal Comments.

BY EMAIL:

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25 July 2016

Dear Sir

**EIA Scoping Opinion relating to improvements including the clubhouse, hangers and maintenance facilities**

In response to your letter of 4.7.2016 inviting A4R to comment, we have the following observations.

Hambleton District Council (HDC) should reject this EIA scoping study and Barton Wilmot (BW) informed that only when they produce an EIA proposal that covers the points below will it be accepted for consideration by HDC-

1. BW must recognise and accept the findings of three Planning Inspectors and stop going over ground already covered and seeking to re-open issues already decided upon.
2. The spirit of the EIA must be recognised and the holistic effect of this airfield since its inception described; all possible environmental risks must be investigated and identified and the key Impacts analysed pursuant to a recognised process by a qualified and independent person.
3. Identified environmental harms must be accepted and solutions found for all parties.

We arrive at these conclusions because-

- The belief that there IS a level of historic flight numbers agreed is inaccurately perpetuated. Inspector Lewis in para 79 states she does not accept the hypothesis that the ratio of jet fuel sold to aircraft movements predicts with any certainty the historic aircraft movements. She rejects such numbers used in proposed condition in para. 131, and concludes the identified harm would not be adequately mitigated by the proposed planning conditions. In so doing Lewis

cont/...

states there is identified harm already.

- A new level of historic movements is now quoted; 9500 per annum, 21% higher than that claimed in the 2013 Inquiry without qualification as to how and where this increase arises and the mixture of aircraft activity is unspecified. In the period from 2007 until the present, we have been presented with 22 claims for the historic number of aircraft movement ranging from 3640 to 14040. Commonsense suggest there is no solid evidence available which can determine the historic number of movements.
- The current proposal dismisses many issues which one expects to see in an EIA based purely upon BW's opinion. BW show no regard to environmental problems they have been told about and which covered in the large quantity of evidence provided to three Inquires by those affected by this airfield's activity. BW makes no admission that this very large body of people have any environmental or safety concerns or real problems; they are just dismissed. No attempt is made to identify and quantify these real problems and use their professional ability to come up with acceptable solutions for all.
- With the existing decisions having been made and real concerns being ignored, the impression is given that an environmental and legal base line is being re-established in 2016 and everything before this is irrelevant. A true EIA would take a more cumulative view and work with decisions already made.
- The proposed noise investigation repeats exactly the same noise studies as have already been done by noise consultants acting for all the main parties affected by the noise from this airfield and are all in the public domain. Those studies and this study could not and will not address the real noise problems identified and described by two planning inspectors and HDC's EHO - namely as highly intrusive noise at receptor properties in a rural environment. The EIA proposal does not seek to solve these real problems only to try to conceal the effect with more numbers, more expert opinion, more theoretical argument by expert to expert. It has already been determined by two planning inspectors and the HDC EHO that Intrusive noise in the rural environment cannot be measured and there is no standard covering this noise disturbance.
- The planning Inspectors identify the primary cause of that noise as helicopters, followed by Stunt planes, followed by some GA aircraft. But helicopters increase year on year, as observed by Inspector Lewis and there is no control on this by this airfield or HDC. So year on year the Intrusive noise will rise. Business accounts shown at the 2013 Inquiry showed this airfield had a high dependency on the sales of helicopter jet fuel, so it should be no surprise jet fuel sales and therefore helicopters will be increased.

- While HDC have the legal authority to control this continuous loss of resident's amenity they choose not to exert that power. The lack of planning control has been judged by the LGO as Maladministration but the amenity loss of residents continues. The EHO of HDC concluded that aircraft noise cannot be controlled by Environmental legislation, leaving limited options to mitigate the noise disturbance with the very obvious control to stop the amenity loss by eliminating the source.
- The EIA proposal ignores the many complaints of people about low over- flying of their property and the noise created on the ground. In the village of Thirkleby training and practice flying at times takes place for several hours with an over flight every 4-5 minutes. Normal voice conversation in the garden has to stop, and residents go indoors. This seems like an easy problem to correct by re-routing, but the problem goes on year after year. BW could find a solution to this problem if they wanted to.
- There are many other environmental problems not addressed by the BW proposal. The proposed noise test environment is wrong because it ignores that moving jet fuel tanks have been, can and will be, moved nearer to people's houses, generating more intrusive noise. The advertised increase in aircraft maintenance and sales by Fox Aviation at a facility proposed to be nearer to Bagby Village are also ignored. The mobile jet fuel tanks have a heightened risk of rupture by instability and collisions and creating the potential for spills and conflagration.

Unless and until BW produces a serious report meeting the above requirements, matters cannot proceed: in the meantime this report has to be rejected.

Yours Faithfully

GOODMAN DERRICK LLP on behalf of A4R



