

Parish: Bagby
Ward: Bagby & Thorntons
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Committee Date : 21 October 2021
Officer dealing : Mr Craig Allison
Target Date: 18 May 2021

21/00668/FUL

Retrospective extension to Hangar A and proposed hard standing adjacent to Hangar A

At: Land to the North of the Airfield, Bagby, North Yorkshire

For: Mr M Scott

The proposal is presented to Planning Committee as the site is of significant public interest

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 east of the A19 and is currently accessed via a newly constructed access track that leaves the Main Street of Bagby to the west of the village. The site is about 500m from the southern edge of the village of Bagby.
- 1.2 The Airfield occupies 15.6 hectares. The land is in use 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.
- 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 changes in ground levels, hedgerows and trees shield the remainder of the airfield from public view.
- 1.4 In addition to the relationship with Bagby, 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 and Thirkleby Hall Caravan Park (630 metres to the south east) that are potentially affected by activities at the airfield (in particular noise).
- 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 on Bagby Lane, which is located beyond the northern edge of the Airfield land.
- 1.6 Planning permission was granted on the 30 July 2019 under planning reference 16/02240/FUL, for a range of developments on the Airfield including an extension to Hangar A this is detailed in full at 2.1 below. The original approval included the extension to Hangar A northwards by 4.7 metres with the extension visible to the north east elevation. However, the extension to Hangar A as built is 12 metres longer than the approved length which extends Hangar A's depth to a total of 22.21 metres. The extended hangar provides an additional 155.75 sqm of internal space. The application seeks retrospective planning permission for the extension to Hangar A, along with hardstanding directly in front of the Hangar A to link up with the existing geo textile track. This will result in an area of approximately 200 square metres of hardstanding created.

1.7 The development falls below the thresholds of Schedule 1 and 2 of the EIA Regulations (10(f) the area of the works does not exceed 1 hectare) and an Environmental Statement is not required.

2.0 Relevant planning history

- 2.1 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. – Approved 30 July 2019.
- 2.2 18/00524/FUL - Retrospective application for the temporary siting of a portable aircraft engineer's office and document storage cabin – Approved 30 July 2019.
- 2.3 20/00766/MRC - Application for variation of condition 1 for approved application 18/00524/FUL - The condition to be varied to extend the date to which the planning permission is valid until for one year from the approval of this application, or upon completion of Hangar B. – Approved 5 June 2020. The temporary planning permission expired on the 5 June 2021.
- 2.4 21/00081/FUL - Retrospective application for an access road off Bagby lane to provide access to the airfield – Approved 7 June 2021
- 2.5 21/01058/FUL - The retention of 2 temporary hangers on site for a use for aircraft storage and ancillary storage of airfield machinery and equipment for a period of 24 months – Pending Consideration
- 2.6 21/01243/FUL - Retrospective and proposed concrete alterations to existing runway, reinforced geotextile matting to runway and earthworks to facilitate drainage – Pending Consideration
- 2.7 21/01709/FUL - Retrospective application for hardstanding, associated drainage, door and walkway to Hangar C1 and proposed lean-to for office to Hangar B – Pending Consideration

3.0 Relevant planning policies

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.
- 3.2 Relevant policies of the Development Plan and any supplementary planning policy advice are as follows;

Core Strategy Policy CP1 - Sustainable development

Core Strategy 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 DP9 - Development outside Development Limits
Development Policies DP16 – Specific measures to assist the economy and employment
Development Policies DP25 – Rural Employment
Development Policies DP30 - Protecting the character and appearance of the countryside
Development Policies DP32 – General design

3.3 Hambleton emerging Local Plan was considered at Examination in Public during Oct-Nov 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>
The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF.

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

National Planning Policy Framework 2021

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

“General Aviation Roadmap: spring 2021” from the Department for Transport Spring 2021

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 Consultations

- 4.1 Bagby & Balk Parish Council – Recommend that the application is refused. The Parish Council state:

“Only when you consider all these applications together, can you see the bigger picture for a much larger, busier airport which will bring additional noise to the village of Bagby. An EIA exercise must be carried out to screen proposals on a cumulative basis.

Recently, there has been a large increase in flights taking off, uphill towards the village and residents are noticing the increased noise. The monitoring system is long overdue and there is no control over activities at the airfield.

Bagby and Balk Parish Council feel Hambleton District Council are negligent in continuing to allow this creeping development by way of retrospective applications.”

A full copy of the representations of the Bagby Parish Council are appended to this report.

- 4.2 Thirkleby Parish Council – No comments received
- 4.3 Public comments – A site notice has been displayed and neighbours consulted. Representation has been received from Action for Refusal noting that the application is invalid, that an Environmental Statement should have been prepared and the submitted business case is inadequate and the application should be refused. A full copy of the representation is appended to this report.

5.0 Analysis

- 5.1 The main issues to consider are: (i) the principle of extending Hangar A and the construction of hardstanding; (ii) the impact of the development on the character and appearance of the area; (iii) the impact of the development on the amenity of the area.

The Principle of Development

- 5.2 Policy CP1 of the Core Strategy states development that would significantly harm the natural or built environment or that would generate an adverse traffic impact will not be permitted. Proposals would be supported if they promote and encourage sustainable development.
- 5.3 As the site is located outside of the settlement boundary of Bagby, within open countryside, Policies CP4 and DP9 are of relevance. Policies CP4 and DP9 state that development will only be permitted beyond the development limits in exceptional cases, and where the development is within the scope of 6 criteria:
- It is necessary to meet the needs of agriculture, recreation, tourism and other enterprises with an essential requirement to be located in the countryside and will help support a sustainable rural economy;
 - It is necessary to secure a significant improvement to the environment or the conservation of a feature acknowledged importance;

- It would provide affordable housing or community facilities which meet a local need, where that need cannot be met in a settlement within the hierarchy;
- It would re-use existing buildings without substantial alteration or reconstruction, and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing;
- It would make provision for renewable energy generation, of a scale and design appropriate to its location;
- It would support the social and economic regeneration of rural areas.

CP4 also requires that “In all cases, development should not conflict with the environmental protection and nature conservation policies of the LDF and should provide any necessary mitigating or compensatory measures to address harmful implications”.

- 5.4 The operation of an airfield will normally require a countryside location due to the amount of land required and for separation distance from dwellings to attenuate noise. Bagby Airfield is in a countryside location and the business of operating at the airfield, together with enterprises which depend upon a physically close relationship to the Airfield and that will help support a sustainable rural economy, can take support from policy CP4. The development proposed has not been shown to be necessary to meet the needs of any business at the Airfield and cannot take support from CP4. The Hangar in its revised position can now accommodate more aircraft, the applicant notes five can be fitted within the hangar, of which two are considered longer term project build/refurbishment aircraft as stated within the applicants Addendum to the Business Case. It is stated that this profile/utilisation by this development results in no or little additional movements, whilst the retaining hobbyist building/refurbishment skills at this site will be helpful in fostering and retaining core aviation engineering skills. The addendum to the business case fails to show that the development is essential, and the development is therefore contrary to CP4.
- 5.5 The use of Hangar A is controlled by condition 29 of the planning permission 16/02240/FUL that states that Hangar A “...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 are to be permitted within hangars A, C1, E, F, G and H.” The application does not include a proposal to vary the condition 29 and the use for “longer term project build/refurbishment” is beyond the scope of the permitted use.

The Business Case

- 5.6 The Development Plan supports business development in the countryside where it complies with a series of criteria. The leading policy of the LDF is Policy 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) Appropriate tourism related initiatives, including schemes which improve the accessibility of tourist assets both within and outside the District; and
 - iii) Recreation uses appropriate to a countryside location.

- 5.7 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 impacts.
- 5.8 LDF Policy DP25 sets out support for rural employment proposals. All five criteria of Policy DP25 need to be met to enable the development to be supported by this Policy. This requires proposals to be
- i) small in scale,
 - ii) comprise conversion or re-use or appropriate replacement or extensions;
 - iii) be incapable of location within a settlement in the hierarchy at CP4;
 - iv) be supported by a business case; and
 - v) not harm the economy of the service centre.
- 5.9 The extension to Hangar A now extends northward by 12 metres and the hardstanding is 200 square metres in size, as such, the development is small in scale when viewed in context of the site and its use. The proposal meets the first test of DP25.
- 5.10 The proposal will consist of the appropriate extension of Hangar A and the hardstanding to the front of it. The proposal meets the second test of DP25.
- 5.11 It was demonstrated in the application approved (Reference: 16/02240/FUL) that the location of the Airfield outside of a settlement with Development Limits is acceptable. The development as built and proposed, cannot be accommodated within development limits given that the airfield is located outside the built confines of any settlement. The principle of extending Hangar A was found acceptable previously and therefore, this modest extension on the Airfield would be acceptable within this location. The proposal meets the third test of DP25.
- 5.12 The current unauthorised works to Hangar A has created an additional 238 square metres of additional aircraft storage. The approved extension to Hangar A created an additional 72 square metres and therefore the unauthorised works result in a net increase in storage of aircraft space of 165 square metres. (At the time of the application (Planning Reference: 16/02240/FUL), the submitted information indicated that the hangars are not full, housing up to 33 aircraft currently. Indicating an increase to 40 aircraft upon completion of the development resulting in a 21% uplift in based aircraft.) The extension to the hangar to accommodate more aircraft must be expected to result in an increase in movements. The increase of hangar space means that the planning conditions controls set capping the movements are more likely to be reached more often and result in greater levels of disturbance to the environment than if the movements did not occur.
- 5.13 At the time of the planning application (16/02240/FUL) an assessment was undertaken of the number of aircraft movements necessary for the business to be viable. The business viability was assessed on the basis of mainly: the general arrangement of the airfield, the runway length, surfacing, gradient, the facilities on the ground and the ability to generate revenue (landing fees, fuel sales, food and drink, overnight accommodation, hangar fees). The viability of the business was balanced against the assessed historic levels of aircraft movements and the impact

of the aircraft movements upon the amenity of the local community. Conditions were imposed and planning obligation agreed to limit the impact upon the local community. The approval of expansion of the ground facilities without an appropriate business case is contrary to the fourth test of Policy DP25 Without the appropriate business case no assessment of viability as a consequence of the increased hangar space can be made. Whilst ability to accommodate more aircraft could generate more revenue, it could also increase the investment, maintenance and operational costs and result in pressure for uplifts in numbers of movements, and relaxation of other controls set out in the 16/02240/FUL permission.

- 5.14 The business case for the proposal has been reviewed by York Aviation, consultants to the Council. This notes the requirement in the NPPF (para 106 f) to: 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. York Aviation find that “none of the applications provide the clear and concise justifications which would be expected for development at an airfield.” The conclusion reached by York Aviation is that:

Overall, we believe that the applications do not quite provide enough information to allow a planning decision. The extra information should be easy to provide and would need to focus on justifying why these developments are now needed to support the business or economic case for the Facility (outlining both financial and potential economic impacts).

Importantly however, we believe that the overall planning conditions imposed as a result of the 2019 decision would remain valid and would prevent additional activity, meaning that any amended nature of operations from each of the developments under consideration would have to be contained within the same overall controls.

- 5.15 The owner has not supplied any of the aircraft movement data required by the planning conditions of the permission (16/02240/FUL). The consented scheme has not been fully implemented, notably a start has not been made on the consented scheme for the new clubhouse. It is therefore not possible to assess whether the consented scheme will result in the numbers of movements identified to achieve viability, as assessed at the time of the 2016 application, with or without the additional development now proposed. The owner has not supplied an appropriate business case and therefore fails the test of DP25. There is no evidence of a recalculation of viability of the airfield or any detail of the reason why the hangar has been extended beyond the limits set by the approved drawings. In the absence of any evidence regarding the business case or operational need for the extended hangar and the impact it may have on the viability of the airfield it is a risk to allow the facilities to be extended that may result in an incremental change to the scale of operations at the airfield and result in a case on viability grounds to vary the conditions that have been imposed (and agreed planning obligation) in order to safeguard amenity.
- 5.16 During the course of the application, an updated Business Case was requested to assess how the increase in size to Hangar A would affect the viability of the business. An addendum has been provided however no explanation of why the development is necessary to achieve the objectives of the previously accepted proposals has been assessed. Within the applicants Addendum to the Business case the following is stated as the reason why Hangar A was extended,

“The extension to Hangar A and the changes to the hardstanding as originally approved are a result of the need to store an additional two aircraft in Hangar A. Internal storage of aircraft has been raised as a clear need at the Airfield during the winter months with the adverse weather conditions experienced recently and through the COVID-19 restrictions. The hardstanding proposed to the entrance of the hangar will ensure the Hangar is safe, accessible and functional for the use of Aircraft entering and leaving Hangar A.”

However, no further explanation or detail has been provided to indicate how the increase in size of the hangar would affect the viability of the business.

- 5.17 The proposal has not been shown to meet the fourth test of DP25.
- 5.18 The proposal is to support the use of the Airfield. The development of an airfield cannot be accommodated in a service centre and therefore, the development would not impact the economy of any service centres. The proposal meets the fifth test of DP25. As policy DP25 requires compliance with all 5 tests the proposal fails to meet the requirements of Policy DP25.
- 5.19 The development would not result in any significant harm to the natural or built environment, with the extension being no greater in size than the neighbouring hangars and maintenance facilities on site. The hardstanding proposed spans the width of the extended Hangar A measuring an area of 200 square metres and can be considered operationally appropriate for the extended Hangar A. However, when assessing the proposal against the key parts of Policy DP25 it is considered that it fails to meet the fourth test as there is no supporting appropriate business case. It is therefore considered fails to meet all the tests of Policy DP25 and is therefore contrary to the Council’s Local Plan Policies.

The Impact on the Character of the Surrounding Area

- 5.20 Policy CP16 of the Core Strategy states that developments will be supported where they preserve and enhance the District’s natural and man-made assets. Development will not be supported which have a detrimental impact upon the interests of natural or man-made assets. Any necessary mitigation or compensatory measures must be provided to address potential harmful implications of development.
- 5.21 Policy CP17 of the Core Strategy states that support will be given for proposals that are consistent with the LDF’s detailed design policies and meet all the following requirements: provide an attractive, functional, accessible, safe and low maintenance development; respect and enhance the local context and its special qualities, including urban design, landscape, social activities and historic environment, incorporate public art where appropriate; optimise the potential of the site; adopt sustainable construction principles.
- 5.22 Policy DP30 states that the openness, intrinsic character and quality of the District’s Landscape will be respected and where possible enhanced.
- 5.23 The extension to Hangar A on land that was formerly taxi-way and surrounding grass does not result in any significant detrimental impact upon natural or man-made assets. The hangar has been constructed to be low maintenance with the

hardstanding proposed to be low maintenance, providing a safe area to access Hangar A. Whilst Hangar A and the hardstanding are not typically 'attractive' the materials used for the retrospective extension and hardstanding will reflect those existing on the site. Furthermore, the extension to Hangar A falls in line within the layout, design and materials of the other hangars on the site and sits comfortably within the landscape against the neighbouring maintenance hangar, and is therefore considered that the extension does not cause any harm to the character or appearance of the surrounding area and meets the tests of CP16, CP17 and DP30.

Impact on Amenity of the Area

- 5.24 Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.
- 5.25 The extension to Hangar A and proposed hardstanding is located a significant distance from residential properties in the village of Bagby (about 500m). The development would not result in any impacts to residential properties in terms of affecting amenity or privacy, nor would it increase pollution or odour impacts on residents in the village of Bagby. In regard to noise impact on local residents, within the Addendum it is stated that one of the reasons for extending Hangar A was to enable hobbyists to undertake self-build projects on their own aircraft. However, within the original application Hangar A was granted consent for storage of aircraft only, and therefore if engineering works are to occur within the hangar this would result in some noise impact being created from this hangar. With no noise mitigation measures proposed it is considered that this would have the potential to cause some harmful noise impacts and a loss of residential amenity. As noted above use other than for storage would breach the terms of condition 29 of the permission. On the basis of the details set out in the Addendum to Business Case the development is contrary to Policy DP1 of the Local Plan.

Planning Balance

- 5.26 The lack of information regarding the need for the retrospective extension to Hangar A and proposed hardstanding prevents assessment of whether the development would support the local economy and whether in turn this would help sustain rural communities. No weight can be given to economic benefits in any planning balance exercise. The development to extend the hangar does not cause any significant impact on the character and appearance of the area or harm to the environment.
- 5.27 No supporting information has been provided to establish whether the development would result in an increase in activities at the Airfield which would also lead to an impact on amenity. It is therefore considered that the development is contrary to Policy DP1.
- 5.28 The policy requirements of the adopted Development Plan have not been met subsequently the application is recommended for refusal.

6.0 Recommendation

That subject to any outstanding consultations the application be **REFUSED** for the following reason(s):

1. The proposal is contrary to the Local Development Framework Policies CP1 and DP25 as an appropriate business case has not been supplied. Any economic benefit arising from the increased capacity of the aircraft hangar cannot be properly assessed and the potential harm to the amenity of the local population arising from the proposal is not outweighed by any known economic or other benefit.
2. The proposal is contrary to the Local Development Framework Policies CP1 and DP1 as no noise control or mitigation measures have been provided to address the potential harm to the amenity of the local population arising from the use of the building for aeronautical engineering purposes identified in the Addendum to Business Case.

Comments of Bagby and Balk Parish Council

21/00668/FUL Retrospective extension to Hangar A and proposed hard standing adjacent to Hangar A

Dear Mr Allison,

Thank you for giving Bagby and Balk Parish Council the opportunity to comment on the above application. However, Councillors feel that Hambleton District Council does not actually take any notice of the opinion of the Parish Council, or residents comments, when making a decision on a planning application and therefore it is completely pointless submitting a response to any application in relation to the airfield.

The applicant must consider HDC, the PC and residents of Bagby completely naive if he thinks they would believe the oversize of the hanger is a contractor's error. No contractor would build a steel frame larger than the plans due to the cost and their reputation.

This is one of the poorest excuses for planning infringement at the airfield to date and if HDC recheck previous excuses provided by the applicant, the PC believes it has actually been used before.

The PC feels this process has been a deliberate act to allow the hanger to accommodate larger planes and indeed this wider hangarage has already been advertised by the applicant.

This application must not be considered on its own, it's clearly part of a much bigger plan. There is also an application to keep the "temporary" hangers which the PC did predict would happen as the hangers were very much permanent when built . HDC must also consider the applications for runway extensions and unnecessary turning circles which are all leading to business usage 24/7 all year round.

Only when you consider all these applications together, can you see the bigger picture for a much larger, busier airport which will bring additional noise to the village of Bagby.

An EIA exercise must be carried out to screen proposals on a cumulative basis.

Recently, there has been a large increase in flights taking off, uphill towards the village and residents are noticing the increased noise. The monitoring system is long overdue and there is no control over activities at the airfield.

Bagby and Balk Parish Council feel Hambleton District Council are negligent in continuing to allow this creeping development by way of retrospective applications.

It is an absolute disgrace that the applicant is allowed to put in retrospective applications over and over again. No member of the public would be allowed to do this, yet Mr Scott uses this tactic repeatedly and the planning decision always goes his way. This should not be allowed to continue.

The Parish Council looks forward to hearing your decision on this application and hopes that for once, HDC takes notice of its residents and refuses the application.

Kind regards Sandra Langthorne

Clerk to Bagby and Balk Parish Council

Response from Action 4 Refusal

This is the response of Action For refusal to an invitation to comment on two retrospective planning applications in relation to works to the runway and extension of Hangar A at Bagby airfield . There are other retrospective applications in the pipeline but only these two application are to be considered for decision at the next Planning Committee meeting

1. Summary and Conclusion

(a) These two retrospective applications are obviously invalid and should not be before the Planning Committee for consideration.

(b) The officer has admitted that no indirect or cumulative impact assessment has been carried out prior to the validation decision . Had this been done , and the applications not looked at in isolation, an Environmental Statement would have been required prior to validation.

(c) The so called Addendum to the Business case forwarded by Barton Wilmore and the contradictory but ultimately encouraging positive steer put in it by York Aviation is contradicted by the submitted business case itself , the airfield's own public statements in other contexts including what it says on its own website. The only business case put forward relates to the sole traders Graham and Matthew Fox rather than the airfield itself and should be disregarded on that ground alone ; properly speaking there is no business case at all to go with the application. But even a business case for the airfield's major commercial tenant could be considered in an application made by the airfield , it is wholly inadequate as it is based on statements that are manifestly wrong : the applications should not have been validated.

(d) Should the Committee disagree and hold that the application is nevertheless valid, it has no choice but to reject the retrospective applications as any approval would be clearly defective.

3. The absence of an Environmental Statement

(a) The applications are presented in isolation and characterised as a repair operation to the runway and a necessary development to Hangar A . Even if this were to be true (which it is not , as both will facilitate the landing and maintenance of heavier and noisier planes) Tim Wood admitted to A4R on September 17 that all that has been done is a box tick exercise on a two page pro forma to enable the planning department to conclude that the impact of the developments are not 'substantial' and therefore that an Environmental Statement is not required.

(b) Not for the first time, no indirect and cumulative assessment has been carried out. Any such real world assessment would have had to take into account wholesale non compliance with planning conditions, so called non material variations that the officials wish to permit and other retrospective applications both actual and prospective to cater for unauthorised development carried out by the airfield.

(c) The failure to adopt a holistic approach which is required by law, results in entirely the wrong baseline being adopted for consideration of these retrospective applications. An Environmental Statement should have preceded validation; it is a fatal defect and means that the applications should never have been validated.

(d) A proper Environmental Statement is required for very good reasons anyway since for the very first time a safety audit would have been carried out. The airfield still cannot afford a manager and in recent months children have been sighted on the fuel facility, the runway area has been used for go carting and there has been a reported near -miss incident. These are serious matters which require consideration prior to validation.

4 the so called Business Case

(a).LDF policy DP 25 requires that an 'appropriate' business case be submitted in support of these proposals. Without such a business case, these applications would have not been validated and would have been thrown out. Tim Wood did ask that a business case be submitted but this was only in relation to the Hangar A retrospective application. This was far too narrow a request; with two days to spare before the deadline for submission, an Addendum was produced by the airfield's Peter Bondar and forwarded by Barton Wilmore . The Addendum contained an attempted business case not just in respect of Hangar A but also in relation to runway alterations 21/01243, retention of the temporary hangars and other applications yet to be submitted. The Addendum does not amount to an "appropriate " business case since it is wholly related to FAE the major commercial tenant. There is no attempt to relate any benefits that might be derived from the developments for FAE to the airfield as a whole. As such the application lacks a business case and should never have been validated.

(b) Should it be assumed (as it would have to be) that what is good for FAE is good for the airfield and that the formal defect can be disregarded(a legal error) and therefore that a formally valid application actually exists, the Planning Committee should note that in the ' business background' in the Addendum (which was submitted in July)Bondar made the following statement :-

'Fox Aviation(FAE) went through a challenging period as a result of regulatory oversight(the reference here is to the withdrawal of its licence by the CAA!) and subsequent mandated changes. The paradoxical results of these changes in the wider general aviation market has resulted in a greater demand for FAE resources....FAE NOW(our emphasis) have 10 fulltime staff plus 4 part time staff as well as apprentice and training based operations - a much broader operation than was predicted".

(c)"Paradoxical" does not really capture the reality of the situation for in the section headed "current situation " in the Addendum Bondar describes the period March 2020 to 2021 as being ' very limited' due to Covid and Brexit.This negative message is reinforced by Bondar at the improperly constituted Consultative Committee on the 5 August as follows ;-

'Overall general aviation activity remains lower than pre - pandemic and pre Brexit levels; as a result of a number of changes affecting all aspects of UK aviation it is suspected that many occasional flyers/ operators have simply not taken place with all the changes and have in part suspended their operations'

(d)Quite how the 'doom of gloom' of this latter statement(apparently written in April) might be reconciled with the ' all systems go' message in the Addendum in July would be a challenging exercise to put it mildly. Had business at Fox suddenly bucked the desperate situation in the market overall (Tees side has just recorded an annual loss of 14 million sterling after all) between March and August of 2021 one might have expected Bondar to have made a positive announcement at the Consultative Committee meeting in August.Such a turnaround is implausible in the extreme. However no reconciliation is in fact possible because the statements in relation to 10 permanent positions and 4 part time staff are simply wrong . According to the Fox website (which is not a company it should be stressed)there are actually only 6 employees. Of these -an administrator - has a connection with the owner, one has no maintenance qualification, one is based in Beverley and semi retired .With only 600 movements in the first quarter, the prospects of employment actually increasing from this very low base are not exactly promising. What is more likely is that there will be a reduction in employment if that has not occurred already.

(e) Action for Refusal has pointed this fundamental factual discrepancy on employment numbers to HDC and Barton Wilmore and has been met with a deafening silence. The Planning Committee

is therefore being asked to take seriously a business case put forward on behalf of a couple of sole traders who will necessarily have very limited access to outside capital, one of whom is coming up to retirement and has had his licence removed by the CAA in the past and the other (his son) who has no aircraft maintenance qualifications at all . What is more, the list of resident aircraft finally submitted pursuant to a planning condition (well in arrears as usual) makes residence claims that are manifestly incorrect thus giving an inaccurate picture of the number of planes at the airfield and therefore the need for extended hangarage. Truly this is a "business " that is going nowhere fast in the economic conditions that Bondar describes so eloquently.

(f)Not for the first time, York Aviation 's commentary fails to scratch even the surface of claims that are made. It will be recalled that in its report on the original business case at paragraph 4.126 it expressed doubt as to the employment benefits predicted by the airfield because they were not " robust enough" (sic) .In spite of this concern(which turned out to be entirely justified) it was prepared to conclude based on its supposed expertise that there was a reasonable chance of the promised developments occurring - a conclusion that officers were only too happy to rely on in their report recommending acceptance. In the Addendum the same shoddy 'reasoning' is apparent ; thus their "high level review" (sic)says that " none of the applications provide a clear and concise justification which would be expected for the development of an airfield". And yet these experts conclude at the end of their commentary that these justifications can be provided relatively easily !

(g) Quite how this can be done in the light of Bondar's statement about the general aviation market and his comments to the Consultative Committee is very difficult to imagine. Whatever level York Aviation operate at you would have expected them to discuss Bondar's remarks in the Addendum itself and the evidence of only 600 hundred movements even if it is too much to expect them to look at the website or read his corroborative negative remarks at the Consultative Committee only a couple of months ago. Apart from a passing reference to Covid there is little or no attempt to examine the business case in the light of the state of the general aviation market at all . This is remarkable deficiency in a report from supposed 'experts'.

(h)Even more remarkable is the implicit working baseline assumption underpinning their report that the conditions of the original permission are being observed and this compliance will continue. The Planning Committee and everyone else with any interest in this planning debacle knows full well that this is a wholly inaccurate assumption. In fact the conditions are mostly being ignored and new unauthorised developments seem to come to light all the time .York Aviation's opinion is worthless in the light of all these defects . If the object of commissioning it (at residents expense as ever) was to provide officers with some cover for a positive recommendation in the very tight corner in which their maladministration has placed them, the money spent was (once again) completely wasted.

(i)So defective a "business case" cannot possibly be "appropriate' as required by DP 25. The decision to validate the application was clearly wrong as the Addendum is a nullity. If the Committee disagrees, there is only one available option and that is rejection of these retrospective applications accompanied by long overdue court action in respect of the many continuing breaches of condition.

ACTION FOR REFUSAL