

Parish: Bagby
Ward: Bagby & Thorntons
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Committee Date : 10 February 2022
Officer dealing : Mr Craig Allison
Target Date: 5 November 2021

21/02087/FUL

Retrospective siting of fuel pump and fuel bund
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 The site has previously been subject to a public inquiry for two fuel facilities. Later proposals for fixed fuel facilities replaced the earlier facilities. A further fuel tanker has been brought on site, between Hangar E and the temporary hangars. The hardstanding and fuel dispenser have been situated on the ground.
- 1.7 Planning permission was granted on the 30 July 2019 under planning reference 16/02240/FUL for a range of developments on the Airfield. This permission included planning permission for fuel pumps and bunds to the north of the runway. Condition 8 of the planning permission states the following:

“No oils shall be stored outdoors unless impervious bund walls have been formed in accordance of details previously submitted to and approved in

writing by the Local Planning Authority. The bund shall be retained and maintained in accordance with the industry best practice guidance at all times that fuel is stored within the bund.”

- 1.8 Whilst there is a fallback permission that the applicant can dispense from a mobile fuel tanker without permission, a planning application is required as condition eight requires all oils at the Airfield to be stored in bunds. Therefore planning permission is being sought for the siting of the pump within a fuel bund to ensure compliance with condition 8. The proposed fuel bund would hold a capacity of 19,635 litres, measuring 8.5 metres in length, 3.5 metres in width and 0.66 metre in height. The bund would be built from materials to match the existing bunds on the site.
- 1.9 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 – Refused on 22 October 2021 for the following reason:

“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 and is also contrary to the Local Development Framework Policy DP1.”

- 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 21/00668/FUL - Retrospective extension to Hangar A and proposed hard standing adjacent to Hangar A – Refused on 22 October for the following reasons:

“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.

“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”

- 2.8 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.
- 2.9 22/00117/SCR - Application for screening opinion related to redevelopment of the buildings on the north side of the runway – 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 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 DP25 – Rural Employment
Development Policies DP30 - Protecting the character and appearance of the countryside

- 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.

4.0 Consultations

- 4.1 Bagby & Balk Parish Council have objected to the application - Originally the siting of this pump in this location was turned down at the appeal stage. The appeal report also details how residents are disturbed by the noise from the helicopter when refuelling. The siting of this pump has meant helicopters landing at all hours and subsequently causing noise disturbance to local residents.
- 4.2 Environmental Health have raised no objection to the application.
- 4.3 Natural England have raised no comments in regard to the application
- 4.4 North Yorkshire Fire and Rescue Service have raised no comments in regard to the application.
- 4.5 Health and Safety Executive has raised no comments in regard to the application.
- 4.6 No comments were received from the following:
 - Thirkleby Parish Council
 - Yorkshire Wildlife Trust
 - Woodland Trust
 - North Yorkshire County Council Licensing
 - Defence Infrastructure Organisation (Ministry of Defence Safeguarding)
- 4.7 Public comments – A site notice has been displayed and neighbours consulted. No representations have been received.

5.0 Analysis

- 5.1 The main issues to consider are: (i) the principle of providing an additional fuel pump; (ii) the impact of the development on the character and appearance of the area and (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, subject to several criteria. 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. These relate to where:

- 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.

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 would help support a sustainable rural economy, can take support from policy CP4. The development has not been shown to be necessary to meet the needs of any business at the Airfield and cannot take support from CP4

The Business Case

- 5.5 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:
- Retention or expansion of appropriate businesses outside of the Service Centre and Service Villages;
 - Appropriate tourism related initiatives, including schemes which improve the accessibility of tourist assets both within and outside the District; and
 - Recreation uses appropriate to a countryside location.
- 5.6 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.
- 5.7 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
- small in scale,
 - comprise conversion or re-use or appropriate replacement or extensions;
 - be incapable of location within a settlement in the hierarchy at CP4;
 - be supported by a business case; and
 - not harm the economy of the service centre.

- 5.8 The fuel pump and proposed fuel bund are considered to be small in scale when considered against the previously approved fuel pump and bund. As such the development meets the first test of DP25.
- 5.9 The fuel pump and bund are not a re-use or conversion of an existing building. All the fuel pumps approved by the 2019 permission have been constructed and are in use. This fuel pump is stated to be required to enable a helicopter stored in Hangar G to have their own fuel pump access at the Airfield. As part of the 2019 planning permission three fuel pumps were approved to the north end of the Airfield and these have been constructed and are in operation at the Airfield. There is no demonstrable need for additional fuel pumps on the site. The proposal fails the second test of DP25.
- 5.10 It was demonstrated in the planning application approved (Reference: 16/02240/FUL) that the location of the Airfield is outside of a settlement with Development Limits and 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. As the fuel pump and bund are not capable of being located within a settlement due to the position of the Airfield it is considered that the siting of the fuel pump and bund meets the third test of DP25.
- 5.11 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 fuel pumps available can be made. The ability to ensure more aircraft can be fuelled at any one point could 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.
- 5.12 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.

- 5.13 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. In the absence of any evidence regarding the business case, or the impact the development 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. The development may therefore erode the amenity of the local community.
- 5.14 During the course of the application, an updated Business Case was requested to assess how the fuel pump and bund 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.
- 5.15 The proposal has not been shown to meet the fourth test of DP25.
- 5.16 The retention of a fuel pump and bund is to support the use of the Airfield. The development of an airfield due to its size and character 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.
- 5.17 The development would not result in any significant harm to the natural or built environment given that the fuel pump is constructed near the existing built form on the Airfield. The development fails to meet parts (ii) and (iv) of Policy DP25. the proposal fails to meet the key aims and objectives of Policy DP25 and is therefore contrary to the LDF Policies. CP4 and DP25.

The impact on the character of the surrounding area

- 5.18 Policy CP16 of the Core Strategy states that development 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.
- 5.19 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.

- 5.20 Policy DP30 states that the openness, intrinsic character and quality of the District's Landscape will be respected and where possible enhanced.
- 5.21 The National Planning Policy Framework Planning supports this approach and, at paragraph 134, states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 5.22 The Airfield and the buildings within its bounds, including the fuel pump and bund in question, lie beyond the built confines of Bagby and form part of the surrounding countryside. The fuel pump and bund are not isolated entities in the countryside. They form part of the group of buildings associated with the airfield and do not seriously impinge upon the rural character of the sites surrounds. It is therefore considered that the fuel pump and bund do not have a significant detrimental impact upon the character and appearance of the countryside and therefore the proposal does not breach the tests of CP16, CP17 or DP30.

Impact on the of amenity of the area

- 5.23 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.
- 5.24 It has been raised that the fuel pump in this location was previously dismissed at an appeal. This was in reference to an appeal heard in 2010 following the refusal of 09/04039/FUL for "Replacement helicopter landing pad and jet fuel stop facility". However, this referred to noise and disturbance caused by helicopters using the facility. Since this appeal decision a further approval has been granted by the Council under planning reference 16/02240/FUL which imposes a number of conditions in regard to the use of the Airfield. Therefore, as the fuel pump is positioned a considerable distance away from resident's properties and it is a requirement that all aircraft shall be turned off when refuelling, it is considered that the development does not cause any harm on local residents of Bagby.

Planning balance

- 5.25 The lack of information regarding the need for the construction of a further fuel pump 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.
- 5.26 The retention of the fuel pump and bund does not cause significant harmful impact on the character and appearance of the area or harm to the environment.
- 5.27 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 fuel pump 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 and is also contrary to the Local Development Framework Policy DP1.