



Minutes of a meeting of Planning and Licensing Committee held on Wednesday, 10 July 2024

Members present:

Ray Brassington – Chair
Daryl Corps
David Fowles
Mark Harris

Patrick Coleman – Vice-Chair
Julia Judd
Andrew Maclean
Ian Watson

Mike Every

Officers present:

Helen Blundell, Interim Head of Legal Services
Richard McEllistrum, Interim Development
Management Manager
Malcolm Jones, Highways Response Officer
Helen Cooper, Senior Planning Case Officer

Harrison Bowley, Senior Planning Case Officer
Caleb Harris, Senior Democratic Services
Officer
Ana Prelici, Governance Officer
Adrian Harding, Interim Head of Planning
Anthony Keown, Planning Consultant

Observers:

Councillor Juliet Layton

13 Apologies

Apologies were received from Councillors Michael Vann, Gary Selwyn and Dilys Neill.

14 Substitute Members

Councillor Mike Every acted as a substitute for Councillor Michael Vann.

15 Declarations of Interest

Councillor David Fowles, stated that he knew the parish Councillor and Objector for item number 8 as well as the agent for item number 9.

Councillor Patrick Coleman also knew the objector for item number 8.

Councillor Ray Brassington stated that he knew the agent for item number 10 as they had previously been employed at the Council.

All three members stated that they were approaching the items with an open mind.

16 Minutes

There were no amendments to the minutes.

The minutes were proposed by Councillor Watson and seconded by Councillor Coleman.

Voting record- For 7, Against 0, Abstentions 2, Absent/did not vote 2*

RESOLVED: To APPROVE the minutes of the meeting held on 12 June 2024.

*Due to a technical issue there was no recorded vote for the item.

17 Chair's Announcements

The Chair reminded Members that the next meeting would be on the first Wednesday of the month, on 7 August.

There were no other announcements.

18 Public questions

There were no public questions.

19 Member questions

Democratic Services had not received any Member Questions prior to the meeting.

Councillor Mark Harris had submitted a question which he had submitted to planning services. It was explained that a written response to this question would be distributed following the meeting.

20 23/03211/DMPO- Rendcomb Airfield, Rendcomb, Cirencester

The Chair explained that he had previously been employed by the Council as an Environmental Health Consultant between 1986 to 2012 and had dealt with noise complaints relating to flying operations at this airfield. He left the Council in 2012 before being elected as a Councillor in 2015.

The Case Officer introduced the item.

The application was to vary the obligation of the Section 106 Agreement at Rendcomb Airfield Rendcomb Cirencester Gloucestershire GL7 7DF.

The background to the application, as set out in the Officer report was that, upon the original planning permission being granted on 20 June 1989, the approval was subject to a legal agreement, which included "11. Not to use the land or allow or permit the use of the land for commercial purposes with the exception that aircraft used elsewhere for commercial purposes may be kept or stationed upon the land."

The application had been submitted owing to commercial activity at the site, where wing walking had been operating since 1992, resulting in a breach of the condition, and subsequent complaints from residents regarding this.

Following consultation with an independent noise consultant, The Case Officer had deemed that in legal terms, the condition continued to serve a useful purpose in protecting residents from noise and conserving the tranquillity of the Cotswolds National Landscape, and therefore recommended that the condition not be amended.

Public speakers addressed the Committee.

Councillor Mark Tuffnell, from North Cerney Parish Council, addressed the Committee. Councillor Tuffnell stated that the level of wingwalking flights had increased over the years, and that these were excessively noisy for residents.

Councillor Graham Horwood, from Rendcomb Parish Council, addressed the Committee. Councillor Horwood stated that wingwalking to the general public had been a recent development, leading to the increase of complaints. Councillor Horwood stated that the legal agreement continued to serve a useful purpose, and therefore should be maintained.

Nicholas Arbuthnott, an objector, addressed the Committee. The objector raised issues with the noise created by the proposals being contrary to the quiet enjoyment of the Cotswold Area of Outstanding Natural Beauty, in which the site was situated.

Mike Dentith, a supporter, addressed the Committee. The supporter stated that wing walking flights to the general public had been operating from the 1990s and raised money for charitable causes. They also stated that they did not believe there was an impact on biodiversity.

Vic Norman, the applicant, addressed the Committee. The applicant stated that the aircraft was flying as quietly as possible, and highlighted the support for charitable causes.

The Ward Member had sent his apologies but had distributed a statement within the additional pages.

Members who attended the Sites Inspection Briefing addressed the rest of the Committee, raising the following points;

- The buildings and field were very well maintained.
- Biodiversity was likely unaffected.
- The noise impact was noticeable, particularly once the flight that was operating at the time of the visit had ceased.
- Members stated that the disruption caused by the aircraft was in keeping with the objective of the Cotswold National Landscape.

Member Questions

Members asked questions of the Case Officer, who responded as follows:

- There were 6,300 non-commercial flights permitted a year, permitted on 180 days of the year, with 35 take-offs per day. The application to discharge the legal obligation sought to operate 1000 flights of these as commercial wing-walking flights. Wing-walking flights would stay within the vicinity of the site, following a set route, this nature and character was different from other types of flights.
- The Case Officer believed that the original Section 106 legal agreement had been in breach for 28 to 30 years but explained that there were conflicting views on this.

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- The Case Officer explained that unlike a usual planning application, the test to be applied in determining the application was more specific, this was, does the condition continue to serve a purpose, and would modification allow it to achieve the same purpose. Therefore, matters like raising money for charitable causes was not something that the Committee could consider.
- The Noise Officer explained that in the applicant had excluded two sites in their report as they deemed the noise in that environment to be higher than the noise produced by aircraft but that the measurements had not been provided.
- The length of the breach was not relevant in this sort of application.
- The existing planning use was as a grass airfield, so the biodiversity of the site was unlikely to be impacted by a rejection.
- In an appeal against another Authority in a similar case, preserving the quality of the National Landscape was considered a material consideration.
- The noise consultant felt that although the 45dBa noise did not exceed the 55dBA department for transport guidance, the Committee may wish to give special weight to the setting of this site (in the Cotswold National Landscape), as the guidance did not distinguish between rural and urban settings.
- Considerations such as the tone, and other characteristics of the noise should be taken into the consideration as well.

Member Comments

Members made the following comments on the application:

- The nature of the noise felt more disruptive than the volume of it, in their experience on the site visit.
- The history of the site was appreciated and respected, although a balance needed to be struck between this and the quiet enjoyment of the Cotswold National Landscape.
- Flying from point A to B was deemed very different to circling in a set route.

Councillor Mark Harris proposed accepting the officer recommendation, and Councillor Andrew Maclean seconded the proposal.

RESOLVED: That the planning obligation shall continue to have effect without modification.

23/0321 I/DMPO- Rendcomb Airfield, Rendcomb, Cirencester- That the planning obligation shall continue to have effect without modification. (Resolution)		
For	Ray Brassington, Patrick Coleman, Daryl Corps, Mike Every, David Fowles, Mark Harris, Julia Judd, Andrew Maclean and Ian Watson	9
Against	None	0
Conflict Of Interests	None	0
Abstain	None	0
Carried		

21 **23/02066/FUL- Land To The Rear Of South Cerney Surgery, Clarks Hay, South Cerney**

The application was for the erection of single-storey building to provide up to two commercial units (Class E) and associated ancillary development at Land To The Rear Of South Cerney Surgery, Clarks Hay, South Cerney, Gloucestershire.

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The Case Officer introduced the item and explained that negotiations with the applicant had taken place and that they had agreed to reduce the scale of the proposal.

Public speakers addressed the Committee. At the Chair's discretion two objectors were allowed to speak. They had both been registered for the slot due to an administrative error.

Christine Hall, an objector, addressed the Committee. The objector raised concern over parking and highways safety.

Colin Godfrey, an objector, addressed the Committee. The objector raised concerns over decreased parking space, and that the steep design of the roof was not in keeping with the Cotswold Design Code within the Local Plan.

Andrew Pywell, the agent, addressed the Committee. The agent stated that the application was in keeping with Local Plan Policies EC1, EC3, EC7 and EC8. They also addressed the parking concerns and stated that the centre was served by a private car park but that some issues existed with this, which would be ameliorated by the proposal.

Councillor Juliet Layton, the Ward Member, addressed the Committee. Councillor Layton addressed the parking concerns, explaining that she had chosen to refer the application to the Committee due to these reasons.

Member Questions

Councillor Mike Evemy stated that the South Cerney surgery was designated as his local GP surgery but that he did not feel he had a conflict of interest.

Councillor David Fowles also utilised the surgery.

Members asked questions of the Case Officer, who responded as follows;

- Unable to confirm whether comments had been received from the Phoenix Centre as it was not possible to access the comments during the meeting.
- There were no further parking restrictions on the road, but as part of the application, bays would be marked out, with the hopes of issues being alleviated.
- There was no information around trip generation from this use, as it was a broad use class.
- The proposals to resolve tandem parking would include designated employee parking with bollards.
- The application was for the use class E, not for a specified purpose within this.

Member Comments

Members commented on the application as follows;

- Some members felt that parking was not removed by this application, as there was already a lack of parking in the village, however this view was not shared by all.
- Others felt it would exacerbate the existing situation.
- Some felt that the availability of parking was variable.
- The parking was on private land, so the Council's control over it was minimal
- There was considerable cooperation from the agent in revising the application.

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The Interim Development Management Manager felt that the use of all six tandem parking spaces being used for employees was not clear, but the overall scheme including signage would be assessed as part of the conditions being discharged.

Councillor Judd proposed refusing the application, Councillor Fowles seconded this proposal, but later it was withdrawn by the proposer, citing a lack of material planning reasons for refusal.

Cllr Mark Harris proposed permitting the application.
Cllr Patrick Coleman seconded the proposal.

RESOLVED: To PERMIT the application

23/02066/FUL- Land To The Rear Of South Cerney Surgery, Clarks Hay, South Cerney- Permit (Resolution)		
For	Ray Brassington, Patrick Coleman, Mark Harris, Andrew Maclean and Ian Watson	5
Against	David Fowles	1
Conflict Of Interests	None	0
Abstain	Daryl Corps, Mike Evey and Julia Judd	3
Carried		

22 24/00186/FUL- Land South East Of Elkstone Studios, Elkstone

The application was for the siting of six shepherd huts for mixed retail and community use (Class E(a)/(b) and/or Class F2(a)) at Land South East Of Elkstone Studios, Elkstone, Gloucestershire, GL53 9PQ.

The Case Officer introduced the application. The uses would be for goods, hot food and essential goods.

The Interim Head of Legal Services stated that Cllr Judd had referred the application into the Committee but could partake in the debate. The legal test in this case was whether a fair-minded observer would think that the member was approaching the application with a sufficiently open mind so as to not predetermine it.

The agent, Wendy Hopkins, addressed the Committee, reading a statement on behalf of the applicant. The statement made reference to the lack of objections and small footprint of the scheme.

Member Questions

Members asked questions of the Case Officer, who responded as follows;

- The existing uses at Elkstone Studios were considered by officers to be town centre uses, inappropriate for the open countryside, contrary to policies EC7 and EC8. Although they would be small, they would be additional structures.
- The application would be more likely to be supported by officers if it was reusing pre-existing farm buildings, however as these were new structures officers did not feel these were appropriate.
- No Retail Impact Assessment was provided due to the small footprint.

Member Comments

Members made the following comments

- Some members felt that the business should be encouraged to diversify, however it was felt that this application was a ‘tipping point’ for overdevelopment, and this was contrary to Local Plan policies EC7 and EC8.
- Other members felt that the shepherd’s huts did not change the nature of the business, and were small.

Councillor Patrick Coleman proposed refusing the application, stating that the application was not appropriate as it was not reusing existing rural buildings.

The proposal was seconded by Councillor Ian Watso

24/00186/FUL- Land South East Of Elkstone Studios, Elkstone- Refuse (Resolution)		
For	Ray Brassington, Patrick Coleman, Mike Evey, David Fowles, Mark Harris, Andrew Maclean and Ian Watson	7
Against	Daryl Corps and Julia Judd	2
Conflict Of Interests	None	0
Abstain	None	0
Carried		

23 22/02749/REM- Employment Land East Of Spratsgate Lane, Cirencester

The application was for the approval of appearance, landscaping, layout and scale of the employment area to the east of Spratsgate Lane, Cirencester, Gloucestershire.

Case Officer introduced the item. The Case Officer explained that the application was part of The Steadings development, which required sustainable, high-quality mixed-use development. This application related to the first of three Employment Areas within The Steadings, were it to receive permission. At the meeting in March 2024, Members delegated authority to the Interim Head of Planning Services, in consultation with the Chair of Planning and Licensing Committee, to determine this application subject to a number of caveats. One of those caveats was agreement of a satisfactory scheme for controlling noise emitted from the development.

The Council’s Environmental Regulatory Services (ERS) lead on this application left the Council in March 2024. Officers therefore appointed independent noise consultants Nova Acoustics Limited to provide specialist acoustic advice on the application. Nova provided advice in a Technical Memo dated the 8th of May. It responds to the Applicants’ noise evidence, and also sets out the findings of Nova’s assessment of the site.

Having reviewed Nova’s Technical Memo, officers advised the Applicants on six measures that would need to be incorporated within the scheme for controlling noise. Of those measures, three could be secured through conditions attached to any approval of reserved matters. The remaining three could not be satisfactorily addressed by conditions. The Case Officer

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explained how these three contested measures were preventing officers from recommending approval of this application. As the Applicants were not prepared to agree the measures in question, officers had no choice but to recommend refusal. The Case Officer explained that the preferred approach was to agree a satisfactory scheme for controlling noise, which would allow officers to support this application.

James Hicks, the agent, addressed the Committee. The agent stated that the application had been referred to the Committee over a difference of opinion on the interpretation of condition 68 (Noise) attached to the outline planning permission 16/00054/OUT. The agent did not feel that the officer's assessment was correct, stating that he believed the critical noise threshold should be 55 decibels (dBA). The agent stated that if this application was not permitted, the Applicants would appeal against the Council's decision, and apply for costs.

Member Questions

The Case Officer described the three contested measures:

- precluding use of the service yards (including deliveries) between the hours of 23:00 and 07:00;
- subsequent submission and approval of Noise Management Plans (NMPs) prior to use; and
- reducing noise emissions from use of the service yards at units 2 and 3 in particular.

The Case Officer explained how the Applicants did not consider these measures to be necessary. He explained that the difference of opinion stemmed from different interpretations of condition 68, which refers to two different British Standards. That condition requires the scheme for controlling noise to be based on the noise rating and methodology laid out in British Standard (BS) 4142. It also states that the scheme should ensure that noise levels in the nearest gardens and public open spaces do not exceed 55 dBA LAeq (1 hour) when measured at any period. This general noise threshold is referred to within BS 8233.

The Case Officer explained how BS 4142 is the appropriate standard for assessing industrial and commercial sound, and how it incorporates a methodology for assessing impacts on neighbouring noise-sensitive properties. That methodology is context-specific; i.e. significance depends on the margin by which the rating sound level exceeds the background sound level, and the context in which the sound occurs. In effect, the background sound level is critical. Whereas the general noise threshold referred to within BS 8233 is not context-specific.

The Case Officer explained how in this case the daytime background sound level is 37 dBA. Under the BS 4142 methodology for assessing impacts, exceeding the background sound level by 10 dBA indicates significant adverse impacts. The Case Officer explained why giving primacy to the 55 dBA threshold would therefore be inappropriate and irresponsible in this case. In effect, a scheme for controlling noise could be completely ineffectual in preventing significant adverse impacts on neighbouring residential properties, and still meet the second stipulation within condition 68 (which in this case would allow exceedance of up to 18 dBA). This would fly in the face of the stated reason for imposing condition 68 in the first place. The Case Officer also pointed out that the BS 4142 methodology is entirely consistent with the approach advocated in the National Planning Policy Framework (NPPF), which is cited in the reason for imposing condition 68.

The Case Officer had therefore concluded that the second stipulation within condition 68 should not be interpreted as the critical threshold, and one that should overrule the findings of

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a BS 4142 assessment. Conversely, the Applicants considered that the 55 dBA threshold was the critical consideration, and should be used to determine whether a scheme of noise mitigation is acceptable.

The Case Officer explained why the Applicants' proposed hours of operation (i.e. pursuant to outline planning permission condition 65), which form part of the proposed scheme of noise mitigation, were not considered acceptable. He also explained the importance of NMPs, given the nature of the noise concerns in this case. The Interim Head of Planning described how the Applicants had previously submitted a scheme of noise mitigation, which included a commitment to NMPs. However, that scheme had been submitted on a 'without prejudice' basis, and the commitment to NMPs had subsequently been withdrawn.

Members asked questions of the Case Officer and other officers, who responded as follows.

- Members asked whether background sound levels within the rear gardens of nearby residential properties within Orchard Field had been recorded. The Case Officer explained that the Applicants' noise consultant had only recorded the background sound levels at one location within the application site. Nova Acoustics Limited had relied on that data when assessing the proposals.
- The Interim Head of Legal Services explained that until the application was determined, the Committee could reach a different conclusion to the one they reached in March.
- Members asked whether different parts of the site could be treated differently, depending on potential impacts. The Case Officer explained how use of the service yards at units 2 and 3 posed a particular concern, especially as those yards could be in use between 19:00 and 23:00 each evening. This was one of the reasons why NMPs were considered important, as they would allow measures to be tailored to the risks/issues involved (e.g. evening period loading and unloading activities).
- Members asked whether there was still a prospect of reaching agreement with the Applicants on the contested points. The Case Officer described how the Applicants had been given an opportunity to resolve the contested issues, but that they had instead requested that the application be considered again at the July Committee meeting. Officers had therefore concluded that the Applicants wanted the Council to determine the application as proposed in July.
- Members asked whether the interpretation of condition 68 had been tested in court. The Case Officer explained that the interpretation of condition 68 had not been tested in that way. He went on to explain how the courts have previously found that there are no special rules for the interpretation of planning conditions. A key question is what a reasonable reader would understand the words to mean when reading the condition in the context of other conditions and of the consent as a whole.
- The Interim Head of Legal Services explained how the Council had taken legal advice on whether it could impose conditions to address the contested matters. The Council had been advised that imposing additional conditions on any approval of reserved matters (i.e. to secure a more effective scheme for controlling noise) would be inappropriate - given outline planning permission conditions 65 and 68.

Members observed that the issues were technical and detailed. The Interim Head of Planning summarised the position as follows. The Applicants wanted the Council to accept a scheme for controlling noise, which officers consider to be inadequate. The consequence of accepting the Applicants' position would be that the development could generate more noise and for a longer period.

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Members expressed disappointment that at this early stage in the implementation of The Steadings, the Committee was being threatened with an appeal and an application for costs.

Councillor Fowles left the room at 17:40.

Member Comments

Councillor Coleman proposed refusing the application.

Councillor Andrew Maclean seconded the proposal.

RESOLVED: To REFUSE the application.

22/02749/REM- Employment Land East Of Spratsgate Lane, Cirencester - Refuse (Resolution)		
For	Ray Brassington, Patrick Coleman, Daryl Corps, Mike Evely, Mark Harris, Julia Judd, Andrew Maclean and Ian Watson	8
Against	None	0
Conflict Of Interests	None	0
Abstain	None	0
Carried		

24 Sites Inspection Briefing

A Sites Inspection Briefing would take place on 31 July 2024 with Councillors Ray Brassington, Patrick Coleman, Julia Judd, Dilys Neill and Michael Vann

25 Licensing Sub-Committee

No Licensing Sub-Committee would be required at present.

The Meeting commenced at 2.00 pm and closed at 6.00 pm

Chair

(END)