

Planning Committee

14 April 2011

**RR/2011/310/P**

**SEDLSCOMBE Spilstead Farm, Stream Lane**

**Continued use of land as an airstrip without complying with condition 1 (temporary) and condition 2 (personal) on planning permission RR/2009/17/P.**

**Applicant:** Mr W Cole  
**Agent:** CLM Planning  
**Case Officer:** Mr G Fifield (Tel: 01424 787621)  
 (Email: graham.fifield@rother.gov.uk)

**Parish:** SEDLSCOMBE  
**Ward Member:** Councillor A E Ganly  
**Reason for Committee consideration:** Head of Planning referral  
**Statutory 8 week date:** 20 April 2011

## 1.0 POLICIES

- 1.1 Policies DS1 and GD1 of the Local Plan are applicable and seek to ensure that development does not harm residential amenity and requires development to be compatible with the conservation of the natural beauty of the AONB.

## 2.0 SITE

- 2.1 Spilstead Farm is situated on the east side of the A21 trunk road and to the south of Stream Lane. Access is from Stream Lane. It is approximately rectangular in shape and extends to some 26 hectares. At its northern end, to the east of the access is a group of farm buildings with an adjacent hardstanding. The remainder of the site comprises undulating farmland which is mainly down to grass. The village of Sedlescombe lies to the east and there are small enclaves of development in other directions. The character of the site is essentially rural and is within the High Weald AONB. Two public footpaths cross the site and one runs parallel with the eastern boundary. There is no surfaced runway.

## 3.0 HISTORY

- 3.1 RR/88/0988 Regularisation of use of land for agriculture and the taking off and landing of light aircraft – approved conditionally.
- RR/89/0622 Application to vary conditions 2, 5, 6, 7, 11 and 12 of RR/88/0988 – approved conditionally.
- RR/90/1791 Continued use of land for agriculture and flying light aircraft on a permanent basis and vary conditions on RR89/0622 – approved conditionally.

RR/94/663/P	Use of farmland as private unlicensed airstrip – refused appeal allowed.
RR/98/1323/P	Continued use of land as an airstrip – approved conditionally.
RR/2003/2175/P	Retention of use without complying with conditions 2 and 3 on planning permission RR/98/1323/P to enable one specified helicopter to use the airstrip - refused – appeal allowed.
RR/2005/37/P	Variation of condition 12 imposed on temporary permission RR/98/1323/P so as to allow the land edged red to be used for the parking of aircraft - approved.
RR/2005/2898/P	The continued use of helicopter GBYKF at Spilstead without complying with condition 1 imposed on appeal decision APP/U1430/A/04/1147063 – approved.
RR/2009/17/P	Continued use of land as an airstrip without complying with temporary conditions imposed on planning permission RR/98/1323/P.

#### 4.0 PROPOSAL

4.1 Planning permission was granted on appeal for the use of the land as a private unlicensed airstrip under reference RR/94/663/P. That permission was the subject of a number of conditions which were framed to ensure that the impact of the airstrip on amenity and the character of the area were kept to a minimum. These will be described in more detail later in this report. The permission was also the subject of a condition that the use be discontinued by 22 August 1998. Application RR/98/1323/P was for the continued use of the land as an airstrip which was also the subject of a number of controlling conditions and one that the use be discontinued by 19 January 2009. Permission RR2009/17/P granted the continued use subject to a condition that the use be discontinued by 28 February 2019 and that it was personal to the landowner Mr W Cole. The application now under consideration is to continue the use without complying with these two conditions. It is important to note that the other conditions imposed on RR/98/1323/P, together with the flight protocol remain in force.

4.2 The application is supported by the following:  
*“Spilstead Farm has been used as an airstrip since the early 1980s and has been the subject of a number of temporary planning permissions..... the use was allowed on appeal following a public inquiry. A number of conditions were imposed..... including a temporary period.... limitations on the yearly, weekly and daily maximum takeoffs. Also to control landing and take off routes a flight protocol was imposed..... The appeal permission was subsequently renewed in January 1999 with similar conditions..... it was acknowledged by the Planning Officer in his report to the Planning Committee that the testing of the conditions has shown that generally they are working.....An application to continue the use of the land was approved in February 2009 and a further conditions requiring the use to cease on or before 28 February 2019 and requiring the use to be carried out only by Mr W Cole were imposed.... in the Planning Officer's report to*

*Committee the issue of whether a further temporary and personal permission should be imposed was considered .The Planning Officer's advice based on Circular 11/95 was that a temporary and personal permission was not appropriate..... that approach was entirely in line with Government advice, however the Planning Officer's advice was disregarded without sound planning reasons because of the clear cut guidance in Circular 11/95 regarding the imposition of planning conditions for temporary and personal planning permissions.....It is clear that the extant conditions on the 1999 permission (RR/98/1323/P) provide adequate control over the use of the airstrip to safeguard amenities in accordance with policy GD1.....There have been no material change in circumstances since the site has operated.....”*

- 4.3 The full text of the supporting information is in the attached APPENDIX DOCUMENT relating to this Committee 14 April.

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## 5.0 CONSULTATIONS

- 5.1 Parish Council: Supports a refusal of the application for the following reasons:
1. Breaches of the protocol have been recorded for the last 25 years, the temporary nature of the permission has kept the situation reasonably under control. If a permanent permission is granted, what could be done to close it down if many breaches were to occur?
  2. The use by Mr Cole in connection with the restoration of historical planes has been tolerated for many years and has been kept at a reasonable level for a long time. However, a different owner might want to run the airstrip more intensively causing aggravation and disturbance over a wide area. With the personal condition for Mr Cole attached, a new owner would need to make his/her application which could be considered in the light of their individual proposals.
- 5.2 Highways Agency: Offers no objection
- 5.3 Highway Authority – ESCC: It is assumed that the existing land is to be used for personal purposes only and therefore the continued use of the land as an airstrip will not generate any significant vehicular movements. On that basis feel that any recommendation for refusal could not be sustained in the event of an appeal.
- 5.4 Minerals Authority – ESCC: Have no comments to make.
- 5.5 Director of Services – Head of Environmental Health: Have not received any noise complaints about this site for many years now and on the basis that the other conditions (number of movements etc) will remain have no objection.
- 5.6 CAA: Comments awaited.
- 5.7 Ramblers Association: Comments awaited.
- 5.8 Planning Notice: 7 objection (in summary).
- Still 8 years remaining of the 2009 approval and see no reason for this to be changed.
  - If the 2 conditions are removed control over the situation will be lost.
  - If a more ambitious person purchases the site the numbers using the airstrip would increase greatly.

- The conditions and protocol would not be worth the paper they are written on.
  - Please keep the permission on a 10 year rolling basis.
  - Up to now the allowance of 850 flights a year has not been reached. On the rare occasion where the near maximum of 15 flights a day is reached the noise is most intrusive and noticeable.
  - If temporary condition is lifted the number of flights allowed should be reduced to the number that have actually taken place.
  - Have been happy with the existing controls and do not want flying to cease completely.
  - The temporary permission has the effect of regulating the use as the threat is always there that a new permission will not be granted.
  - Without the personal permission the airstrip could become another Headcorn.
  - Permission has already been granted for the use of a helicopter, despite objections from the local community. This already causes unacceptable noise.
  - Would have no objection to conditions 1 and 2 being removed provided all the other conditions and protocol remain with the number of take offs being amended to a maximum of 300 per annum and the weekly/daily levels reduced pro rata.
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## **6.0 APPRAISAL**

- 6.1 The issue is whether the conditions are necessary to protect amenity and the AONB.
- 6.2 Before considering this a summary of the other conditions imposed on RR/98/1323/P are as follows:
- Restriction on the type and weight of aircraft.
  - Prohibit the use of helicopters, jets or micro lights.
  - Restrict the use of the airstrip to a private unlicensed strip, with no hire or reward, parachuting, pilot training etc.
  - The total number of take-offs not to exceed 15 in any one day; 35 in any one week and 750 in any calendar year.
  - Aircraft movements shall take place only between sunrise or 07:30 hours (whichever is the latter) and sunset on Mondays to Saturdays, and between 10:00 hours and sunset on Sundays.
  - A record of all take-offs and landings is to be kept.
  - Outside storage is restricted.
  - Removal of permitted development rights for temporary uses.
  - Provision of low flying aircraft signs on the A21T.
  - A flight protocol to be adhered to.

The flight protocol requires and restricts the following:

- A log to be kept of all take-offs and landings.
- Pilots will avoid flying in a flight avoidance zone centred upon Whatlington and Sedlescombe.
- Pilots will confine arrivals and departures to a route shown on a flight protocol map.
- Pilots will avoid overflying the farm and its environs at less than 1500 feet as shown on the flight protocol map.
- Aeroplanes are to be parked in a specific area.
- Pre-flight checks involving high engine power settings shall only take place in the engine run up area.

- Pilots will avoid unnecessary taxiing or other movement on the ground.

The conditions and protocol are attached as a separate APPENDIX DOCUMENT relating to this Committee 14 April 2011.

- 6.4 There is national advice on conditions contained in Circular 11/95. The advice is that a time limit should never be used because of the effect of the development on the amenities of the area. A temporary condition should normally only be appropriate where the applicant proposes temporary development, or when a trial run is needed to assess the effect of the development on the area. With regard to personal permissions the advice is that planning permission runs with the land, and it is seldom desirable to provide otherwise. There are occasions when it is proposed exceptionally to grant a personal permission where development would not normally be allowed, because there are strong compassionate or personal grounds for doing so. Permission for the flying of aircraft from this site was first granted under reference RR/88/0988 and has been the subject of 4 permissions to renew the use. With regard to the personal condition there are no compassionate or personal reasons which justify such a condition. Under these circumstances the application to continue the use without complying with the temporary and personal conditions is acceptable and accords with the advice in Circular 11/95. It is also important to note that the other controlling conditions and flight protocol which limit such matters as the number of take-offs, hours of use imposed on RR98/1323/P would still apply.

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## 7.0 SUMMARY

- 7.1 The application complies with the advice in Circular 11/95 and if approved all the other controlling conditions imposed on RR/98/1323/P would continue to apply.

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## **RECOMMENDATION: GRANT (FULL PLANNING)**

Note to applicant: That all the other controlling conditions imposed on RR/98/1323/P, together with the flight protocol, remain in full force.

**REASONS FOR GRANTING PERMISSION:** The site has been in use as an airstrip since planning permission was first granted in 1988, and has been the subject of further temporary permissions. To allow the use to continue without the temporary and personal conditions imposed on RR/2009/17/P would comply with national advice contained in Circular 11/95.