

RR/2009/17/P **SEDLESCOMBE SPILSTEAD FARM – LAND AT, STREAM LANE**
CONTINUED USE OF LAND AS AN AIRSTRIP WITHOUT COMPLYING WITH TEMPORARY CONDITION IMPOSED ON PLANNING PERMISSION RR/98/1323/P
Mr W Cole

Statutory 8 week date: 03 March 2009

SITE Spilstead Farm is situated to the east of the A21 and to the south of Stream Lane. It is approximately rectangular in shape and extends to some 26 hectares. At its northern end, to the east of a surfaced 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, however, essentially rural and is within the High Weald Area of Outstanding Natural Beauty. Two public footpaths cross the site and one runs parallel with the eastern boundary. There is no surfaced runway.

HISTORY (Relevant)

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| 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 RR/89/0622 – 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 |

PROPOSAL The proposal is to continue to use the airstrip without complying with the temporary planning permission RR/98/1323/P. That permission contains a number of conditions which have been framed to ensure that the impact of the airstrip is kept to a minimum. In summary these conditions are:

- Restrict the type and weight of aircraft
- Prohibit the use of helicopters, jets or microlite craft
- Restrict the use of the airstrip to a private unlicensed airstrip, with no hire or reward, parachuting, pilot training etc
- The total number of take-offs shall not exceed 15 in any one day; 35 in any one week and 750 in any one calendar year

- Aircraft movement 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 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

CONSULTATIONS

Parish Council:- *"Supports renewal of the planning approval with the same conditions, including the same number of flights and the temporary condition (because of the special care of an airstrip close to houses), as in RR/98/1323/P. If, however, Rother grants permanent planning approval, the Council requests that the permission should be personal to Mr W Cole during his lifetime only and that the amenities of the neighbours should be protected by finding some way of closing the airstrip down if more than a few breaches of the conditions are found to have occurred."*

East Sussex County Council:- Have no objection to the continued use of the land as an airstrip. This is on condition that the current maximum flight restrictions remain in place and the landowner continues to clearly notify the public using the footpaths on either side of the airstrip. The applicant should be notified of the existence of all the public rights of way.

Highway Authority:- Do not wish to restrict the grant of consent subject to the land to be used for personal purposes only and the continued use will not generate any significant vehicular movements.

Highways Agency:- No objection.

NATS (En Route) Ltd:- Does not conflict with safeguarding procedure, therefore have no objection.

Director of Services – Environmental Health:- Have received no noise objections, and provided the other conditions (number of movements etc) will remain have no objection.

Planning Notice:-

- 1 letter of support.
- 2 letters of objection on grounds of: noise and effect on my amenity and on surrounding villages; effect of tranquillity of the AONB; strongly opposed to

any increase in flying or movements; flights are a distraction to traffic using the A21

- 7 letters containing either qualified support or objection unless changes are made to the conditions: would want application approved if the recorded use over the last few years is not exceeded (the permitted usage is unnecessarily excessive); permission personal to applicant; permission is not permanent - do object to a permanent permission; use recently been less than allocated and is tolerable; the log needs to be inspected to assess the present level of usage; have asked Parish Council to supply data from the flight log, but they have declined to do this as current level does not cause a nuisance – a point we concur with; any decision should be supported by accurate data; current actual take-offs are at 250 a year, but condition 7 allows for 750, a 200% increase; airfield is in an Area of Outstanding Beauty, an airfield does not fall within that category; if it is felt that permission should be granted it should be for a 10 year period; number of movements restricted to the number used during the past 12 months; existing protocol and conditions continue; a fine imposed when there are breaches; have been numerous breaches over the past years; my property is the most affected and I have strong reasons for the number of flights being restricted to a reasonable level; during the last 2 years the number of flights have been reasonable and would be satisfied if the new permission were to be restricted to the average of the last 2 years; any planning approval should be for Mr W Cole only; object to 750 take-offs a year; each take-off causes a problem to residents in Stream Lane and the number of take-offs should be reviewed; from 15/4/07 to 26/03/08 there were 287 take-offs shown in the log or about 26 per month or 313 per annum; from 26/3/08 until mid-January 2009 there were 173 take-offs; whilst not wishing to be unfair to the applicant I would like to see the number of take-offs reduced to say 400 per annum – if this were done would withdraw my objection.

SUMMARY There are a number of policies that are relevant to this application. The East Sussex and Brighton & Hove Structure Plan 1991-2011 does not contain any policies relating specifically to this type of aviation. There are specific policies relating to Gatwick, Lydd and Shoreham airports.

I consider there are three main issues that are relevant to this application:

- i) the effect of the use of the land as an airstrip on residential amenity
- ii) the effect on the impact of the AONB
- iii) whether there are any other material considerations.

There are policies which require development to minimise the effect on the environment, including residential areas, and to protect and enhance the attractiveness and individual character of urban and rural areas for residents, businesses and visitors (S1(b) and (f) of the East Sussex and Brighton & Hove Structure Plan 1991-2011). There is also a policy in the Rother District Local Plan which requires development not to unreasonably harm the amenities of residential properties (GD1(ii)). With regard to noise, I consider that the following matters are relevant:

National Advice in PPG24 deals with planning and noise and makes the point in paragraph 2 that the impact of noise can be a material consideration in the

determination of planning applications. Paragraphs 6 to 12 of Annex C of the Circular deal with noise from aircraft. Paragraph 7 states that for small aerodromes local planning authorities should not rely solely on Leg where this is based on less than 30 movements a day. It also states that in some circumstances the public perceive general aircraft noise levels as more disturbing than similar levels around major airports.

In respect of the appeal decision RR/94/663/P the Inspector stated "...the noise of a relatively small maximum number of daily take-offs, even at weekends ... would not cause unacceptable disturbance ... subject to effective conditions the proposed use would not cause unacceptable disturbance to residents ...". The Head of Environmental Health has confirmed that no complaints regarding noise have been received, and on the basis that the other conditions remain (number of movements etc), has no objection to the proposal.

With regard to the impact on the AONB, again both the Structure and Local Plans have policies that are relevant. Policy S1(j) of the Structure Plan states that development should accord with the objectives of, and not cause damage to, the AONB. Policy EN2 states that conserving and enhancing landscape quality and character will be the primary objective which will be achieved by a number of measures including (a) the careful control of development and (f) minimising the impact of development by carefully integrating development into the AONB landscape. Policy EN3 states that in order to protect and promote the quiet enjoyment of AONBs, development will be limited to that derived from the character and qualities of the countryside having regard to the social and economic wellbeing of the area. Development involving change or damage to their character or qualities, including significant increases in noise will not be permitted. Policy DS1(vi) of the Local Plan requires development not to prejudice the character and qualities of the environment, particularly the High Weald Area of Outstanding Natural Beauty. Policy GD1(v) states that development should be compatible with the conservation of the natural beauty of the AONB. In respect of the appeal decision relating to application RR/94/663/P the Inspector concluded that he did not consider that the airstrip caused harm to the AONB. Given the limited use of the airstrip in terms of number of movements etc I agree with this view. The use does not cause significant visual harm to the AONB, and the low key nature of the use results in the quiet enjoyment of the AONB not being harmed. It is also significant in this context that the site is very close to the A21 trunk road, and that Environmental Health have not received any complaints.

I have noted the comments that a further temporary planning permission should be granted, and if that is not possible a personal permission should be given. There is national advice on such conditions 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 either 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. Therefore, as the

use has been in existence for over 20 years, I do not consider a further temporary condition would be appropriate. There do not appear to be any strong compassionate or personal reasons for a personal permission. Furthermore it should be borne in mind that if this application is approved all the other conditions on RR/98/1323/P will continue to be in force. Given this and the other material considerations referred to in this report, I make the following recommendation.

RECOMMENDATION: GRANT (FULL PLANNING)

Note to applicant: That all the other 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. Whilst some objections have been received regarding the continued use of the airstrip without complying with the temporary conditions, a further temporary permission would conflict with Government advice contained in Circular 11/95. It is considered that the continued use of the airstrip on a permanent basis, subject to the original conditions controlling the use, would not conflict with Policies DS1(vi), GD1(ii)(v) of the Rother District Local Plan and Policies S1(b)(f)(j), EN2 and EN3 of the East Sussex and Brighton & Hove Structure Plan 1991-2011