
MAIN CASE

Reference No: 15/00802/VAR

Proposal: To vary condition 1 (membership), 2 (noise), 5 (supervision), 11(use of land) and 8 (operating times) of decision notice dated 27.2.13 for change of use of land for flying model aircraft - retrospective

Site Address: Fenland Model Club Hive Road Witcham Cambridgeshire

Applicant: Fenland Model Club

Case Officer: Julie Barrow, Senior Planning Officer

Parish: Witcham

Ward: Downham Villages

Ward Councillor/s: Councillor Anna Bailey
Councillor Mike Bradley

Date Received: 13 July 2015

Expiry Date: 7 September 2015

[Q178]

1.0 **RECOMMENDATION**

1.1 Members are requested to APPROVE this application subject to the recommended conditions below. The conditions can be read in full on the attached appendix 1.

1. Approved plans
2. Personal permission
3. Activity to be undertaken in accordance with national guidance and BMFA Handbook
4. Activity log
5. Maximum number of aircraft being flown
6. Club representative to be present
7. Adherence to layout plan
8. No aircraft within 200m of residential property
9. Electric model flying times
10. Internal combustion model flying times
11. No gas turbine powered aircraft
12. Restriction of temporary use permitted development rights
13. Compliance with biodiversity method statement
14. Signage details

2.0 **SUMMARY OF APPLICATION**

- 2.1 This application seeks permission to vary a number of conditions imposed on the planning permission for the change of use of land for flying model aircraft (Ref. 12/00882/FUL).
- 2.2 A copy of the decision notice which lists these conditions is attached as Appendix 1.
- 2.3 The request in relation to conditions 1, 2, 5 and 11 is required as the club wants to change its name from “Fenland Model Club” to “Ely Model Aircraft Club”. The reason given for their request is “geographical clarity”.
- 2.4 The request in relation to condition 8 seeks to change the hours of operation for electric models. The reason given is to meet the needs of members with work, school and travel commitments.
- 2.5 This condition, attached to 12/00882/FUL, states:

“Electric models are permitted to operate from the site during the following times
10:00 hrs -19:00 hrs on Mondays to Saturdays
10:00 hrs – 17:00 hrs on Sundays and Bank Holidays”.
- 2.6 The application, when submitted, requested the following times instead.

10:00 to dusk
- 2.7 Discussions were held with the applicant and alternative times suggested and these are discussed further in section 7.2. For Members information the hours that the club are now seeking are:

“Electric models are permitted to operate from the site during the following times
10:00hrs – 20.30hrs on Mondays to Fridays
10:00hrs – 19.00hrs on Saturdays, Sundays and Bank Holidays”
This variation will be for a temporary period of one year.
- 2.8 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council’s Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**
- 2.9 The application has been called to Committee by Councillor Anna Bailey.
- 3.0 PLANNING HISTORY
- 3.1
- | | | | |
|--------------|---|---------|------------|
| 10/00902/CLE | Certificate of lawfulness of existing use by Fenland Model Club | Refused | 07.04.2011 |
|--------------|---|---------|------------|

12/00882/FUL Change of use of land for Approved 18.02.2013
flying model aircraft -
retrospective

4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The site is located between Witcham and Wardy Hill in a countryside location. It is accessed from an unmade track which is some 300 metres in length to the East of Hive Road, which links the above two settlements.
- 4.2 The site extends to 0.25 hectares. Its northern boundary is marked by a ditch with a public right of way on its northern bank; the western boundary is also marked by a public right of way with overgrown hedges and mature trees. The eastern and southern boundaries are marked by indigenous hedges.
- 4.3 Within the site there is a flying area and an area used for car parking. The flying area has a marked runway and taxi areas. The runway runs north south with the taxi area linking it to the launch areas and pits.

5.0 RESPONSES FROM CONSULTEES

- 5.1 Responses were received from the following consultees and these are summarised below. The full responses are available on the Council's web site.

Witcham Parish Council (on original proposal) – No objection to change of name subject to the organization and members falling under the rules of the BMFA.

Object to extending hours until dusk:

- a) too long a period for residents, especially in summer. There should be no extension.
- b) flying until dusk raises safety concerns as by definition light will be fading. Aware that there have already been issues of low flying.

Require conditions to:

- a) protect intrusion of byways
- b) provision of safety marshalls
- c) restrictions on days and times (with monitoring to ensure adherence)
- d) no solo flying

Witcham Parish Council (on amended proposal) – Support concerns of nearby residents regarding noise and loss of amenity. Also the concerns of people using the nearby rights of way. Feel the hours of operation should remain as originally agreed as this makes a reasonable compromise for people flying aircraft and residents/users of public rights of way. The latest amendment significantly increases flying times for much of the year and therefore the associated concerns regarding nuisance and safety issues. Comments made on this application earlier this year still stand.

Councillor Anna Bailey – Has called the application to Committee “given the sensitivities on both sides”.

Local Highways Authority – No objections as there would be no significant adverse effect upon the Public Highway.

Environmental Health (on original proposal) – Expressed concern regarding the original hours sought. They advised that:

- they had concerns regarding the noise and the potential impact on the amenity of local residents and therefore the likelihood of complaints.
- whilst they understood that electric models have a lower noise level that it was audible at nearby residences.
- Whilst a low level noise it is the character of the noise which has the potential to cause a problem.

They therefore suggested an alternative. Advising that 10 hours available flying in the week and 9 hours during the day at the weekend would have a lower risk of adverse impact. They therefore made the following suggestion:

April – September

10:00 – 20:00 each day during the week

10:00 – 19:00 on Saturdays, Sundays and Bank Holidays

Environmental Health (on amended proposal) – Following discussion between the then Planning Manager and Environmental Health the amended hours of 10:00hrs – 20.30hrs on Mondays to Fridays and 10:00hrs – 19.00hrs on Saturdays, Sundays and Bank Holidays are advised.

Formal noise level assessments were not required as part of this application. With this activity it is not necessarily the noise level, but more the character of the noise which can cause an impact on amenity at residential properties. The area is very rural with no continuous noise sources close by such as main roads etc. which would mask the noise.

A temporary permission has been discussed to allow the club extended hours for one year. This would be to enable the site to operate for a trial run at the extended times and provide the Council with confidence that the effect of the development can be adequately assessed. The increase in hours is not considered insignificant, therefore a temporary extension to these hours would demonstrate if the site could successfully be used for the above times without adverse impact on amenity. The concern regarding a permanent permission is that the noise would have to be significant to constitute a Statutory Nuisance and amenity level is looked at when assessing planning applications. It should also be noted that due to the nature of the noise source there are limited methods to mitigate and minimize adverse effects and therefore it is considered that there is the need for sufficient controls under planning.

Natural England – No comments to make

British Model Flying Association – Fully supports the application. The change of club name better represents the geographical location. Electric powered model aircraft are extremely quiet and this change of operating hours will not lead to any

loss of amenity or increased disturbance in the area. The club operate in a responsible and safe manner and provide a valuable sporting facility for their members and the area.

5 neighbour letters received following publication of the original proposal. The concerns being:

Nature of Electric Models

- Not all electric models are quiet. Some are as annoying as the IC (Internal combustion) and turbine types.
- Some electric models emit a noise that is particularly penetrating and unpleasant.
- No technical data has been provided of the type of electric aircraft to be flown.
- At all times when electric models are flown only the quiet/silent category should be flown.

Hours of operation and noise

- The current noise already is very bad.
- Paragraph 7.4 of the BMFA Guidelines makes it clear that the hours of flying have an important bearing on the likelihood of disturbance, stating that it is the existence of noise rather than its intensity or degree of continuity which causes disturbance if the hours of operation are unreasonable. People consider that they have a right to peace and quiet around their homes. Special problems can arise at weekends.
- Any extension of flying times should be for a limited period and subject to withdrawal at any time should any of the clubs activities cause annoyance to neighbouring properties or countryside users.
- It has been much quieter since the restrictions were put in place and there is no reason to change these
- The current hours were put in place to protect the amenity of local residents, walkers, horse riders and visitors to the countryside.
- Dusk is a vague term can be as late as 10:00 in the summer
- Members can already fly aircraft for up to 7 hours on Sundays and Bank Holidays

Impact on Horses

- The area is popular with horse riders and horses can be spooked by the sudden low appearance of model aircraft
- Was out riding on the bridleway when someone from the club flew a plane far too close. Luckily the horses being ridden were sensible and not young and inexperienced.

Intensification in Use of Site

- Concerned that the proposal will intensify the use of the site

Name change

- Changing the name would attract more members and thus create more noise

Management of Site

- The site has not always been managed in accordance with the BMFA guidelines, which require a Safety Marshall to be at the site at all times.
- Reluctant therefore for any further relaxation

Lack of Consultation

- The BMFA Code of Practice (which the club is bound by condition 2 to comply with) requires consultation with the local community to discuss any limits that might be necessary.

Publication of amended proposal – 4 further letters received –

- Proposed variation still covers almost all daylight hours through the year. Attractive for club members. Leaves very few daylight hours when there is a guarantee that there will be no flights.
- Amended hours still permit flying after sunset. Proposal has clear safety implications and safety has been a major concern for some years.
- Unacceptable that residents should have to wait until 20.30hrs to be confident of enjoying their gardens in peace and quiet.
- Applicant has failed to make a convincing case for overturning reasonable conditions.
- Club lax in abiding by existing conditions, any further relaxation would be inappropriate.
- Iterate recent objection to original proposal – solo flying and use of electric planes potentially more frightening to horses than petrol planes.
- Appropriate signage is not being maintained.
- Annoyance to local people who enjoy their gardens in the summer.
- Object to any amendment to the existing conditions and stand by earlier comments.

6.0 The Planning Policy Context

6.1 East Cambridgeshire Local Plan 2015

GROWTH 2	Locational strategy
ENV 1	Landscape and settlement character
ENV 2	Design
ENV 9	Pollution

6.2 National Planning Policy Framework 2012

11 Conserving and enhancing the natural environment

7.0 PLANNING COMMENTS

The main issue to consider in relation to this application is balancing the needs of the club against the residential amenity of nearby residents and also the enjoyment of visitors to the surrounding countryside

7.1 Principle of Development

7.1.1 The principle of the development has already been accepted by the granting of the previous planning permission (ref 12/00882/FUL) and all that can be considered is the requested changes to the conditions.

7.2 Residential Amenity

7.2.1 Whilst some residents have suggested that the change to the name of the club would be likely to intensify use of the site there is no evidence to suggest that this would be likely. The Club, regardless of its name or title, would still be subject to all other conditions attached to 12/00882/FUL, which include the number of aircraft that can fly at any time. There is no limit on the numbers of people that can become members of Fenland Model Club at present. It is concluded therefore that the change to the name of the club would be unlikely to have an adverse impact upon residential amenity.

7.2.2 When the previous application was determined very careful thought was given to the flying times for the model planes and thus it is the requested change to these hours that is of most concern.

7.2.3 The applicant flew different types of electric planes for officers on 14 August 2015. Unfortunately, due to background noise levels in Wardy Hill (digger and lorry in operation), it was not possible to assess the impact of the planes upon the residences within Wardy Hill. Following this Officers visited the area on 3 other occasions at times they anticipated flying would be taking place(from an analysis of the log book information provided by the applicant). Unfortunately no flying was taking place at any of these times. It was therefore suggested to the applicant that a way forward would be a temporary permission to vary the hours for a limited period as a trial run. However, officers advised that, in their opinion, extending the hours until dusk would be likely to have a harmful effect upon the amenity of nearby residents. Concerns were also expressed about the imprecise nature of the term "dusk".

7.2.4 It is the nature of the noise which makes it penetrating and when heard difficult to switch off to. The surrounding area also has relatively low background noise levels. The best way to limit the impact upon residential amenity is through controlling the hours of use. The originally requested hours would not achieve a balance between the needs of the club and the impact upon the amenity of local residents.

7.2.5 Local residents suggested that only silent electric flight should be allowed. Views regarding this were sought from the club. The advice has been that only gliders fly silently but that usually (and particularly in a flat location where the site is) power is required to get the planes airborne, help them descend and also to make adjustments during flight and that therefore the club would not be able to comply

with such a condition. The imposition of a condition requiring this would not comply with the tests for conditions as it would not be reasonable.

7.2.6 The Club initially responded to the suggestion of a temporary permission advising :

That they had spoken to the BFMA and their view was that to agree to a temporary trial period:

- It should be for 3 years
- Flying times should be wider

And that if the application were to be refused then the BFMA would do proper noise tests and demonstrate that there was no noise.

The Club, suggested that it would be prepared to have a restriction such that the noisier electric planes (Electric Ducted Fan and Pushers(propellers on the back) would only be flown during the IC hours (which is the current practice of the club).

7.2.7 Officers have concerns regarding this suggestion and consider that it would be very difficult to impose a planning condition to control the type of electric plane being flown. Conditions have to meet a number of tests. They need to be precise and enforceable. It would be very difficult for a person not involved with model flying to tell the difference between electric types.

7.2.8 Following continued discussions between the Club, Environmental Health and the then Planning Manager, including the consideration of conditions imposed on other clubs operating outside of this District, the revised proposal was agreed by all parties. This includes the fact that the increase in hours will be for a temporary period of one year, which provides the club with an opportunity to demonstrate whether the site can successfully be used during the extended hours without having an adverse impact on the amenity of local residents and users of the nearby public rights of way and bridleways.

7.2.9 It is the view of officers that the additional hours trial period that Environmental Health have suggested is generous. It would allow a total of 10½ hours flying hours on weekdays and 9 hours flying on Saturdays, Sundays and bank Holidays. This equates to an additional 1½ hours Monday to Friday and an additional 2 hours on Saturdays, Sundays and Bank Holidays. In addition, officers consider that a year is sufficiently long trial period and 3 years unnecessary.

7.3 Visual Amenity

7.3.1 There would be no visual change to the site and thus the application would have no more impact upon visual amenity than the existing use of the site.

7.4 Highways

7.4.1 The Local Highway Authority has raised no concerns in relation to the application. Residents have also not raised this as a concern.

7.5 Ecology

7.5.1 Whilst the site is located within 2 KM of a SSSI Natural England have raised no objection to the application and it is unlikely that the application would have an adverse impact upon the ecology of the area.

7.6 Other matters

7.6.1 The Club has responded to concerns raised by local residents that the signage required by 12/00882/FUL is not being maintained, stating that new signage was erected in September 2015 and providing photographs of the new signs.

7.7 Planning Balance

7.7.1 It is considered that a temporary extension of hours that electric models can be flown maintains a balance between the residential amenity of local residents and visitors to the countryside with the needs of the members of the Club. A temporary consent will allow the Local Planning Authority to fully assess the impacts of the proposal and carry out the necessary investigative work. A further application would be required to extend the hours on a permanent basis.

8.0 APPENDICES

8.1 Draft Conditions

8.2 Decision Notice 12/00882/FUL

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
15/00802/VAR	Room No. 011 The Grange Ely	Julie Barrow Senior Planning Officer 01353 616307 Julie.Barrow@eastc ambs.gov.uk
12/00882/FUL		

National Planning Policy Framework -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>

Appendix 1 – Draft Conditions 15/00802/VAR

- 1 Development shall be carried out in accordance with the drawings and documents listed below

Plan Reference
LOCATION PLAN
LAYOUT

Version No

Date Received
30th October 2012
13th June 2013

- 1 Reason: To define the scope and extent of this permission.
- 2 The use hereby permitted shall enure for the benefit of members of the Ely Model Aircraft Club only.
- 2 Reason: The application was approved on the basis that the Ely Model Aircraft Club (formerly Fenland Model Club) is affiliated to the British Model Flying Association and that each member must be a current member of the BFMA. As such the proposal is in accordance Policy ENV2 of the East Cambridgeshire Local Plan 2015 relating to residential amenity.
- 3 All activity on the site shall be undertaken in accordance with the Department of the Environment Code of Practice on noise from model aircraft 1982 and the British Model Flying Association Members Handbook.
- 3 Reason: The application was approved on the basis that the Ely Model Aircraft Club is affiliated to the British Model Flying Association and that each member must be a current member of the BFMA. As such the proposal is in accordance Policies ENV1, ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015 relating to residential amenity and the character of the countryside.
- 4 A log shall be maintained by the applicant and be completed by all visitors to the site. The information recorded shall include the date, name of member, time on and off the site, reason for visit, type of aircraft flown, times of flight and name of member who displayed the warning flags. The log will be subject to a monthly Committee check to ensure its correct completion, annotated accordingly and will be made available to the Local Planning Authority at any reasonable time.
- 4 Reason: In the interests of the proper management of the site having regard to residential amenity and the character of the countryside in accordance with Policies ENV1, ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015.
- 5 A maximum of 5 aircraft shall be in the air at any one time, which may include up to 3 internal combustion engine aircraft, unless otherwise agreed in writing by the Local Planning Authority.
- 5 Reason: To safeguard the residential amenity of neighbouring occupiers and other countryside users in the vicinity of the site and to prevent noise pollution in accordance with policies ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015.

- 6 No model aircraft shall be flown from the site unless there is a designated model aircraft club representative from the Ely Model Aircraft Club present to supervise activities.
- 6 Reason: In the interests of proper management of the site having regard to the Code of Practice on Noise from Model Aircraft 1982 and the British Model Fly Association Handbook in order to protect the amenities of the adjoining residential occupiers and other countryside users in accordance with Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015.
- 7 The development shall continue to be carried out in strict accordance with the layout plan submitted on 13 June 2013 showing parking, pits, runway/launch and landing areas. These areas shall be retained for that specific use unless otherwise agreed in writing by way of a formal application to the Local Planning Authority.
- 7 Reason: In the interests of proper planning of the area, and neighbourliness in accordance with Policies ENV1 and ENV2 of the East Cambridgeshire Local Plan 2015.
- 8 No aircraft may be flown within 200m of any residential property.
- 8 Reason: The British Model Flying Association recommends that models should not be flown closer to any noise sensitive premises than 200 metres. In the interests of residential amenity in accordance with Policies ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015.
- 9 Electric models are permitted to operate from the site during the following times:
10:00hrs - 20.30hrs on Mondays to Fridays
10:00hrs - 19.00hrs on Saturdays, Sundays and Bank Holidays
These hours are permitted for a temporary period of one year from the date of this decision notice. At the end of this period the operational hours shall revert to:
Electric models are permitted to operate from the site during the following times:
10:00hrs - 19:00 hrs on Mondays to Saturdays
10:00hrs - 17:00hrs on Sundays and Bank Holidays
- 9 Reason: To safeguard the character of the area for other countryside users and in order to protect the residential amenities of dwellings in the area and prevent noise pollution in accordance with policies ENV1, ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015. The hours that electric models can be flown have been extended for a temporary period of one year in order for the local planning authority to assess the impact of the increased hours on residential amenity and noise pollution.
- 10 Internal Combustion Models may only be operated from the site on any two days per calendar week (a week shall to be taken from Monday to Sunday), and only between the following hours:
10:00hrs to 19:00hrs on Mondays to Fridays
10:00hrs to 14:00hrs on Saturdays
10:00hrs to 12:00hrs on Sundays and Bank Holidays
unless otherwise agreed in writing by way of a formal planning application to the Local Planning Authority.

- 10 Reason: To safeguard the character of the area for other countryside users, the amenities of residential properties in the area and prevent noise pollution in accordance with policies ENV1, ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015.
- 11 No gas turbines powered aircraft shall be operated from the site.
- 11 Reason: To safeguard the residential amenity of neighbouring occupiers, other countryside users and to prevent noise pollution in accordance with policies ENV1, ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015.
- 12 Notwithstanding the provisions of the Part 4 Class B, of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order), the use of the land for any temporary purpose is not permitted.
- 12 The application has been permitted on the basis that the site is operated on a regulated basis by members of the Ely Model Aircraft Club for the flying of aircraft and for no other purpose. In the interests of protecting the character of the area for other countryside users and residents in the area in accordance with Policy ENV2 and ENV1 of the East Cambridgeshire Local Plan 2015.
- 13 The development shall continue to be carried out in strict accordance with the Biodiversity Method Statement submitted on 13 June 2013.
- 13 Reason: In order to comply with Policy ENV7 of the East Cambridgeshire Local Plan 2015.
- 14 The development shall continue to be carried out in strict accordance with the approved signage details submitted on 16 April 2013. The signage shall be maintained at the applicant's expense and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.
- 14 Reason: In the interests of amenity of users of Public Byways in accordance with Policy ENV2 of the East Cambridgeshire Local Plan 2015.