



PLANNING COMMITTEE

Tuesday 13 August 2019 at 6.00 pm

Council Chamber - Ryedale House, Malton, North Yorkshire YO17 7HH

Agenda

20 **Late Observations**

(Pages 2 - 13)

Agenda Item 20

RYEDALE
DISTRICT
COUNCIL



Please Contact: Lizzie Phippard
Extension 43293
Email: lizzie.phippard@ryedale.gov.uk

All Members of the Planning Committee
Council Solicitor
Head of Planning
Planning and Regulation Technical Support Manager

Ref: Agendas/Planning/2018/2019

09th August 2019

Dear Councillor

Meeting of the Planning Committee – 13th August 2019

With reference to the above meeting I enclose for your attention the late observations received since despatch of the agenda.

All items for the late observations relate to:

Item 6 – 18/00580/MFUL– pages 3 - 12
Item 13 – 19/00627/FUL – page 13

Yours sincerely



Mrs Karen Hood
Planning and Regulation Technical Support Manager

From: Stewart Slater
Sent: 08 August 2019 14:35
To: Gary Housden
Subject: Wombleton - 18/00580/MFUL - Report for Committee

Dear Gary Housden,

Thank you for your email giving the opportunity to respond to the Report to the Committee prepared by Rachael Balmer. As I had intimated I intended to make a brief statement summarising my case but after reading the Committee Report I felt that, with points that had been made, it would be more helpful to make a final submission based on my interpretation of the Independent Aviation Report commissioned by the Council. Please find this below. It takes more than three minutes to read aloud but much less so to read individually. I hope it can be accepted as a late paper. Whilst important at any time the aviation report will not be of much significance for the meeting in the event that the Committee decide according to the recommendation for refusal on the grounds of contravention of Policy SP20.

My thanks to all the LPA staff who have been so patient in considering my complex and unfortunately necessary lengthy submissions.

Regards,
Stewart Slater

The Independent Aviation Report - Aviation safety at Wombleton in the context of the Application

I would like to submit an explanation of what is advised by the independent Aviation Report as necessary for aviation safety. However if the Committee are minded to accept the recommendation for refusal on the grounds of contravention of Policy SP20 then this submission is of less significance.

The Report refers to Civil Aviation Authority publication CAP 168 which specifies the criteria for a runway to be licensed.

The publication which deals with unlicensed runways, CAP 793, recommends the criteria in CAP 168 be used as guidance for the assessment of safe operation in the case of unlicensed aerodromes and the Report adheres to and advises these for aviation safety in the context of the application. It is the safe operation of runway 17/35 which confers aviation safety in the vicinity and the Report therefore assesses 17/35 for the requirements to satisfy the criteria. It is important to note that the physical characteristics of 17/35 and the local area do have the potential to satisfy the criteria for a licence but the aim in this case is only for safe operation to be validated. CAP 168 requirements can only apply to a runway. Thus a claim that 'the site layout is CAP 168 compliant' is invalid.

Essential criteria in CAP 168 are two obstacle clear strips running along each side of the runway at ground level. They are separate from the runway and form obstacle free zones called the 'Runway Strips'. They give a safety margin and are not intended nor necessary for aircraft to manoeuvre on them. The details for the Eastern Runway strip, in the crucial area

for safety between the runway and the chalets, are given in the Report where it is noted it can be accommodated according to the requirements though the water tanks would have to be removed.

The requirements further depend on 'Obstacle Limitation Surfaces'. These are non-physical sloping surfaces which are joined up to form a very shallow basin-shaped depression commencing at ground level from the edges of the Runway Strips. The surfaces have specified heights and frequently slopes and the resultant basin must be continuous without gaps. The significance is that no object should penetrate through it from outside and thus constitute an obstruction. A landing aircraft thus descends into this basin-like protected airspace. It most often extends over other land ownerships.

More specifically at the lateral edges of the Runway Strips the Transitional Obstacle Limitation Surface commences at 1 in 5. From the ends of the runway the Take-off and Climb Surfaces (TOCS) and Approach Surfaces (APPS) emanate. These surfaces are also dealt with in the Report and have been addressed in the application such that they are capable of being subject to planning conditions to ensure compliance.

What is important is that for a runway to be CAP 168 compliant, and thus considered safe to operate, the Runway Strips have to be implemented and with the connecting surfaces intact and joined up to form the non-physical basin.

The crucial area of the Eastern Runway Strip is outside the red line of the application area. There is thus no provision in the application for this strip to have planning conditions implemented to ensure CAP 168 compliance and thus freedom from vertical obstacles. Therefore the application as it stands does not cover all the requirements and cannot facilitate aviation safety in the vicinity.

Notes

The Runway Strips and the non-physical continuous basin would be considered and respected for any other planning application affecting them.

A Runway Strip and an Obstacle Limitation Surface, although intangible, are nevertheless a concepts which are legally defined and recognised internationally in aviation law and, significantly, are given validity with the extents and dimensions in CAA document CAP 168. It would seem therefore that they can be a simple, if not preferred, way of defining the relevant planning condition(s).

Stewart Slater

8 August 2019

From: Nigel Rockliff, DRaW Ltd
Sent: 08 August 2019 10:45
To: Gary Housden
Cc: Rachael Balmer
Subject: FW: Wombledon Airfield Application Ref 18/00580/MFUL

Dear sirs/Madame,

Wombledon Airfield Application 18/00580/MFUL

I am writing on behalf of our Client Gracemax Ltd regarding the proposed lodge development at Wombledon Airfield and the Report to the Planning Committee, dated 13 August 2019. More specifically regarding the second recommendation for refusal (last page), relating to landscape and visual issues, which states:

2: "The proposed development does not provide an appropriate level of landscaping..... The proposal is therefore a development which cannot be accommodated within the landscape without unacceptable visual intrusion. This is considered to be contrary to Policy SP8 - Tourism, SP13 - Landscapes and Policy SP16 - Design- of the Ryedale Plan Local Plan Strategy".

This directly contradicts Paragraph 6.52 earlier in the report, which states:

*"The lodges will be viewable, but within the context of shrub planting and internal landscaping scheme which will soften the appearance of the lodges, internally and externally. **Officers consider that the proposed use can now be accommodated without an unacceptable visual intrusion in the landscape, subject to conditions to bring about replacement internal planting. As such it is considered that the proposal accords with both Policies SP8 (Tourism) and SP13 (Landscapes).***

Please could you explain the difference between the two comments?

Also the recommendation for refusal states: " at 3.62 metres in height the proposed lodges would be visually prominent with the landscape. The proposed mitigation in the submitted Landscape and Visual Impact Assessment to address this issue would compound identified safety issues for the adjacent operational runway."

There is no mention of the revised landscape proposals for the boundary treatment adjacent to the runway (Refer Drawing 04 dated 17/June/19) which specifically addresses the aviation safety concerns, whilst maintaining adequate screening of the western boundary.

Please can you confirm whether these revised proposals were taken into account when making the recommendations?

We believe the second reason for refusal is not justified, or could be overcome by relatively minor amendments. We would therefore recommend that reason 2 is either omitted from the committee report, or the decision is delayed to allow time for the ambiguity to be addressed. In the meantime please could you advise whether there are any additional measures /amendments to the landscape scheme that would make it more acceptable to the Council?

For ease of reference please find attached previously submitted Drawings 01 and 04.

We look forward to hearing from you.

Kind Regards

Nigel Rockliff

NIGEL ROCKLIFF
Director DRaW (UK) Ltd

T +44 (0) 113 8232872

M +44 (0) 7734 392386



DRaW (UK) Ltd
Morwick Hall
Mortec Park
York Road
Leeds
LS15 4TA



Company Registered in England No.08525679. VAT No.196894335

This email transmission is confidential and may contain proprietary information for the exclusive use of the intended recipient. Any use, distribution or copying of this transmission, other than by the intended recipient, is strictly prohibited. If you are not the intended recipient, please notify the sender and delete all copies.

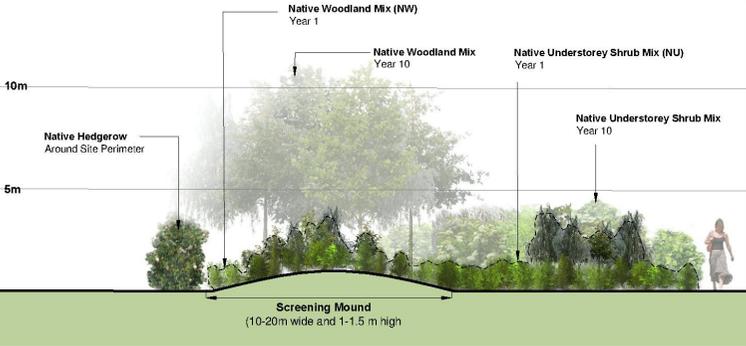


- Legend**
- Application Boundary
 - Existing Woodland to be Retained
 - Native Woodland Mix (NW)
Planted at 1.5m Centres
 - Native Understorey Shrub Mix (NU)
Planted at 1m Centres
 - Feathered Trees
 - Standard Trees
 - Native Hedgerow
Refer to Dwg 03
 - Amenity Grass /Wildflower Swards
 - Proposed Footpaths

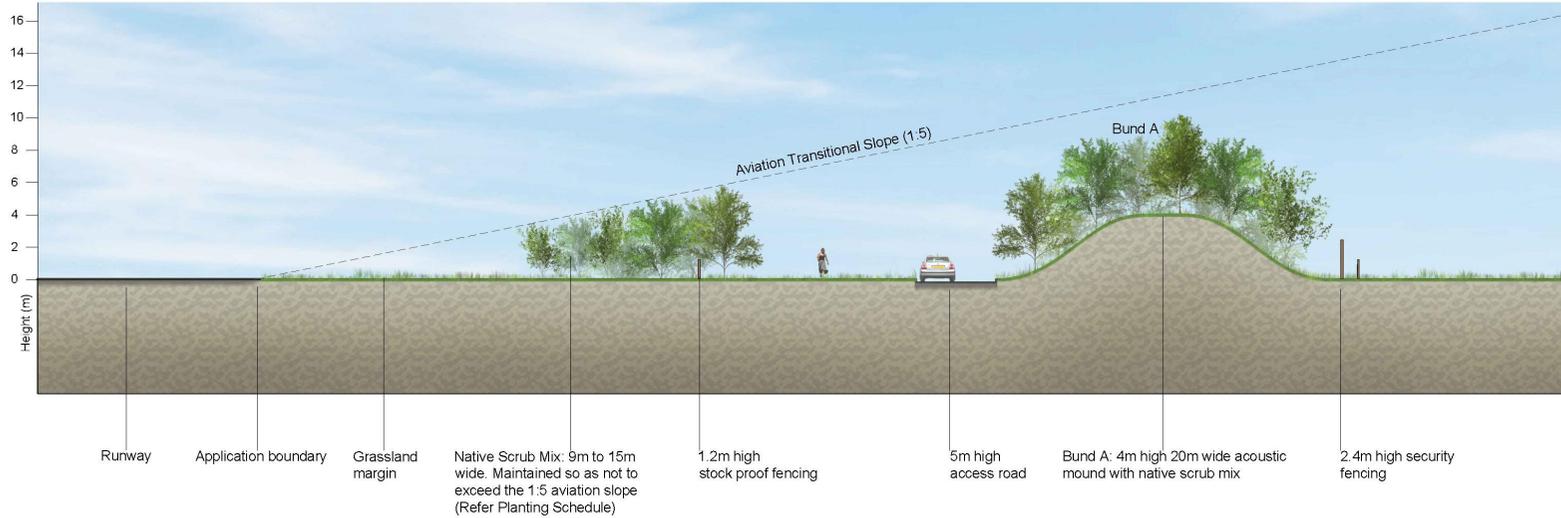
For Planting Details and Planting Schedule Refer Dwg 02
 Not for Construction
 Do not Scale from this Drawing

Client Gracemax Ltd					
Project Holiday Accomodation on Land West of Hungerhill Lane, Wombleton Airfield					
Title Planting Proposals Plan					
Size A3	Scale 1:2000	Date 03.12.18	Created by RB	Reviewed by NR	Rev A
Drawing No. 01					
			DRaW (UK) Ltd Moncrief Hall York Road Leeds LS15 4TA T: 0113 8932871 E: info@drawaltd.com www.drawaltd.com		

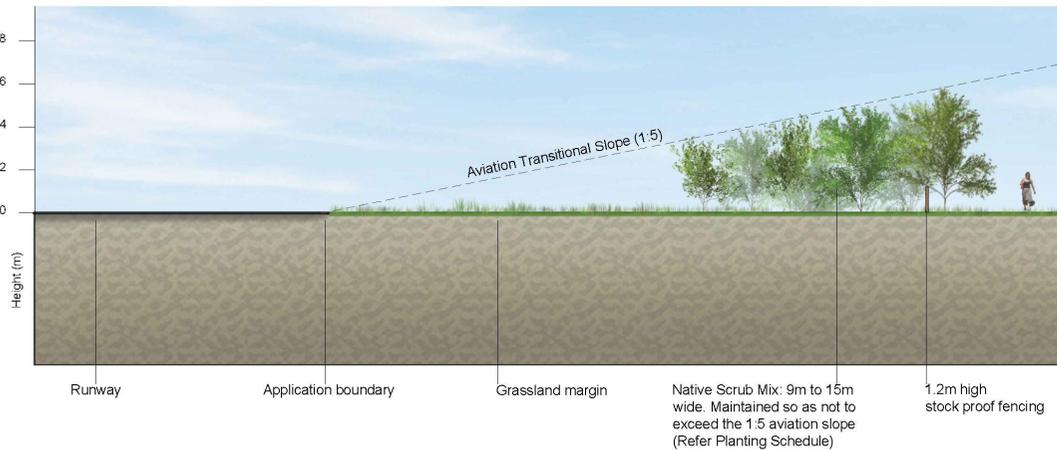
SECTION AA Typical Boundary Treatment



Typical Section Through 'Bund A' and Western Boundary



Typical Section Through Western Boundary



Native Scrub Mix

Species	Size (cm)	Type	Mix %	Spacing
Cornus sanguinea	40-60	1u1	10	1m centres
Crataegus monogyna	40-60	1u1	20	1m centres
Corylus avellana	40-60	1u1	10	1m centres
Ilex aquifolium	30-45	2 ltr cont	5	1m centres
Prunus avium	40-60	1u1	10	1m centres
Prunus spinosa	40-60	BR 1u1	15	1m centres
Rosa arvensis	40-60	1u1	10	1m centres
Sorbus aucuparia	60-90	1u1	10	1m centres
Viburnum opulus	40-60	1u1	10	1m centres

Client	Gracemax Ltd			
Project	Holiday Accomodation on Land West of Hungerhill Lane, Wombleton Airfield			
Title	Typical Boundary Section Details			
Size	Scale	Date	Created by	Reviewed
A3	as shown	17.06.19	CD	NR
Drawing No.	04			Rev
		DRaW (UK) Ltd Monks Hall York Road Leeds LS10 4TA t: 0113 8232871 e: info@draw.co.uk www.draw.co.uk		

From: Gordon Herbert
Sent: 09 August 2019 11:34
To: Gary Housden; Karen Hood; Anthony Winship; Jill Thompson; Stacey Burlet
Subject: Late Papers Rachael .

Dear Mr Housden,

I understand from Rachael, you are know in charge of this application as she is on annual leave?

I would like to make a offer to you, I would like to take the planning offers up on her offer of installing a FRANGIBLE fence to be located between Dr Slaters Land and My land to Address some of her concerns regarding safety. This could be conditioned as per the Planning Officers recommendation in her report. I enclose a link to the specialist fence that I'm proposing.

<http://fibrefence.fibre.net.it/>

Please could you put this document on the planning portal as well as in late papers, also could you include the email you received from my consultants yesterday(see list below).

Please let me know your thought.

Solicitor
Aviation Specialist
Landscape specialist

Many thanks

Gordon Herbert
Director
Gracemax Ltd

From: Shane Savage
Sent: 08 August 2019 12:52
To: Gary Housden
Cc: Gordon Herbert
Subject: Planning Application Ryedale 18/00580

Sir,

We have been engaged by Mr G Herbert to provide advice on the planning application for a change of use to part of the former military airfield at Wombleton (Planning Application Ryedale 18/00580). It is understood that the application is due for consideration at the forthcoming Planning Committee meeting. However, due to the significant amount of material that we will have to assess/correlate with extant regulation relating to aviation safeguarding, we have advised Mr Herbert that the time available will not permit us to determine accurate conclusions based on those regulations, the facts of the application and of the objection of the owner of the other part of the runway. To that end Mr Herbert has instructed us to approach Ryedale Planning Department with a view to seeking a deferral of the consideration of the application. It is considered that, in order to permit site visits, liaison with involved parties, consideration of the extensive amount of information and the drafting of the report, any deferral deemed possible would need to be a minimum of three months.

We thank you for consideration of this request and look forward to hearing from you.

I have taken the liberty of enclosing an abbreviated CV.

Kind Regards,

S SAVAGE

Director
DBS Consulting Ltd

Commander Shane Savage, B.Sc, Royal Navy (Retd)

Shane spent over 27 years in the Royal Navy specialising in Air Traffic Control (ATC) and Air Defence which culminated in leading both the ATC and Fighter Control specialisations as Head of Operations Support to the Fleet Air Arm. With almost unrivalled continuous MOD wind farm and safeguarding experience, lasting for most of the 12 year period to 2011, he was latterly the Royal Navy's Desk Officer for aviation infrastructure including airfields, radars and radio sites as well as being the RN Safeguarding Authority for aviation and the Sponsor for the Royal Navy's offshore Danger Areas. As a co-author of the initial MOD Guidelines for Wind Farm Developers through to the end of his career, which included a tour within the Ministry of Defence as the Desk Officer responsible for Military Wind farm policy, he has represented the Royal Navy and Defence at every level of wind farm assessment and policy formulation both offshore and onshore. He left the Royal Navy in 2011 to go into partnership with John Taylor in establishing Wind Farm Aviation Consultants Ltd and is now a Director of DBS Consulting providing safeguarding advice across the full spectrum of aviation issues.

Between 1998 and 2011 Shane was a member of the following working groups and policy bodies:

- MOD Airspace Requirements Review Team
- CAA National Air Traffic Management Advisory Committee
- MOD Wind farm Policy Group
- Military Users Airspace Co-ordination Team
- CAA/MOD National Flight Safety Committee
- MOD Air Command and Control Programme Delivery Board
- MOD ATC Aviation Safety Board
- National UK IFF and SSR Committee
- Defence UK IFF and SSR Committee
- MOD UAV Airspace Design Working Group
- USA Joint Forces Command Executive Steering Committee on Air Battlespace Management, Close Air Support and Digital Data links
- MOD Mode S Working Group
- Low Flying Policy Group
- CAA Danger Areas User Group
- MOD/NATS Joint Future Airspace Design Team
- MOD/CAA Flexible Use of Airspace Policy Group
- National Air Traffic Management Advisory Committee
- UK Airspace Strategy Steering Committee
- Royal Navy lead for Project Marshall, the MOD ATC replacement radar programme

He has also represented UK MOD interests on several international policy groups at Eurocontrol and NATO

From: Kylie Chapman
Sent: 08 August 2019 12:08
To: Gary Housden
Cc: Stacey Bulet; Neil Cookson; Gordon Herbert; P&B Webster; Peter Rees
Subject: Application 18/00580/MFUL - Field Off Hungerhill Lane Wombledon Kirkybymoorside [NELSONS-DMS.FID3232819]

Dear Mr Housden

I am instructed by Gracemax Limited in relation to this site. Peter Webster continues to be the agent on this application (therefore please keep him copied into any correspondence). I have been working on s.106 matters relating to this application and have now also been asked to make contact following publication of the Committee agenda for next week and following latest correspondence between you and Mr Webster.

As you are aware my client and his professional advisors have been working with the Council for many months on this application with a view to addressing any concerns the Council had. It therefore has come as somewhat of a surprise to find publication of a Committee report recommending refusal of the application, without an warning from or discussion with the Council. With the case officer now away for two weeks it is unreasonable for my client to have no opportunity to engage on the rather unexpected recommendation and reasons for refusal.

As already set out by Mr Webster the report to Committee is inconsistent and misleading particularly in respect of reasons for refusal 2 and 3. Whilst it acknowledged that the application is now formally on the agenda, we respectfully request that Members are asked to defer determination to afford the applicant an opportunity to liaise with the case officer on the reasons for refusal, which were not shared with the applicant prior to publication of the report.

One of the fundamental elements that we have been liaising with the Council on is the S.106 agreement required to mitigate any noise impacts from the adjacent potato store. We have kept the Council informed of the progress of the S.106 (which has involved liaising with a 3rd party landowner and mortgagee). Whilst it is noted that Members will be updated on the S.106 position at Committee, we would highlight that there is absolutely no legal basis for proposing a reason for refusal based on the fact that it is not yet completed, when the Council are fully aware the contents have been agreed by all parties and therefore the alleged harm is fully capable of being mitigated. It is standard practice for S.106 agreements/unilateral undertakings to be prepared and completed post Committee resolution to approve and this should not be communicated to Members as a failing of the scheme/ reason for refusal. As a matter of law there is no reason why (subject to reasons for refusal 1 and 2 being addressed) that Members cannot resolve to grant planning permission subject to the completion of the S.106 unilateral undertaking.

I respectfully put you on notice that if Committee proceed to determine the application based on the current recommendation my client will have no choice but to lodge an appeal and consider making an application for costs on the basis of unreasonable behaviour, for failing to engage with the appellant leading to an unnecessary appeal and not substantiating all reasons for refusal.

For completeness I have copied in Neil Cookson in your legal team, who I have been liaising with on the unilateral undertaking.

I look forward to hearing from you shortly and trust that this email will be brought to the attention of Committee Members.

Kind regards
Kylie

19/00627/FUL - Stonegrave House Main Street Stonegrave

Please could I ask that someone read out, on my behalf, the following brief statement:

“We note that the application is recommended for approval. It remains a mystery to us why the owners of a property of such integrity and high value should want four holiday cottages and the associated effort, and traffic on their doorstep. Of far greater concern is the road access, some 65 metres from a fast corner on a downhill slope. If a serious road traffic accident occurs, we hope that those responsible for permitting this development will reflect on their decision and its outcome”.

Thank you for your assistance.

Tim Blenkin MA MRICS