

REPORT TO: Planning Committee
MEETING DATE: Wednesday 6 June 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

Application No. **06/00328/FUL**
Proposal Construction of runways, roads and buildings to form airfield
Location **East Lothian Aero Club
Station Road
Dirleton
East Lothian**
Applicant East Lothian Aero Club
Per Tim Rayner
Ward 5
RECOMMENDATION Application Refused

PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The application site is located in the countryside approximately 1.0 kilometre to the south of the village of Dirleton. At its nearest point it is some 300 metres west of the southern length of Station Road (the C107 road), which runs between the A198 public road at its northern (Dirleton) end and Kingston Cottages at its southern end. The site is to the south of two derelict buildings. There is an access road between the two derelict buildings and Station Road. The junction of that access road with Station Road is at a point immediately to the west of a right-angled bend in the public road. There is no existing access between the two derelict buildings and the application site.

The application site is part of the agricultural land of Castlemains Farm. A field access track runs along most of the northern edge of the site but it does not continue on further to the two derelict buildings. The agricultural land of the site is generally flat and is used as arable land for the growing of crops. It is surrounded by other arable agricultural land. The closest residential properties are Sunnybrae, located some 330 metres to the east of the

application site, and Dairy Cottages, which are located on the C110 road, some 450 metres to the south west of the site.

The application site is located some 3.5 kilometres from the nearest boundary of the Firth of Forth Special Protection Area. It is also located in relatively close proximity to the Forth Islands Special Protection Area.

Planning permission is sought for the construction of a runway, roads and buildings on the application site for use as an airfield.

The runway would be 800 metres in length and 25 metres wide. Its long axis would be on an east to west alignment. Additionally, taxiways and parking areas for light aircraft would be formed to the north and northeast of the eastern end of the proposed runway. It is proposed that the runway would initially be surfaced in grass. The plans submitted with the planning application include the conversion of the grass runway at a later date to a hard surface of concrete or tarmac. The applicant informs that the reason for the contingency of a future hard surfacing of the runway is to address an eventuality of the base soil of the grass runway proving to be unsuitable for extended use. The parking area for light aircraft would from the beginning be hard surfaced with concrete.

The proposed four buildings would be located to the north of the eastern end of the proposed runway. They would consist of a clubhouse with attached youth development area, a small hanger, three combined larger hangers and a fuel store.

The building containing the proposed clubhouse with attached youth development area would have a broadly rectangular footprint and would be two storeys in height, with part of its upper floor contained within the roofspace of the building. Its walls and pitched roof would be clad in box profile steel sheeting of a 'Turtle Green' colour (BS 10B25). Its principal front elevation would face southwards towards the runway and would feature a two storey bay window feature. The proposed clubhouse would contain an entrance lobby, members area, kitchen, bathroom, air traffic control facility and storage area. The proposed youth development area would contain a bathroom, storage areas and a large open plan space.

The proposed small hanger would be positioned to the east of the proposed clubhouse and youth development area. It would have a rectangular footprint and would be single storey in height. It would be some 18 metres in length and some 15 metres wide. The ridgeline of its pitched roof would be some 4.5 metres above ground level. It would be capable of accommodating 4 light aircraft.

The three larger hangers would be positioned to the east and northeast of the proposed small hanger and would be adjoined to each other in the form of one large building. Each hanger would have a rectangular footprint and would be single storey in height. Each of the three larger hangers would be some 38 metres in length and some 31 metres wide. The ridgeline of their pitched roofs would be some 5.6 metres above ground level. The three larger hangers would each be capable of accommodating 12 light aircraft.

Thus in total the proposed hangers would be capable of accommodating up to 40 light aircraft.

The walls and pitched roofs of all of the proposed hanger buildings would be clad in box profile steel sheeting of a 'Turtle Green' colour (BS 10B25).

The fuel store would be the smallest of the proposed buildings. It would be positioned to the north of the three larger hanger. It would have an L-shaped footprint and would be single storey in height. The walls of the fuel store building would be finished with dry dash

render and its roof would be pitched and clad in box profile steel sheeting of a 'Turtle Green' colour (BS 10B25).

A car park containing a total of 20 car parking spaces would be formed to the north and west of the proposed buildings. Access to the proposed car park would be taken from the southern length of Station Road via a new length of single carriageway access road to be formed between the car park and the existing access road to the two derelict buildings that are to the north of the application site. The existing access road and the new length of single carriageway road would be surfaced with type 1 hardcore and finished with a 40mm surface course.

A supporting statement and a noise impact report were submitted with this application and further reports primarily in respect of the impact of the proposed airfield on nature conservation interests have subsequently been submitted.

The supporting statement informs that the proposed airfield would provide opportunities for sport flying and youth training and education as well as providing an appropriate light aviation airport for East Lothian and Edinburgh. It further informs that there is good evidence that there is a healthy demand for this facility, as light aircraft have been priced out of Edinburgh Airport to make way for commercial traffic. The proposed airfield would operate from sunrise to sunset. There would be no night time operation. It would be open for use each and every day of the year.

In their supporting statement, the applicant advises that the size of the proposed airfield would limit the type of aircraft that would be able to use it. In general terms the type of aircraft able to use the airfield would be limited to single engine aircraft with 1, 2 or 4 seats plus small twin engine aircraft capable of carrying 2 or 4 people. In one of the further reports submitted by the applicant it is stated that operation of the airfield on a day to day basis as an unlicensed airfield would limit the utilization of the airfield to light aviation by which the size and types of aircraft would be small and not highly powered. The scale of the proposed development would preclude jet aircraft operating from the airfield.

The applicant informs that the Civil Aviation Authority and the Air Navigation Order stipulate the operation of aircraft when taking off, landing and while on route to their destination. All aircraft are obliged to fly no lower than, or within 500ft of person or structure. The only exception to this is while landing or taking off. Flying display aircraft are exempt from these rules but must comply with other tougher safety rules.

Aircraft flying from an airfield operate in circuits while landing or taking off. The applicant informs that the close proximity of Dirleton, Gullane and wild life sanctuaries dictate that all circuits to land or take off would be flown to the south of the airfield and the height of those circuits would be 1000ft above ground level. These procedures would be published so that visiting pilots would be aware of the requirements when landing at the proposed airfield.

The proposed airfield is promoted by the applicant as a recreational facility and an educational centre plus an additional gateway to East Lothian, by it being available to visiting aircraft. As the proposed airfield would be the closest one to East Fortune Airfield, the applicant advises that the smaller aircraft participating in the East Fortune flying display might stage their display flights from the proposed airfield.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policies ENV1A (International Natural Heritage Designations), ENV3 (Development in the Countryside) and ENV1G (Design of New Development) of the approved Edinburgh and Lothians Structure Plan 2015 and Policies NH1a (Internationally Protected Areas), DC1 (Development in the Countryside and Undeveloped Coast), DP2 (Design), T2 (General Transport Impact), DP22 (Private Parking) and DP13 (Biodiversity and Development Sites) of the adopted East Lothian Local Plan 2008.

Material to the determination of the planning application is Scottish Planning Policy: February 2010 on the matter of nature conservation.

Also material to the determination of the application are the representations received from the public.

A total of 78 written representations have been received. Of these, 24 make objection to the proposed development. The other 54 written representations are made in support of the proposed development.

A copy of each written representation is contained in a shared electronic folder to which all Members of the Committee have had access.

The 54 representations support the proposed development as it would:

- Provide a much needed recreational facility;
- Attract flying tourists to East Lothian and contribute to the local economy;
- Provide opportunities for young people to develop an interest in aviation and benefit from work experience and training opportunities for a future career in aviation;
- Result in the creation of new jobs;
- Not generate significant noise or other forms of pollution; and
- Not impact on geese, as they rarely land on the application site.

The main grounds of objection are summarised as follows:

- Noise pollution would have detrimental effect on local residents and on local tourist facilities, including the Greywalls Hotel;
- Highly detrimental effect on the internationally important wild birds that use the Aberlady Nature Reserve, including pink footed geese;
- East Fortune airfield should be used instead of the proposed airfield;
- Risk of flooding of the proposed airfield;
- Impact on property prices;
- Proposed buildings would be visually offensive;
- Proposed development would affect the setting of Dirleton Castle;
- Applicant may in future seek to extend the runway and make it into a commercial airfield;
- Proposed airfield could have serious animal health and welfare implications; and
- Proximity of the proposed airfield close to a busy road could lead to road traffic accidents.

Gullane Area Community Council, a consultee on the application object to the proposed airfield, advising that the noise impact would be detrimental to the amenity of the area, particularly the villages of Dirleton and Gullane. They state that their concerns about noise have been reinforced by the information that the proposed airfield would be able to be used by aircraft and helicopters for golf tournaments in the area.

Objections made on the grounds that the proposed airfield would lead to a loss of property value are not material planning considerations in the determination of this planning application.

The application site is in a countryside location to the south of Dirleton. Thus it is covered by Policy DC1 of the adopted East Lothian Local Plan 2008. Policy DC1 sets controls for the development of leisure, tourism or infrastructure uses within the countryside of East Lothian.

Part 1(a) of Policy DC1 supports the principle of leisure, tourism or infrastructure development in the countryside of East Lothian, provided they have a clear operational requirement for a countryside location that cannot reasonably be accommodated within an existing urban or allocated area.

What is promoted in this planning application would principally be a leisure use, operated from a proposed airfield development. However, there is no land in East Lothian allocated for such a type of development and by its size and form an airfield could not be accommodated in any of the existing urban areas of East Lothian. In which case, it is reasonable to turn to the countryside and to consider whether or not the application site is a suitable countryside location for the proposed airfield as a development to facilitate the principally proposed leisure use of the flying of light aircraft.

Some of the objectors argue that the applicant should use East Fortune airfield, as it already has existing runways. In response to this, the applicant advises that it is not possible for them to use East Fortune airfield for the flying of light aircraft because i) land ownership of East Fortune airfield is held by three different parties; ii) each owner has established independent development proposals which are not compatible with aviation or has established uses that preclude the operation of aircraft, even from the old runways; and iii) the existing/ established microlight airfield on the west end of the East Fortune airfield site exists because that type of aircraft can only operate safely due to the limited length and width of that part of the runway, and is not suitable for the operation of light aircraft.

In order to ensure that the proposed use of the airfield would be a leisure use and that the proposed development would, therefore in principle, be supported by Part 1(a) of Policy DC1 it would be necessary to restrict the use of the airfield to that which is applied for and to prevent it from being operated for the carrying of cargo and/or passengers for commercial gain.

The application site is outwith the Edinburgh Airport Safeguarding Zone. Thus there is no statutory requirement to consult Edinburgh Airport on this planning application. Responsibility for the safe operation of the proposed airfield would rest with the site operator.

The application site is located within open countryside to the south of Dirleton. At its nearest point, it is some 780 metres to the south of the A198 classified road, some 290 metres to the west of Station Road, some 420 metres to the north of the C110 road and some 325 metres to the east of the B1345 road. From such places the visual impact of the proposed airfield would be partly mitigated by the roadside hedgerows and for short durations only. In longer views from the north the proposed airfield would be set against the backdrop of the rising landform of the landscape to the south of the application site and thus would not be a markedly prominent or intrusive feature in its landscape setting.

By being a ground surface feature, of a simple grassed form and contained within a low rolling landform would not have a pronounced visual impact and would not harm the

landscape character and appearance of the area. Even if the runway were to be hardsurfaced at some time in the future, then it would still not be a harmfully obtrusive feature in its countryside location.

The proposed buildings would have the form and finishing materials of agricultural buildings. Such buildings are a relatively common feature of the countryside of East Lothian. Because of this and in their relatively contained positions within the low rolling landform of the area, the proposed buildings would not appear unduly prominent, intrusive or incongruous within their landscape setting.

In terms of its visual impact, the proposed airfield would be well integrated into the landscape and would not be harmfully prominent, intrusive or incongruous in its setting.

On this consideration of landscape and visual impact the proposed airfield is consistent with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DP2 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The proposed airfield would be located some 1.0 kilometre to the south of Dirleton Castle. With such a separation distance and the degree of visual containment that the proposed airfield would have, it would not affect the setting of that Category A listed building and Scheduled Ancient Monument.

The application site is some 1.0 kilometre from the nearest settlement, that being the village of Dirleton. There are some residential properties closer to the site than the residential properties on the southern edge of Dirleton. The property of Sunnybrae, to the east of the application site is the nearest residential property.

Planning Advice Note 1/2011: Planning and Noise is not prescriptive on the matter of noise from an airfield.

The Noise Impact Report submitted with the application has been appraised by the Council's Environmental Protection Manager. The noise assessment given in the Report compares the typical noise likely to be generated by a light aircraft flying into and from the airfield and overhead, relative to the existing background noise levels of the locality. The Environmental Protection Manager agrees with the conclusion of that assessment that light aircraft using the proposed airfield would have little noise impact on the human population of the area, including the occupants of the residential properties near to the application site. His agreement is based on his understanding that flights would only be during a standard 12 hour daytime of 0700 hours to 1900 hours.

The Environmental Protection Manager raises no objection to the proposed airfield development subject to the airfield only being used for the takeoff and landing of aircraft between the hours of 0700 and 1900, any day of the week, unless otherwise approved in advance by the Planning Authority. He further recommends that details of any bird scaring measures should be submitted for approval in order to ensure that the operation of them would not result in any harmful noise impact.

If these controls were to be put in place the proposed airfield development would be compliant with Policies DP2 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raise no objections to the proposals, being satisfied that the proposed means of vehicular access, parking and turning are all acceptable in principle. They recommend that: (i) the corner radii on the north side of the existing access road at its junction with the southern length of Station Road should be increased to at least

9 metres to enable access for larger vehicles; (ii) wheel washing facilities should be provided; (iii) the first 10 metres of the existing access road measured back from the public road should be resurfaced and repaired to prevent loose materials being brought onto the public road on vehicle tyres; and (iv) warning signs should be erected on the A198 and B1345 roads in the vicinity of the site to warn public road users of low flying aircraft.

If these controls were to be put in place the proposed airfield development would be compliant with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service do not consider that the proximity of the proposed airfield could lead to road traffic accidents.

The Scottish Environment Protection Agency have been consulted on this planning application and raise no objection to the proposed development.

There is no evidence to suggest that the proposed airfield would have serious animal health and welfare implications, as stated by one of the objectors to the application.

Notwithstanding all of these foregoing considerations, what now has to be considered in the determination of this application is whether or not the proposed airfield would have an adverse effect on biodiversity and on the conservation interest of the Firth of Forth Special Protection Area or the Forth Islands Special Protection Area.

Policy DP13 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area.

In his original consultation response, the Council's Biodiversity Officer advised that the application site is in close proximity to Aberlady Bay Local Nature Reserve and is within a feeding area for over-wintering geese. He raised concerns that aircraft could have a major impact on important bird populations, but conversely, that the birds could be a danger to flying aircraft. Pink footed geese are an important species within the Firth of Forth Special Protection Area.

The Royal Society for the Protection of Birds have raised concerns that the proposed development may lead to a marked increase in disturbance to pink footed geese feeding in the wider locality of the application site during autumns and winters.

Scottish Planning Policy advises that sites classified as Special Protection Areas under Birds Directive 79/409/EEC on the conservation of wild birds and designated as Special Areas of Conservation under Habitats Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora Directive form an European Union-wide network of protected areas known as Natura 2000. Any development proposal which is likely to have a significant effect on a Natura site and is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment by the planning authority of the implications for the site's conservation objectives. Development which could have a significant effect on a Natura site can only be permitted where:

- an appropriate assessment has demonstrated that it will not adversely affect the integrity of the site, or
- there are no alternative solutions, and
- there are imperative reasons of overriding public interest, including those of a social or economic nature.

Where, in the absence of any alternatives, an authority proposes to approve a project which could adversely affect the integrity of a Natura site for reasons of overriding public

interest, Scottish Ministers must be notified and compensatory measures necessary to ensure the overall coherence of the Natura network is protected must be provided. For projects affecting a Natura site where a priority habitat or species (as defined in Article 1 of the Habitats Directive) would be affected, prior consultation with the European Commission via Scottish Ministers is required unless the proposal is necessary for public health or safety reasons or will have beneficial consequences of primary importance to the environment.

Scottish Planning Policy also advises that Ramsar sites are wetlands designated under the Ramsar Convention on Wetlands of International Importance, especially as waterfowl habitat. All Ramsar sites are also Natura sites and/or Sites of Special Scientific Interest and are protected under the relevant statutory regimes.

Policy ENV1A of the approved Edinburgh and the Lothians Structure Plan 2015 states that development which would have an adverse effect on the conservation interests for which a Natura 2000 area [that includes a Special Protection Area] has been designated should only be permitted where, (i) there is no alternative solution, and (ii) there are imperative reasons of over-riding public interest, including those of a social or economic nature. Local plans should include policies and, where appropriate, proposals for their protection and enhancement.

Policy NH1a of the adopted East Lothian Local Plan 2008 stipulates that development which would have an adverse effect on the conservation interest of a Natura 2000 area or a Ramsar site will only be permitted in the following circumstances, (i) there are no alternative solutions, and (ii) there are imperative reasons of over-riding public interest, including those of a social or economic nature.

In their initial consultation response Scottish Natural Heritage advised that the proposed development could have potentially serious adverse impacts on important natural heritage interests of the Firth of Forth Special Protection Area. In later correspondence, SNH also advised that the proposed development could adversely affect breeding seabirds from the Forth Islands Special Protection Area.

On this matter there has been extensive correspondence between the applicant, Scottish Natural Heritage, the Council's Biodiversity Officer, and planning officers of East Lothian Council.

Since giving their initial consultation response Scottish Natural Heritage confirmed that, as the proposed airfield development may affect a qualifying interest of both the Firth of Forth Special Protection Area and the Forth Islands Special Protection Area, namely the population of pink-footed geese and the population of breeding seabirds respectively, the Council must carry out an appropriate assessment as required by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), more commonly known as the 'Habitats Regulations'.

The requirements of Article 6(3) of the EC Habitats Directive are transposed into domestic law by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). These regulations set out a procedure which all competent authorities must follow when considering any plan or project whereby any plan or project which is not necessary for the conservation management of a European Site and which is likely to have a significant effect on such a site has to be appropriately assessed in view of the site's conservation objectives.

In this matter East Lothian Council is the competent authority. In the determination of this application for planning permission the responsibility is on the Council, as planning authority to not only have carried out an appropriate assessment, as advised by Scottish Natural Heritage, but to also pay due regard to the findings of it. If this planning application

is to be approved the Council must be satisfied that the appropriate assessment clearly ascertains that there will be no adverse affect on the integrity of the Special Protection Areas in respect of their conservation objectives. The tests in the Regulations are precautionary, which means that if there is uncertainty about the seriousness of the effects, permission should not be granted except in very special circumstances of overriding public interest. Indeed, if there is uncertainty about the seriousness of the effects and there are no imperative reasons of overriding public interest, then under the provisions Regulations 48 & 49 of the Regulations the Council is prohibited from granting planning permission.

The Council commissioned David Tyldesley and Associates to undertake on the Council's behalf an appropriate assessment in respect of the proposed airfield development. The appropriate assessment is informed by David Tyldesley and Associates' extensive knowledge of the Habitats Regulations, as well as a thorough review of the main documents supporting this planning application and of responses from the RSPB, SNH and the Council's Biodiversity Officer and the applicant's further reports in respect of nature conservation.

The appropriate assessment concludes that species within the Forth Islands Special Protection Area could be disturbed by flights from the airfield were it to become operational. These potential disturbance effects amount to a significant effect alone on the Forth Islands Special Protection Area.

The appropriate assessment also concludes that species within the Firth of Forth Special Protection Area could be disturbed by flights generated by the operation of the airfield. The disturbance associated with a proportion of the flights each year from the airfield could undermine the conservation objective of the Firth of Forth Special Protection Area, which is to 'avoid significant disturbance to the qualifying species'. It is also concluded that a second potential affect would be disturbance to pink footed geese whilst in their feeding grounds outwith the Firth of Forth Special Protection Area. The pink footed geese population generally leave the Firth of Forth Special Protection Area during the day to feed on adjacent land. At dusk they return to the Firth of Forth Special Protection Area to roost. Feeding flocks of the geese have been recorded within the agricultural fields in the vicinity of the application site. In the vicinity of the proposed airfield, the disturbance associated with aircraft movement would be of a greater magnitude due to the aircraft flying at a lower altitude for the purpose of take off and landing. The disturbance could have the effect of displacing birds from potential feeding habitat as well as disturbing them whilst feeding or travelling to and from their feeding grounds. There is insufficient evidence to conclude that the effect on the pink footed geese from this disturbance would not be significant. The displacement of geese from the feeding area would be exacerbated by the need to keep the airfield and surrounding area clear of geese. The operation of the proposed airfield would be likely to have a significant effect alone on the Firth of Forth Special Protection Area as a result of disturbance effects both within the Special Protection Area and in the off site feeding grounds exacerbated by the disturbance and displacement effects of direct habitat loss from the feeding grounds habitats and the occasional effects of bird scaring.

Through the appropriate assessment it cannot be ascertained that, even taking account of the way in which the proposed airfield would be operated and potentially controlled through planning conditions, it would not have an adverse affect on the integrity of the qualifying interests of the Firth of Forth Special Protection Area and the Forth Islands Special Protection Area. Consequently the proposed airfield is not compliant with Policies NH1a and DP13 of the adopted East Lothian Local Plan 2008, Policy ENV1A of the approved Edinburgh and the Lothians Structure Plan 2015 and Scottish Planning Policy: February 2010 with respect to the matter of nature conservation.

REASON FOR REFUSAL:

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Through the appropriate assessment of the proposed development it cannot be ascertained, even taking account of the way in which the proposed airfield would be operated and potentially controlled through planning conditions, that it would not have an adverse affect on the integrity of the qualifying interests of the Firth of Forth Special Protection Area and the Forth Islands Special Protection Area. Consequently the proposed airfield is not compliant with Policies NH1a and DP13 of the adopted East Lothian Local Plan 2008, Policy ENV1A of the approved Edinburgh and the Lothians Structure Plan 2015 and Scottish Planning Policy: February 2010 with respect to the matter of nature conservation.