

Report to Planning applications committee

Item

8 January 2015

Report of Head of Planning Services

Subject

Application no 14/01588/D: Norwich International Airport (NIA), Amsterdam Way, Norwich NR6 6JA

Reason for referral

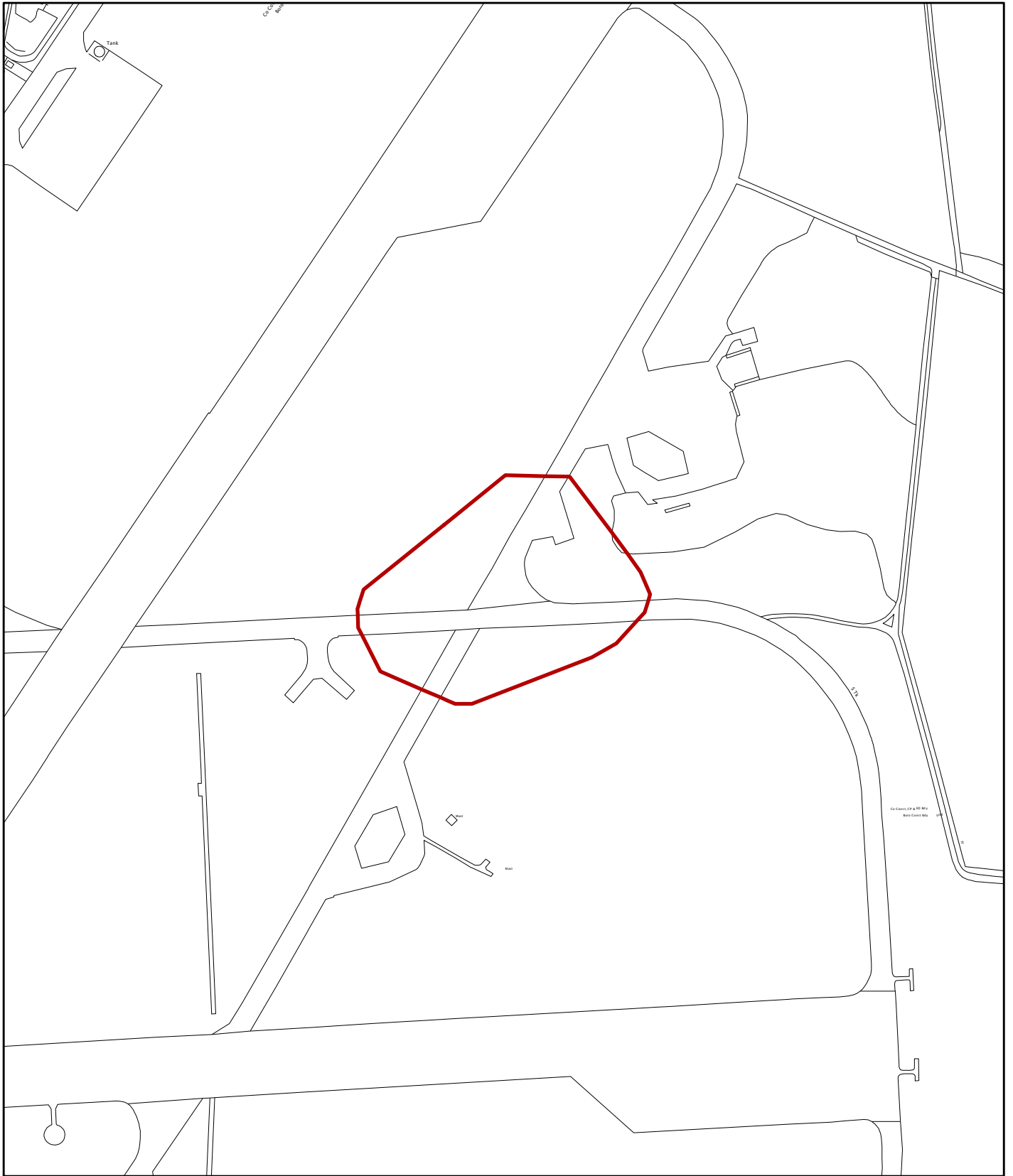
Objections; authority sought for enforcement action

41

Ward:	Catton Grove
Case officer	Steve Fraser-Lim – stevefraser-lim@norwich.gov.uk

Development proposal		
Details of Condition 3: revised timescale of implementation of previous planning permission 12/01172/F.		
Representations		
Object	Comment	Support
2	0	0

Main issues	Key considerations
1) Principle of development	Impact upon amenity due to the proposed delay
Expiry date	22/12/2014
Recommendation	(1) refuse planning permission for Application No 14/01588/D (2) authorise enforcement action under section 172 of the Town and Country Planning Act 1990 (as amended) to secure the cessation of the unauthorised use and the taking of legal proceedings, including prosecution if necessary.



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Planning Application No 14/01588/D

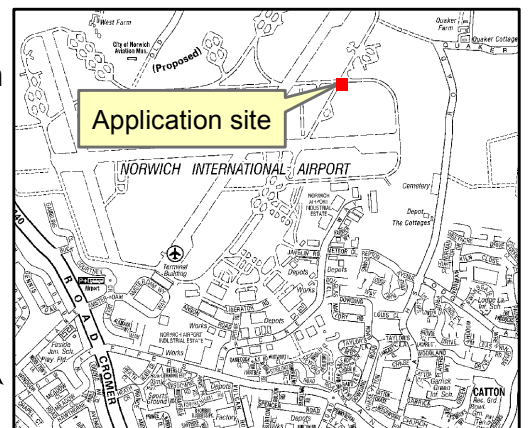
Site Address Norwich International Airport, Norwich

Scale 1:4,000



NORWICH
City Council

PLANNING SERVICES



The site and surroundings

1. Norwich International Airport (NIA) is located to the north of the city and accessed off the A140 Norwich - Cromer road. The airport site straddles the administrative boundaries of Norwich City Council and Broadland District Council (BDC). The application site consists of 2.286 Ha of rough grassland and hard standing and forms a relatively small part of the airport site. The site is wholly within the City Council's area, although close to the boundary with BDC.
2. The airport is of a size that, to the south it is seen within the context of the built up urban area of the city. It is bounded by residential and commercial land uses within Hellesdon, and Old Catton to the south, south west and south east, whereas to the north the surrounding context is predominantly rural countryside and village settlements.
3. The majority of development that exists within the airport operational area is situated at its southern end, with the main passenger terminal located at the end of the now disused second runway. There are a number of aviation related businesses which operate within the vicinity of the eastern apron (e.g. KLMUKE, Air Livery, Bristows Helicopters) together with a number of other businesses which operate from the western apron. The airport industrial estate and other commercial land uses are situated adjacent to and beyond the southern boundary of the airport.
4. The closest public road to the proposed site is to the east and is separated from the application site by a field, bordered by trees and hedges. Whilst public viewpoints from the north and north-west are possible, these are not achieved until at the boundary of the airport site. Generally, the site is relatively well-screened from long distance views in most directions.

Constraints

5. Areas of the airport site are within a critical drainage area.

Relevant planning history

6. The airport site has been used as an airfield since the Second World War. It ceased military operations in 1963 and was bought by the City Council in 1967 (who still retain an interest in Norwich Airport Ltd. and the land). It was commercially operational as an airport by December 1968. No permission was required for the operation of the site as an airport at that time due to the established nature of the use of the site as an airfield. Low powered and high powered engine testing has, as far as is known, always been carried out in association with the use of the site as an airfield.
7. There have been a number of applications granted on the site since the 1960's. However, the most relevant of these are considered to be those which include reference to engine testing.
8. Application Ref 4841269/SU (Approved 1984). The earliest known reference to engine testing was in the form of a condition attached to a permission granted in 1984 which restricts the activity to a particular site within the airfield and refers to the use and the site concerned as 'existing'. Various subsequent permissions granted since this approval re-imposed this condition.

9. Application Ref 05/00697/F (Approved 19/09/2006), 'Refurbishment and extension to existing terminal building to provide improved passenger facilities'. This is the most recent permission where the condition referred to above has been imposed. The condition states:
10. *'Aircraft engine testing shall only take place in the area presently approved for such testing, (as shown on Plan No. AAA attached to Planning Permission No.4980733/F), or in any such area that may be granted planning permission for that purpose, and shall be limited to between the hours of 0600 and 2300. Exceptionally, aircraft engine testing may take place outside these hours providing it is an emergency, which is defined for these purposes as any sudden or unforeseen event needing prompt attention and is authorised by a Norwich Airport Executive Director and does not involve the testing of Turbo Jet Engines.'*
11. Application Ref 09/00679/F (Approved 13/5/2010), 'Relocation of existing engine testing facility from its approved location on the eastern apron to the former fire training site and associated noise mitigation works'. The application was submitted in December 2009 and subsequently approved subject to conditions. The application included hardstanding areas and the construction of 6 metre high bunds around three sides of the facility to seek to attenuate noise emissions.
12. Application Ref 09/00679/F (quashed by Order the High Court 6/6/2012). A claim for judicial review (JR) to quash the decision of 13th May 2010 was submitted on 12th August 2010. Following review of the position and legal advice, the Council consented to judgement and the High Court has subsequently issued a Consent Order that quashed the 2010 planning approval. Application 09/00679/F was subsequently withdrawn in August 2013.
13. Application Ref: 12/01172/F (Approved 09/5/2013). 'Aircraft engine testing at Norwich International Airport, construction of an associated ground run enclosure (GRE), hardstanding and drainage works'. This application represented an attempt to address the legal issues raised as part of planning application 09/00679/F and proposed a new location for engine testing along with mitigation measures in the form of the GRE to reduce noise impacts.
14. This permission included a condition (no.3) requiring the following: *"Within 4 months of the date of this permission a scheme specifying the details of the construction and implementation of the development subject of this permission shall be submitted in writing to the local planning authority for approval and the development shall be carried out in accordance with the scheme as approved"*.
15. The condition was required for the following reason: *"In order to ensure that the details of the works necessary to enable the use of the proposed development are submitted promptly and for the local planning authority to control the details referred to and the timetable for construction and implementation. The condition is imposed in the interests of the amenities of the surrounding areas and to limit the adverse impact on the living conditions of local residents through the continuation of unauthorised engine tests. To reflect policy EP22 of the City of Norwich Replacement Local Plan 2004 and other material planning considerations"*.

16. Application Ref: 14/00095/D (discharged 06/02/2014). 'Details of Condition 3) scheme specifying the details of the construction and implementation of the development of previous planning permission 12/01172/F'.

The proposal

17. Application 12/01172/F (see planning history above) comprised construction of 2,557m² of new concrete to supplement the existing concrete of the Bravo-November Interchange (taxiway); the assembly of a 10m high pre-fabricated Ground Run Enclosure (GRE) and movable jet blast deflector; the installation of foundations to support the GRE.

18. The timetable for implementation of this project as submitted and approved as part of application 14/00095/D (see planning history above) was for work to commence in January 2014 and complete the development in February 2015.

19. This current application proposes a revised timescale which is delayed in comparison with the previously approved schedule. The proposals are now to commence construction in November 2014 with completion in June 2015.

Representations

20. No statutory consultation has been carried out as this is not required for a discharge of condition application. However three nearby occupiers were notified of the application. 2 letters of representation have been received citing the issues as summarised in the table below.

Issues raised	Response
Considering that permission was granted for this facility in March 2013 we are bitterly disappointed that it will have taken over two years to build.	See Background section below.
Have to put up with noisy engine testing, particularly at weekends.	See main issue 1.
The council does not have the courage to take appropriate enforcement action, given the importance of the airport to the local economy.	See main issue 1.

Consultation responses

21. No consultations have been undertaken.

Assessment of planning considerations

Relevant development plan policies

22. **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**
- JCS Objective 3: Economic growth and diversity (NIA is listed within a range of key locations in the Norwich Policy Area for strategic employment growth)
 - 5 The Economy
 - 6 Access and transportation
 - 9 Strategy for growth in the Norwich Policy
 - 10 Locations for major new, or expanded, communities in the Norwich Policy Area
 - 12 The remainder of the Norwich urban area, including the fringe parishes
 - 15 Service Villages
 - 17 Smaller rural communities and the countryside
23. **Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)**
- DM2 Ensuring satisfactory living and working conditions
 - DM11 Protecting against environmental hazards
 - DM27 Development at Norwich Airport

Other material considerations

24. **Relevant sections of the National Planning Policy Framework March 2012 (NPPF):**
- NPPF1 Building a strong and competitive economy
 - NPPF8 Promoting healthy communities

Case Assessment

25. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan policies are detailed above. Material considerations include policies in the National Planning Framework (NPPF), the Councils standing duties, other policy documents and guidance detailed above and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations. Residential extensions are acceptable in principle since the use is already established.

Background

26. High powered engine testing of commercial aircraft is currently being undertaken in the open (i.e. with no noise attenuation) at NIA. The engine testing takes place to the north of the disused runway. The testing operation at this location consists of high powered engine testing (in combination with low powered testing). This activity is not the subject of a specific planning consent. The activity was relocated to this site 7/8 years ago by the airport from a site on the eastern apron. The site on the eastern apron had been specifically identified for engine testing (also in the open) by way of a

condition imposed on a 1984 planning permission. The condition has been imposed on subsequent extant planning permissions, including most recently in 2006.

27. High powered engine tests were relocated from the eastern apron due to its conflict with the operations (movement, maintenance and access) of Bristow Helicopters who occupy this part of the airport and who service the gas industry in the Southern North Sea.
28. Following this relocation, a number of complaints associated with the noise impact of the engine tests in relation to properties to the north of the site were received. The Council's Planning Enforcement Officer advised the airport of the unauthorised nature of the use of the site and the need to resolve the issue. A breach of condition notice relating to condition 9 of 05/00697/F was served on 16 November 2009 which required the cessation of engine testing other than in the approved area in front of Bristow helicopters within 210 days of its service. In August 2009 an application was received to seek to address the issue (ref: 09/00679/F) and regularise engine test operations by relocating it to a site in the north eastern part of the airport. This application included the construction of 6 metre high bunds around three sides of the facility to seek to attenuate noise emissions. The City Council approved this application on 13 May 2010. The planning permission was subsequently challenged and quashed through the Judicial Review process (see planning history).
29. Following the quashing of the above decision a further application was submitted for engine testing in a new location within the northern area of the site (ref: 12/01172/F, see planning history section) with GRE. This application was granted with condition 3 requiring submission of a timescale for implementation, due to concerns with the current open air engine testing upon residential amenity and to ensure prompt implementation of the development (see planning history).
30. Whilst the above applications were being progressed officers have not considered it expedient to prosecute against failure to comply with the breach of condition notice. There has been delay in implementing permission 12/01172/F and officers have been pressing the airport to progress the development.
31. The current application is for a revised timetable for implementation of this permission in comparison to that previously approved, see paragraph 19 above. The revised timetable of commencement in November 2014 and completion in June 2015 has been put forward by the applicant as they have experienced difficulty in arranging funding and agreeing contracts with contractors to carry out the works. The proposals raise the following issues.

Main issue 1: Amenity

32. Key policies and NPPF paragraphs – DM2, DM11, NPPF paragraphs 9 and 17.
33. The current arrangement of engine testing in the open currently causes high noise levels and disturbance to residential occupiers to the north of the airport. As such the proposed works in the form of the GRE was considered particularly important to help mitigate noise impacts. The GRE would allow engine testing to continue at the airport, thus safeguarding the airports impact upon the local economy, whilst also helping to protect the amenity of surrounding occupiers. The applicants were aware of the importance of proceeding with the development as rapidly as possible and it is regrettable that the original timetable has slipped. In the meantime the applicants

have been encouraged to continue to implement the permission as rapidly as possible.

34. The difficulties which the applicant has experienced in carrying out the works are noted. Whilst the council cannot guarantee the implementation of the GRE within a certain timescale, it does have a duty to use relevant enforcement powers appropriately to do all that it can to encourage the works to be carried out and to discourage further delays. As such it is recommended that this application is refused and enforcement notice served requiring implementation of the GRE. The enforcement notice would have a compliance date at the end of June 2015. If the completion of the GRE were to be further delayed beyond this date, then the council would be in a stronger position to carry out further enforcement action, such as prosecution to further encourage implementation, if this was considered appropriate.
35. This approach is considered to represent an appropriate balance between recognising the importance of the airport and engine testing to the local economy, encouraging implementation of the appropriate mitigation measures and ensuring that the council is using its enforcement powers appropriately to protect the amenity of surrounding residents.

Equalities and diversity issues

36. There are no significant equality or diversity issues.

Conclusion

37. Refusal of this discharge of condition application and the serving of an enforcement notice with a compliance date similar to the timescale put forward by the applicant would represent an appropriate balance between recognising the importance of the airport and engine testing to the local economy, encouraging implementation of the appropriate mitigation measures and ensuring that the council is using its enforcement powers appropriately to protect the amenity of surrounding residents.

Recommendation

- (1) refuse planning permission for Application No 14/01588/D for the following reasons: "The continued delay in implementation of the noise mitigation measures granted as part of planning permission 12/01172/F would result in unacceptable noise disturbance to surrounding residential occupiers, to the detriment of their residential amenity. This would be contrary to Development Management Local Plan Policies DM2 and DM11".
- (2) authorise enforcement action under section 187A of the Town and Country Planning Act 1990 (as amended) to require compliance with condition 3 of permission 12/01172/F within a set timescale, including prosecution if necessary.