

# REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	30 <sup>th</sup> January 2013		
Application Number	12/00105/S73A		
Site Address	Cotswold Airport, Kemble, GL7 6BA		
Proposal	Continued Use of Land for Non-Aviational events and Activities.		
Applicant	Kemble Airfield Estates Ltd.		
Town/Parish Council	Crudwell		
Electoral Division	Minety	Unitary Member	Carole Soden
Grid Ref	396288 196315		
Type of application	S73A		
Case Officer	Charmian Burkey	01249 706667	Charmian.burkey@wiltshire.gov.uk

## Reason for the application being considered by Committee

Councillor Soden has requested that the application be heard by committee to assess the scale of the development, visual impact on the surrounding area and the environmental/highway impact. The Committee resolved on 12<sup>th</sup> December 2012 to DELEGATE the item to officers to allow the signing of the Unilateral Undertaking in conjunction with the local Councillor. Since then the Airport has requested that the Unilateral Undertaking be amended to include Fridays within the allowable days of Car Testing. It was previously proposed as Monday-Thursday inclusive. (Comments additional to those made at 12/12/12 are highlighted in **bold**).

### 1. Purpose of report

To consider the above application and to recommend Planning Permission be DELEGATED to the Area Team Leader for the formal submission of a signed copy of the Unilateral Undertaking and subject to conditions.

### 2. Report summary

The main issues in the consideration of this application are as follows:

- Existing and historic uses of the site.
- The proposal and Unilateral Undertaking.
- Impact upon neighbour amenity
- Impact upon highway safety
- Impact upon visual amenity and landscape character.
- The local economy.

The application has generated objections from 2 parish councils together with legal representation for 3 of the Gloucestershire Parishes; support from 2 local residents and 114 letters of objection from the public.

### 3. Site Description

Cotswold Airport is situated in open countryside with sections of the airport falling within the two Councils' administrative boundaries of Wiltshire and Cotswold District Council. The application site

falls wholly within Wiltshire although the Unilateral Agreement is cross boundary. The airfield was a former military base from the 1938 onwards with the Red Arrows aerobatics team being based there until 1983. Military flying stopped in 1993 and the site moved into private ownership in 2002.

The site is almost completely flat and lies close to the boundary of the Cotswolds AONB. The A429 bounds the site to the east with the village of Kemble lying approx. 1km to the north. Kemble Business Park lies immediately to the south and there are a number of properties in close proximity to the airfield.

<b>4. Relevant Planning History</b>		
<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
08/00887/CLE	Certificate of Lawfulness regarding established use of Kemble Airfield.	Withdrawn
12/01668/CLE	Certificate of Lawfulness – Primary use of airport for general aviation purposes	Delegated

## **5. Proposal**

The proposal follows on from several years of discussion and negotiation with the Airport and local community and it should be stressed that the application has been made voluntarily together with the submission of a Unilateral Undertaking (covered later). As the Airport is a cross boundary facility, the work has also been undertaken in close conjunction with Cotswold District Council and has involved the Parishes within Gloucestershire as well as those within Wiltshire.

The proposal is for the continued use of land for non-aviational events and activities. Most of the activities have been undertaken to some level for the last 10 years. In general they can be categorised as show days, corporate and promotional events, driver training days, filming and photo-shoots, car testing and 'other'. Essentially 'other' covers activities such as charity runs.

The application seeks, by way of the Unilateral Undertaking, to voluntarily control the number of days that could cause nuisance (mainly car testing and show days), whilst allowing the airport to undertake an increase in the days which cause little or no disturbance in addition to a small increase in the number of potential show days.

The Unilateral Undertaking originally proposed the following:

- No more than 24 show days.\*\*
- No more than 50 corporate or promotional events.
- No more than 100 driver training days.
- No more than 50 commercial filming and photo-shoot days.
- No more than 12 days car attesting.
- No more than 12 days 'other' events.

\*\* Now reduced to 16

**The Unilateral Undertaking has now been amended to include aviaational events (used in connection with the lawful use of the site for General Aviation) and non-aviational days and also to include Fridays within the allowable days of car testing so that it is now a weekday occurrence, but without any increase on the 12 days originally sanctioned.**

## **6. Planning Policy**

North Wiltshire Local Plan: policies C3 and NE15

National Planning Policy Framework (NPPF)

## 7. Consultations

Crudwell Parish Council comment that the title of the application is slightly misleading, because within the document, the definition of “show days” states that these will include both aviation and non-aviation activity within this small area. There is a need for greater accuracy.

The term aviation activity needs to be further defined as either non-flying aviation days or flying aviation days. There is no objection to either but definitions need to be accurately and fully understood to judge the impact. For example, the western boundary of the event area is set with a gap roughly parallel to the main runway. It is assumed this is to protect a crowd safety line.

Lack of Certificate of General Aviation for the whole airfield and approval of the application gives tacit approval by Wiltshire Council. (ATL – the Certificate is under consideration).

The 3 Emergency Services should be consulted on the proposed increase in activity.

Crudwell Parish Council do not object to the proposal and welcome this attempt to bring to a close the very real problems faced during the transition from military to civilian use. It is disappointing that more jobs are not to be created.

Oaksey Parish Council has not yet responded.

Ashley and Culkerton Parish Council are represented by the Solicitor as below, but also comment as follows:

1. The application is for continued existing use under S73A which does not permit any increase above the existing for whatever reason.
2. The definition for the use in the application is too general to be properly defined. The Unilateral Undertaking does not restrict the site only to the listed uses. This needs explaining.
3. If the application by a CLEUD for general aviation is proceeding and if granted the land will have two primary uses – one for non aviation events and activities and the other for general aviation. This is planning nonsense.
4. The Highways Officer has reduced his request for a traffic statement because the applicant has now reduced the number of show days for each year to 16. Nothing can alter the hazard of traffic and the chaos of parking on showdays in Culkerton. The Highways Officer still owes a duty of care to those affected and the Committee needs to know why he has changed his mind.
5. The noise of F1 testing is a problem in their parish. To control this when it is outside the application site by means of a unilateral undertaking and by increasing the number of events and activities beyond those currently taking place on the application site, is ultra vires as far as S73A is concerned.

Rodmarton Parish Council – see below.

Coates Parish Council has not yet responded.

Kemble and Ewen Parish Council - see below.

On behalf of the parishes of Rodmarton, Kemble and Ewen and Ashley and Culkerton a solicitor has written and raises the following concerns:

- What is permission being sought for? Non-aviation is a broad term without meaning and the site could be used as a gypsy site or for car boot.
- The application is S73A and should reflect the usage that has occurred. The application together with the Unilateral undertaking represents a massive increase in use. The average use over the last 10 years has been 170 days and 248 are being requested.
- The application site only covers that in Wiltshire. The runway is only controlled in car testing as defined in the Unilateral Undertaking.

- Concerns about additional uses being permitted outside the control of the application.
- The word 'event' needs definition. Driver Training days exclude speed trial and mechanical tests but these are not covered under Car Testing either.
- More notice should be given to the Council for "other events".
- The log covered in clause 11 should be put on the website and require a monthly submission, not be by request. Why are events not being accurately recorded.

Representatives of the Parish Councils have been alerted to the item's return to Committee and the reason for it.

Highways have raised issues mainly concerning the number of show days. The site does not have a properly designed access but uses the airfield emergency access which has substandard visibility to the north. They do acknowledge that events have been held before and that there are no recorded injury accidents relating to the use of the access. The proposed number of filming activities is significantly higher than the maximum of the past (19 average per year increasing to 50). They consider that the proposal should more closely correspond to the ten year average.

They also have concerns that "Other Events" should not be open to the public as this could increase the number of show days.

A method statement of how traffic will be controlled on show days as visitor numbers can be high should be conditioned. Highways authorities should have clarity that there will be adequate traffic control and signing at the entrance to major events. In addition it may be worth requiring a schedule of "Show Days" to be submitted at the start of each year in addition to the monthly schedules mentioned in the UU.

Legal Services has been involved throughout the application process and officers have also been working with Legal services in Cotswold District Council. Legal Services are now broadly happy with the application and the Unilateral Undertaking, subject to conditions.

Environmental Health has worked with the Airport in previous years to remove a statutory noise nuisance from the site. They are satisfied that 12 days of F1 testing are acceptable but recommend that there should be no more than 2 days in any one week. They are however, concerned about the number of show days. The average over the last 10 years has fluctuated between 8 and 15 days and the 24 applied for could lead to residential amenity concerns. He would prefer the limit to be 18 days.

He points out that notwithstanding the planning application and Unilateral Undertaking, both Councils have powers under their nuisance legislation to investigate and act on any subsequent noise nuisance generated from the site.

### **Environmental health do not object to the inclusion of Fridays within the Car Testing Days.**

Cotswold District Council welcomes the opportunity that this application provides to bring the non-aviation activities that currently take place on the site under the control of Wiltshire and Cotswold District Council by way of the Unilateral Undertaking submitted by the applicant. CDC would recommend that music related events, concerts and stunts etc should be included within "show days" as set out in the Unilateral Undertaking and that they should be included within the total number of days sought by the applicant. Additionally, it should be clarified that music events are not included in the "other events" category.

CDC note that Gloucestershire Highways have been formally consulted and ask that their comments are taken into account.

CDC would expect the views of Kemble Parish Council to be taken into account in the consideration and determination of the application.

Gloucestershire Highways are yet to formally respond.

Wiltshire, Police, Fire and Ambulance services have been consulted and their responses are awaited.

## **8. Publicity**

The application was advertised by site notice and neighbour consultation.

114 letters of objection and 1 letter of support have been received

Summary of key relevant points raised:

- Increased activity by aircraft and other uses.
- Car testing creating horrendous noise.
- Increased number of large scale events.
- Unsustainable location.
- Insensitivity e.g. airplanes parked close to public highway and houses.
- Most of the events involve motorised activities.
- Activities lead to increased traffic activity & highway safety concerns.
- Safety and pollution concerns.
- Lack of understanding of primary use of the land.
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## **9. Planning Considerations**

- **Existing and historic uses of the site.**

The main and primary use of Cotswold Airport is as an airport. Within the Gloucestershire/Cotswold side of the airport there is a Certificate of Lawfulness for General Aviation granted in 2008. Wiltshire Council is currently dealing with a similar application for the area of the airport that lies within its jurisdiction – 12/01668/CLE.

Whilst the principal use of the site is for general aviation, a number of other uses occur on the site. Some of these are contained within hangars and relate to commercial uses as well as plane maintenance etc carried out under the umbrella of general aviation. All of the non-aviation uses in buildings occur outside of Wiltshire. Other uses that occur on the site largely relate to the application site (“show ground”) and involve uses such as show days, photo shoots, driver days, corporate and promotional events etc. The application site does not include the runway running east to west, which is where the car testing takes place. The car testing is currently operated under the 28 day rule of permitted development. However, because the Unilateral Agreement that accompanies the application refers to restrictions to the car testing, it is included within that document.

Car testing has a permitted allowance of 28 days because the other uses which might take up that allowance are lawful. A certificate of lawfulness does not need to exist for a use to be lawful. If it has been occurring for 10 years or more, then it is considered to be lawful and neither Council has any information to refute this. A permitted development (pd) allowance over and above the lawful uses is still permitted and hence the 28 days of car testing.

- **The Proposal and Unilateral Undertaking.**

The proposal follows on from several years of discussion and negotiation with the Airport and local community and it should be stressed that the application has been made voluntarily together with the submission of a Unilateral Undertaking (covered later). As the Airport is a cross boundary facility, the work has also been undertaken in close conjunction with Cotswold District Council and has involved the Parishes within Gloucestershire as well as those within Wiltshire.

The proposal is for the continued use of land for non-aviational events and activities. Most of the activities have been undertaken to some level for the last 10 years. In general they can be categorised as show days, corporate and promotional events, driver training days, filming and photo-shoots, car testing and 'other'. Essentially 'other' covers activities such as charity runs.

The application seeks, by way of the Unilateral Undertaking, to voluntarily control the number of days that could cause nuisance (mainly car testing and show days), whilst allowing the airport to undertake an increase in the days which cause little or no disturbance.

The table below shows the average number of events undertaken over the last 10 years and the number proposed through the Unilateral Undertaking.

	<b>Average</b>	Maximum	Minimum	<b>Proposed</b>
Show Days	<b>14</b>	23	8	<b>16 **</b>
Corporate & Promotion	<b>29</b>	71	2	<b>50</b>
Driver Training	<b>72</b>	149	33	<b>100</b>
Filming & Photoshoots	<b>19</b>	38	7	<b>50</b>
Car Testing (including track days)	<b>23</b>	28	18	<b>12</b> <b>Straight car testing</b>
Other	<b>6</b>	8	4	<b>12</b>
<b>Annual Total</b>	<b>170</b>	<b>299</b>	<b>104</b>	<b>240</b>

\*\* Revised number.

It is widely accepted that it is the Show Days and Car testing which cause greatest concern. The significant increase in the other uses is very unlikely to raise any concerns because by their nature and controls contained within the Unilateral Undertaking, they do not cause disturbance of traffic issues.

The car testing can be operated up to 28 days in any calendar year without consent, so a reduction to 12 days with restrictions on days to be Mon-Friday inclusive (changed from Monday-Thursday inclusive) and only 180 minutes in any day and from 09:00-17:00 hours is considered to be a significant improvement in the potential disturbance to local residents.

It should also be noted that both Councils have additional controls through Environmental Protection to deal with noise issues.

The number of show days has now been reduced to 16 and this is in line with the average. This is a significant compromise by the airfield and is welcomed. It also removes the Highways concerns and responds to the comments made by Environmental Health.

The concerns of all the parish councils have been instrumental in the negotiations and alterations to this application and Unilateral Undertaking over the last few years and especially through the application process where a meeting was arranged with all parishes (including those in Gloucestershire) to allow discussion about any residual concerns. Some of those concerns have been able to be addressed i.e. the number of show days has been reduced from 24 to 16, the Unilateral undertaking tightened in the extent of its physical coverage and clarification that the Emergency Services (subject to consultation responses) are able to deal with any increase in capacity. Whilst it is acknowledged that some concerns may well remain these are not considered to be sufficient to refuse an application (together with the Unilateral Undertaking), which considerably reduces the "nuisance" aspect of additional activities at the airport. It is considered that the Unilateral

Undertaking is sufficiently robust to control the activities to the satisfaction of each of Wiltshire Council and Cotswold District Council.

It is, therefore, now considered that whilst the general levels of activity are raised, the higher numbers are restricted to “non-nuisance” activities and that the “nuisance” activities are controlled to a level where they are acceptable in planning terms.

- **Impact upon neighbour amenity**

The area of land in question is in open countryside close to the Cotswold AONB. The village of Kemble lies approx 1km north of the site with the other villages of Crudwell and Oaksey nearby. There is also a dispersed population either living in small clusters or individual houses.

The key areas of concern, associated with this application, are noise and traffic disturbance. Both of these issues are addressed in the section above and whilst the residents may well experience some disturbance they are clear on how much and for how long. It should be noted that this refers only to those activities applied for and not general aviation which is outside the scope of this application.

The additional statutory controls over noise and the licensing of events (non-aviation) are also still valid and applicable.

- **Impact upon highway safety**

Highways originally raised concerns about the increase in number of “show days” to 24. The subsequent reduction to 16 (the previous 10 year average being 14) has allayed those concerns. However, they do request a condition regarding implementation of the methodology for traffic control on the show days.

The Fire, Ambulance and Police have been consulted because of the inevitable increase in resources needed for show days. However, this is not a planning matter per se and could not be used to substantiate a refusal. Whilst local residents’ concerns are acknowledged, it is not anticipated that there are any concerns in any event, due to the long standing nature of the events. Their responses will be reported as late observations.

- **Impact upon visual amenity and landscape character.**

The site lies within open countryside close to the Cotswold AONB. The nature of the use of the site isn’t changing and therefore, the proposal will not impact on this open area any more than the existing or historical activities.

## **10. Conclusion**

It is considered that the proposed continued use of the land for non-aviational events and activities together with the signed Unilateral Undertaking is an acceptable use of the land given its historical uses and that the Unilateral Undertaking in particular, will considerably assist Wiltshire and Cotswold District Council in controlling activities on site and allow them to take appropriate action, should it be required, in the future.

It is considered that the proposal concurs with policies C3 and NE15 of the North Wiltshire District Plan 2011.

## **11. Recommendation**

Planning Permission be DELEGATED to the Area Team Leader for the formal submission of a signed copy of the Unilateral Undertaking.

Subject to the following conditions:

- 1) All Show Days' traffic control shall be carried out in accordance with the Method Statement for the management and control of traffic on "Show Days" submitted to the Local Planning Authority on 29<sup>th</sup> November 2012 and 11/12/12 and attached to this decision, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.



