

**DEVELOPMENT CONTROL AND REGULATORY BOARD**

**16<sup>TH</sup> APRIL 2015**

**REPORT OF THE CHIEF EXECUTIVE**

**COUNTY MATTER**

**PART A – SUMMARY REPORT**

- APPLICATION NO. & DATE:** 2013/1582/03 – 18<sup>th</sup> October 2013  
(LCC No. 2013/VOCM/0319/LCC)
- PROPOSAL:** Section 73 application to remove condition 1 of permission no. 2012/1194/03 (2012/VOC/0295/LCC) to make permanent the permission relating to aircraft recycling at Bruntingthorpe Airfield and Proving Ground.
- LOCATION:** Off Bath Lane, Bruntingthorpe
- APPLICANT:** C. Walton Ltd
- MAIN ISSUES:** Noise impacts, cumulative impacts, viability, impacts on residential amenity and economic and employment opportunities.
- RECOMMENDATION:** APPROVE, subject to the conditions restricting the scale and nature of activities as set out in Appendix 1.

**Circulation Under the Local Issues Alert Procedure**

Mr. G. A. Hart CC

Officer to Contact

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## **PART B – MAIN REPORT**

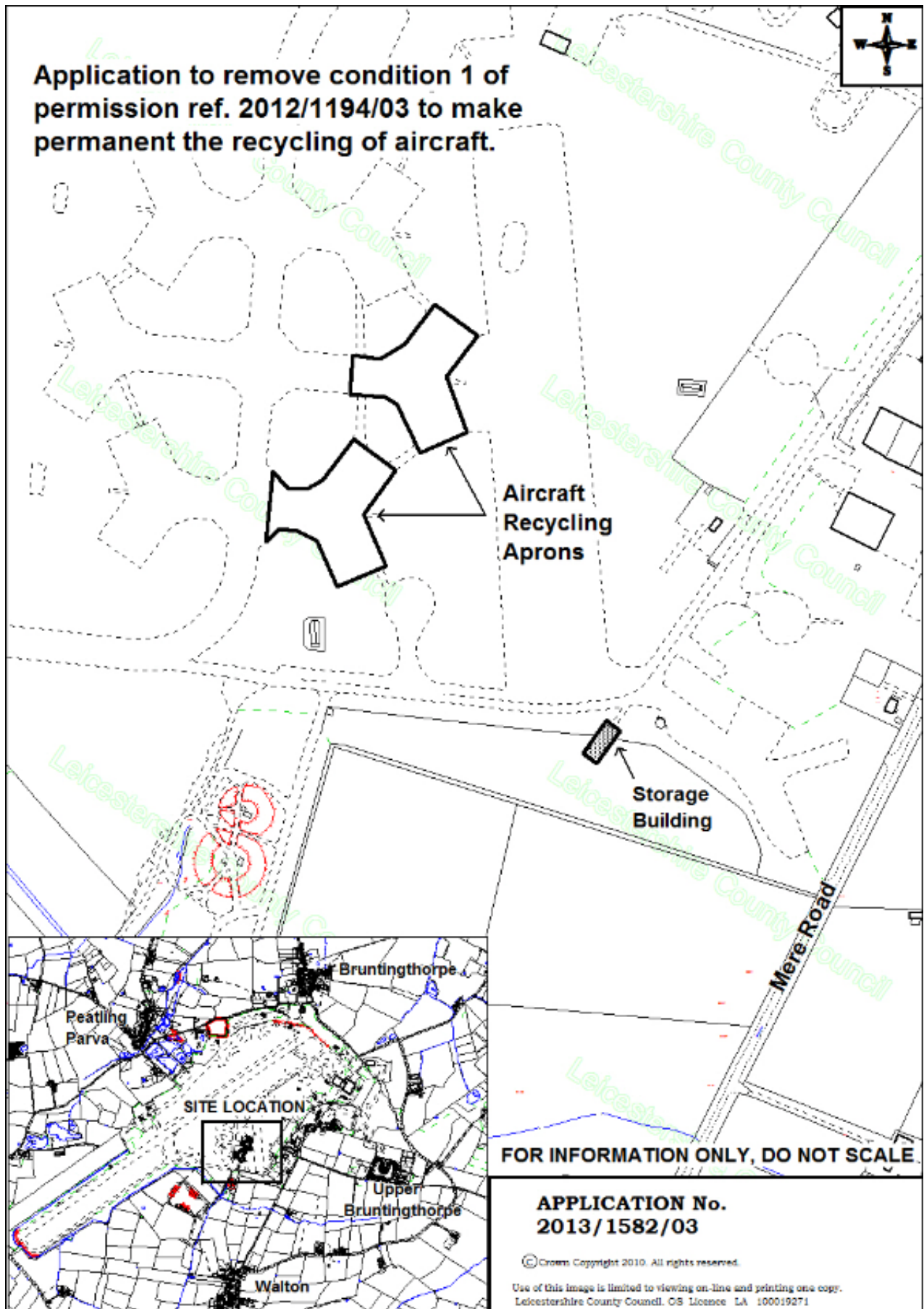
### **Background to the Application**

1. Members will recall that, at the May 2012 meeting of the Development Control and Regulatory Board (DCRB), temporary permission (Ref. 2012/0091/03) was granted (retrospectively) for the use of land at Bruntingthorpe Proving Ground for the recycling of aircraft and the erection of an ancillary parts storage building. This permission was granted subject to 16 conditions. Condition 1 limited the permission to a temporary period expiring on 31<sup>st</sup> December 2013.
2. The officer's reports to the Board (including amendment sheet) proposed 15 conditions be attached to any subsequent permission. Notwithstanding this, Members determined that an additional planning condition was required to control noise impacts arising from the aircrafts' engines following landing at the site. This additional condition was inserted into the permission as Condition 13 and it stated:

Once an aircraft has completed its landing on the main runway under the provision of conditions nos. 5 - 7 of this consent, all engines shall be switched off. Any subsequent manoeuvring of the aircraft shall be carried out by tow vehicle only, and no further use of the aircraft engines shall take place.
3. Following the grant of permission, the applicant considered that Condition 13 was unreasonable and, if enforced, would prejudice the viability of the permitted recycling operations. Condition 13 placed three key controls on operations at the site:
  - i. upon landing, all engines shall be switched off;
  - ii. any subsequent manoeuvring shall be carried out by tow truck; and
  - iii. no further use of the aircraft's engines shall take place.
4. The operator sought the removal of condition 13, such that there would be no requirement on pilots to switch off engines immediately upon landing, that the planes could taxi from the landing strip to the recycling pans under minimum power (engines on idle) and that a period of testing of the engines could take place, if necessary, before they are removed from the aircraft.
5. At the December 2012 DCRB meeting, Members resolved to agree to the removal of condition 13, subject to no engine testing taking place on Public/Bank Holidays. At the same meeting it was also resolved that condition 11, which referred to noise levels, was unreasonable and unenforceable and this condition was also removed. The subsequent planning permission, ref. 2012/1194/03 carried forward Condition 1 limiting the development to the period expiring on 31<sup>st</sup> December 2013 and it is this permission that this application seeks to amend.

### **Background to the Site**

6. Bruntingthorpe Proving Ground and Airfield (BPG) occupies a 250ha site in an area of generally open countryside some 16km south of Leicester and 6km north-east of Lutterworth. The site was developed as a 2<sup>nd</sup> World War airfield in 1942 and subsequently adapted for use by the USAF in the 1950's as a base for



its largest nuclear bombers. At that time a 3.2km long x 60m wide runway was established and still exists on the site. There is a 6km circuit around the site on the runway and adjacent taxiways. These taxiways serve a number of concrete aircraft 'parking' aprons. The perimeter of the site extends to some 11km, being largely screened from external views by mature planting and landscaping.

7. BPG is located on relatively flat terrain between the rural settlements of Bruntingthorpe (to the north-east side); Peatling Parva (north); Gilmorton (west); Walton (south); Kimcote (south west); and Upper Bruntingthorpe (east). All of these settlements are within 1 Km or thereabouts of the wider site boundary and they are served by a network of country lanes.
8. Within the perimeter of the site there are a number of former airfield structures, some of which have been renovated from time to time and others which have been replaced with new buildings/uses. These are concentrated at the eastern end of the site, where the principal vehicular access serving the site is taken from Bath Lane. Another complex of former airfield premises exists just outside the eastern boundary of the site, served from Mere Lane (Upper Bruntingthorpe). A significant number of new and/or replacement commercial buildings have been erected in this area (industrial site) in the last 15-20 years, and several commercial/industrial businesses now operate from them.

#### Planning History up to 2009

9. Since the early 1970's and up until 2009, a succession of planning applications has been made to the local planning authority. These have been district planning matters dealt with by Harborough District Council (HDC) or its predecessor. A summary of these applications, permissions and appeals is given at Appendix 2 by way of context to the aircraft recycling operation which is the subject of this application.

#### Planning History 2009-Present

##### *2009 Appeal Decision*

10. In 2009, Harborough District Council served an enforcement notice on the owner of BPG seeking to restrict numerous unlawful activities alleged to be taking place at the site without the benefit of planning permission. The notice was appealed and allowed in December 2009, resulting in the grant of planning permission for change of use of the site to include the *driving of motor vehicles* (and associated parking and storage) and for *additional recreational type vehicle-related activities* to those specified in extant planning permissions at the time. Such additional activities related to emergency service vehicles; media events; go-karts; driver tuition; approved corporate entertainment; and cycling clubs.
12. The consent was granted for a temporary two year period expiring 31<sup>st</sup> December 2011 and other pertinent conditions included:
  - (i) time limits (mainly 0900 -2100 hrs and no corporate entertainment at weekends)
  - (ii) no aircraft operations *associated with the uses hereby permitted*;
  - (iii) operation in accordance with the agreed Noise Management Plan;

- (iv) access only from the Bath Lane entrance;
  - (v) 22 vehicles at any one time on the site (for the permitted uses);
  - (vi) no racing of vehicles (except go-karts)
  - (vii) agreement on noise monitoring equipment and the recording of noise data;
  - (viii) control over public address system;
  - (ix) noise levels arising from the uses approved by this consent shall not exceed 40dB(A)  $LA_{eq\ 10min}$ , when measured at any location in any village outside the site;
  - (x) an events diary of *all* motor events taking place in connection with the 1973 permission, any temporary 'permitted development' uses, and the approved uses;
  - (xi) no vehicles shall be driven on the site on at least one Sunday each calendar month.
13. In reaching this decision the appeal inspector identified the 'fall back' position (i.e. the context of the long-established proving and testing use, extant permissions for other vehicle related activities, and the existing noise climate in the locality). He also acknowledged the extent of 'permitted development' activities on the site, for up to 28 days per annum. At the time, these included driving experience events, track days, skid cars, 30 tonne HGVs, charity days, car shows, (possibly) some vehicle racing activities, and aviation linked events. The unauthorised uses at the time included corporate entertainment under the banner of "Big Thunder".
14. He was mindful that the 'lawful' uses of the BPG site were not subject to noise limits (except by virtue of the Environment Protection Act) and 24 hour use was possible on every day. Notwithstanding this, the high level of on-going complaints (from residents in surrounding villages) about noise from the site was recognised and he concluded that the overall noise regime from BPG had an adverse impact on residential amenity; BPG was being operated with inadequate consideration for nearby residents (paragraph 36 of decision notice). He reached this view despite an appeal against a Section 80 Noise Abatement Notice (served by HDC in 2006 and relating to noise from motor vehicles) being allowed in March 2007, on grounds of 'insufficient evidence'.
15. Therefore, consent was granted on the basis that, whilst it would be unacceptable to materially increase the (noise) impacts already caused by lawful uses, if the unauthorised uses were operated under strict controls/conditions, they would be acceptable. Such controls include the Operation Programme, the agreed Community Noise Level (CNL) of <40 dB  $LA_{eq\ 10\ min}$ , and noise monitoring plan, as supported by the unilateral undertaking. It was considered that it would be possible to differentiate noise levels from the 'appeal' activities from other lawful activities on the site, by correlation between the noise data and the events diary.
16. The applicant submitted a fresh application (ref. no. 2011/1775/03) to extend this permission on a permanent basis (i.e. to vary the terms of condition no 1 of the appeal decision). This planning application was reported to the HDC planning committee on 31<sup>st</sup> July 2012 where the Committee resolved to grant

planning permission. However, prior to issuing the decision notice, HDC were made aware that a local action group would seek to judicially review the pending decision notice on the grounds that the development was EIA (Environmental Impact Assessment) development and that the application had not been accompanied by an Environmental Statement.

17. Solicitors acting on behalf of the local action group sought a Screening Direction from the Secretary of State (SoS) to further clarify the issue of whether or not the development proposed was EIA development. The SoS agreed (by letter dated 26<sup>th</sup> March 2013) with the position of HDC, that the proposal was not EIA development. In arriving at his decision, the SoS considered the environmental effects of the proposal and the cumulative effects of the existing uses which also take place at BPG. HDC subsequently issued the planning permission on 27<sup>th</sup> March 2013. A local resident sought to judicially review the Screening Direction (and therefore the legality of the subsequent planning permission) through the courts. His judicial review was dismissed by the High Court on 9 April 2014 and the Court of Appeal on 3 March 2015.

#### Current Uses

18. Given the above planning history on the BPG site, it is possible to summarise the current uses and activities as follows:
  - i. long-established proving and testing of motor vehicles that has taken place for nearly 40 years, based on the original 1973 consent by the SoS;
  - ii. extensive open storage of vehicles, HGVs and trailers on hard surfaces around the site;
  - iii. specific areas for Museum and Cold War exhibits and their maintenance and incidental testing;
  - iv. a package of corporate events by virtue of the 2009 appeal decision;
  - v. car auction activities, including pre-collection examination;
  - vi. use by emergency services for training and testing of vehicles;
  - vii. a number of B1/B2 and B8 commercial and office facilities, including use of hangars and new buildings by individual industrial/research companies;
  - viii. ancillary gatehouse, security, control tower, dog kennels and amenity blocks; and
  - ix. use of part of the site for recycling of aircraft (the subject of this application).
19. In addition to the uses and activities granted by the District Council or on appeal, there are a number of 'permitted development' (PD) events that take place under the '28 day' temporary use provisions of Part 4 (of Schedule 2) of the General Permitted Development Order 1995. These can vary over time, and the current diary of events can be viewed on the 'Members Area' of the BPG webpage, available to local residents. This diary includes various corporate events under the 2009 appeal decision, but also one-day aviation events (e.g. Cold War Jets Open Day, ASDA Charity Day and VW owners' club event).
20. The 2009 appeal decision (reported above) sought to rationalise activities and introduce noise controls on the site. Whilst the noise monitoring regime introduced by that decision relates specifically to the 'additional' recreational

uses addressed at the Inquiry, it does provide a valuable monitor for noise emissions from all uses on the site. The newly installed Cirrus noise monitoring terminal (on the north boundary) provides 'real time' data and detailed records.

21. Members will note from the above that there is a long standing history of noisy uses of the site from the RAF and USAF pre-1973 to testing and proving of motor cars and use of the site as an aircraft museum and the subsequent need to test and show the planes stored there post-1973. In the light of this historic use of the site, it is considered that noise from the permitted uses described above forms part of the background noise levels around the site and that Members should consider this when assessing the potential noise impacts as a result of this application.
22. The site has recently been used for the storage and maintenance of aircraft. No permission exists for this particular use and HDC issued a Temporary Stop Notice (TSN) in the summer of 2014 in an attempt to stop further aircraft from landing for this purpose. Notwithstanding this, upon the expiry of the TSN, no further action has been taken and aircraft continue to be stored on the site.

#### Application Site

23. The application site includes two of the concrete aircraft parking pans and a building for storing parts, on the south side of the BPG site. The application site extends to about 0.92ha. The pans are occupied by aircraft either waiting dismantling or in the process of being stripped out. A small portacabin 'amenity' block is provided on site, whilst the dismantling area is sectioned off with Heras type fencing.
24. The operations also include the use of a modern single-storey steel portal framed building on the southern boundary, erected on the site of a former Nissan hut. This building consists of dark green profile cladding to the roof and walls and measures 30m x 12m by 5m high to the eaves (6.15m to ridge). It provides 375 sq m of storage facility for recycled (medium-sized) components and is accessed via the internal service road.
25. There is a 9m high 'noise attenuation bund' erected to the south-west side of the application site towards Walton (approved by HDC in January 2010 under ref. 2009/0680/03). The recycling operations are screened from external views by topography, mature landscaping and tree belts.
26. Whilst not forming part of the application site, parts and components, once dismantled, can be transported to the operator's existing workshop premises on the adjacent industrial estate. Although this is situated outside the BPG perimeter, it is accessed via an internal roadway and boundary gate, thereby avoiding transportation on the public highway. The principal access for staff and larger components is the main BPG access onto Bath Lane.

#### Aircraft Dismantling Site operations

27. As a registered European Aviation Safety Agency Licensed Aircraft Engineering Contractor, the operator's clients or partners include the RAF, MOD, British Aerospace and Defence Disposal Agencies, as well as major airlines. The aircraft decommissioning work includes removal of components, documentation by logging, identification procedures and mandatory inspection requirements. Once landed, an aircraft is parked on the pan and fenced off. The recycling company, GJD Services Ltd., at no point owns the aircraft and is merely contracted to dismantle and recycle the parts therein on behalf of the aircraft's owner.
28. Prior to work starting, safety checks, component testing, de-fuelling, venting of tanks, draining of hydraulic fluids and removal of hazardous materials takes place. Before parts are removed, they are classified by size: large items remain on the pan for conditioning and placement into containers; medium sized items are placed in the storage building for conditioning; smaller items (including avionics) go to the off-site workshop for cleaning, inspection and packing. All components are transported around the site by van, box lorry or flatbed lorry. Components are logged with ID tags and packaged for shipping back to the client (or sent for repair, if necessary). Many parts can be re-certified back into service.
29. The approved hours for recycling operations are limited to 07:00 – 18:00 hours Monday to Saturday, with no operations on Sundays, Public or Bank Holidays. The landing of aircraft is further limited to only one per week and only then between the hours of 08:00 – 17:00 hours Monday to Friday, with no landings associated with the recycling operations permitted at weekends.

#### **Description of the Proposed Development**

30. This application seeks to remove condition 1 of planning permission no. 2012/1194/03 to make permanent the dismantling and recycling of aircraft at the site. There are no other amendments proposed by the applicant.

#### **Screening Opinion (Environmental Assessment)**

31. The current development falls within the definition of an 'installation for the disposal of waste' in para 11b of Schedule 2 to the Environmental Impact Assessment (EIA) Regulations 2011. As such the Regulations require the development to be 'screened', as to (i) whether it includes a site within a 'sensitive' location; or (ii) whether it exceeds the threshold(s) set out in the particular category of development - in this case 0.5ha. On the first issue, the site is neither within, nor does it include, any 'sensitive' location, such as a Site of Special Scientific Interest (SSSI), Scheduled Ancient Monument (SAM), National Park, Area of Outstanding Natural Beauty, or nature conservation site. On the second issue the site exceeds the relevant threshold.
32. It is necessary, therefore, to consider whether the development will give rise to 'significant environmental impacts' by reason of its nature, size, and location. Advice in the National Planning Practice Guidance states that, for 'waste projects' an EIA is more likely to be required where new capacity is created to hold more than 50,000 tonnes per year, or to hold waste on a site of 10 hectares or more. This is not the case with the current proposal.

33. In regards of ‘storage of ... scrap vehicles’ (A.38), it is suggested that major impacts are likely to be discharges to soil, site noise and traffic generation, and that an EIA is more likely to be required where it is proposed to store scrap on 10 hectares or more. This is not the case in the present proposal. The details of drainage facilities to serve the development have been approved and implemented and there would be no likely significant impacts to ground or surface waters. The recycling operations are also covered by an Environmental Permit issued by the Environment Agency (EA). In the light of the above the development is not considered to constitute EIA development.

### **Planning Policy**

#### **National Policy**

34. The National Planning Policy Framework (NPPF) was published in March 2012 setting out the Government’s planning policies for England and how these are expected to be applied. It replaces previous government guidance and policy contained in Planning Policy Statements (PPSs) but not Planning Policy Statement 10 (PPS10) – *Planning for Sustainable Waste Management*. The NPPF does not contain specific waste policies. The NPPF states that development that accords with an up-to-date Local Plan should be approved. In terms of applications for renewable or low energy developments local planning authorities should approve the application if its impacts are (or can be made) acceptable, unless other material considerations indicate otherwise. As part of the Government’s comprehensive review of planning policy on 6 March 2014 the Planning Practice Guidance (PPG) was published resulting in the cancellation of much of the previous guidance.

#### **Development Plan Policies**

35. PPS10 has been replaced by the National Planning Policy for Waste (October 2014). This sets out the Government’s ambition to work towards a more sustainable and efficient approach to resource use and management. It states that positive planning plays a pivotal role in delivering this country’s waste ambitions through, amongst other matters, delivery of sustainable development and resource efficiency by driving waste management up the waste hierarchy; and helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment.

#### **Development Plan Policies**

36. The development plan in this instance consists of the Leicestershire, Leicester and Rutland Waste Local Plan (saved policies) (September 2002), the adopted Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies (October 2009), the Harborough District Council Local Plan (saved policies) (April 2001) and the Harborough District Council Core Strategy (November 2011). The relevant policies and proposals are set out below.

37. *Policy WLP 7* of the (saved) Waste Local Plan identifies factors that will be taken into account when assessing proposals for waste management development of which the following are considered relevant to the current proposal;
- (i) the nature of the material to be managed;
  - (ii) the effect on, and relationship to, sensitive nearby land uses (in particular residential properties) by reason of (*inter alia*) noise and fumes;
  - (vi) transportation implications;
  - (xii) the siting and visual appearance of the development; and
  - (xxv) the extent to which the development will contribute to an improvement in the efficiency of managing waste which is finally disposed at waste disposal sites.
38. *Policy WCS3* of the adopted Waste Development Framework Core Strategy and Development Control Policies Document sets out the strategy for non-strategic waste sites. The policy encourages the location of sites: in the Broad Locations for Strategic Sites indicated in the Key Diagram; in or close to the main urban areas of Hinckley or Melton Mowbray; within sustainable urban extensions; or, within or adjacent to an existing waste facility where it can be demonstrated that transport, operational and environmental benefits arise from co-location. Where it can be demonstrated that a more dispersed location outside the above areas is necessary, locations in smaller settlements or rural areas will be considered subject to the principles in *Policy WCS4*.
39. *Policy WCS4* provides a sequential approach to identifying suitable sites within the locations identified in *Policy WCS3*. It states that priority one will be given to land with an existing waste management use, where transport, operational and environmental benefits can be demonstrated as a consequence of the co-location of waste management facilities. The policy then includes existing industrial/employment land within the sequential list as a second priority site. Finally, consideration will be given to Greenfield sites, where there is no unacceptable harm to the environment or communities.
40. *Policy WCS5* states that the strategy for reuse, recycling, waste transfer and composting facilities is to allow new waste management development, provided the proposal does not cause unacceptable harm to the environment or communities.
41. *Policy WCS10* states that the strategy for environmental protection is to protect and enhance the natural and built environment of the framework area by ensuring that:
- (i) there are no unacceptable adverse impacts from waste developments on:  
(*inter alia*)
    - residential amenity.
42. *Policy WDC5* states that planning permission will not be granted for waste management development in the countryside, unless it can be demonstrated that:
- (i) the development is such that it cannot be accommodated within an urban area;

- (ii) there is an overriding need for the development; and
  - (iii) the landscape character of the area will not be harmed.
43. *Policy WDC8* states that planning permission will not be granted for waste development which is likely to generate unacceptable adverse effects from noise, dust, vibration, odour, emissions, illumination, visual intrusion or traffic to adjoining land uses and users and those in close proximity to the waste management development.
44. *Policy WDC10* states that permission shall not be granted for waste management facilities involving the transport of waste by road where (inter alia):
- the impact of the traffic generated would be detrimental to road safety; and
  - the highway network is unable to accommodate the traffic that would be generated and have an unacceptable impact on the environment of local residents.
45. *Policy WDC17* states that, in granting planning permission for waste management development, conditions will be attached to control the effect of the development on the environment and local community.
46. The (saved) Harborough Local Plan contains a number of policies that are specific to development proposals within the defined boundary of 'Bruntingthorpe Proving Ground and Airfield'. Separate policies relate to two established industrial areas to the west of Upper Bruntingthorpe (Policy EM/22) on the immediate eastern boundary of BPG, and to the east of Upper Bruntingthorpe (Policy EM/24). Neither of these policies affects land within the application proposal.
47. *Policy EM/16* relates to test facilities on the BPG site, and states that the DC will seek to resist proposals to extend such facilities (and ancillary workshops on part of the site), until the terms of the 1973 appeal decision can be clarified, noise limits can be determined, and a noise monitoring system is secured for the site; all matters to be secured through a planning obligation. Certain criteria should be met in respect of (inter alia) landscaping, traffic and vehicle routing.
48. *Policy EM/17* provides that the DC will grant planning permission for employment, recreation and tourism development on hard surfaces and buildings within BPG, where noise levels are acceptable in terms of residential amenity; no aircraft activity is involved (but see policies EM/18 – EM/21); traffic impacts are acceptable; access and routing of commercial vehicles via Bath Road (towards Shearsby); landscaping; modest scale development; drainage provision; lighting; and an agreement to bring temporary 'permitted development' uses under control.
49. *Policy EM/18* relates to flying activities at BPG, based on the outcome of the enforcement and development appeals in 1973 and 1989. It provides that the DC will refuse proposals for the 'flying, storage, maintenance, repair, refurbishment and reconstruction of aircraft' (with exceptions in Policies EM/29 – EM/21), *except* where certain criteria can be met, namely:

- aircraft movements are restricted to infrequent levels and times which do not cause disturbance to residents in the area;
- maintenance, repair, refurbishment and reconstruction work is confined to the main hanger, shall not include engine testing and be restricted to acceptable levels;
- noise limits are set to ensure no unacceptable disturbances to residents.

The policy refers to a planning obligation to secure the above, and to apply the same controls over 'permitted development' operations on the site. Long term outside storage of aircraft is to be confined to a specific area (former 'pans') on the site (which incidentally include the current application site), and there are criteria relating to parking provision, traffic, access, and lighting.

50. *Policies EM19 –EM/21* deal specifically with activities at the Aircraft Museum on the BPG site. They provide for approval of an incidental (annual) air show; the erection of buildings and use of land for an aircraft museum; and the storage of aircraft and erection of workshops and ancillary buildings. All policies include criteria relating to landscaping, access, traffic routeing, noise levels, drainage and lighting. It was intended that these 'Museum' activities should be subject to a planning obligation, which defined the amount of activities; types of aircraft; prior notification of events; hours of use; and controls over (aircraft) permitted development activities on the site.
51. *Policy TR/3* of the Local Plan states that planning permission for new development will be refused where the traffic flow generated by the development would create a substantial adverse effect on the existing road network.
52. *Policy CS1* of the Harborough District Council Core Strategy seeks to maintain the District's unique rural character whilst ensuring that the needs of the community are met through sustainable growth and suitable access to services up to 2028.
53. *Policy CS5* seeks to maximise the use and efficiency of existing transport facilities and to achieve the best overall effect for transport for the District, including (inter alia) that future development will be located in areas well served by local services to reduce the need to travel.
54. *Policy CS7* encourages employment and business development in the District, including employment development in the countryside, *only where* it: contributes to the retention and viability of rural services and land based businesses, or promotes the conversion and re-use of appropriately located and suitably constructed existing buildings.
55. *Policy CS17* deals specifically with development in the countryside. It is intended that beyond the main built up areas development will be concentrated in Rural Centres and smaller settlements, relative to the size and character of the village. New development in the countryside will be strictly controlled, and normally limited to development for agricultural, recreation, renewable energy schemes. Rural development should be located and designed in such manner as to retain and enhance its landscape setting.

### **Consultations**

#### **Harborough District Council: Planning**

56. No response received at the time this report was published.

#### **Harborough District Council: Environmental Health Office**

57. Does not believe that there is any demonstrable harm caused by the use of BPG for this use and therefore has no objections to this application.

#### **Peatling Parva Parish Meeting:**

58. No response received at the time this report was published.

#### **Bruntingthorpe Parish Council**

59. No response received at the time this report was published.

#### **Walton and Kimcote Parish Council**

60. No response received at the time this report was published.

#### **Gilmorton Parish Council**

61. No response received at the time this report was published.

#### **Civil Aviation Authority (Directorate of Airspace Policy)**

62. No objection, and make the following comment:

In respect of any associated airspace issue, it is reiterated that the airspace over the generic area in question from the surface to a height of several thousand feet is Class G airspace, in lay terms, uncontrolled airspace. Class G airspace is established from the surface to varying heights throughout much of the UK. Away from significant aerodromes and outside any other airspace reservation, Class G airspace can be compared to the public highways. Providing pilots are suitably licensed and they operate in accordance with the Rules of the Air, they can operate in Class G airspace without special permission. Subject to the Rules of the Air and any overriding safety considerations, there is no set allocation of priorities associated with the use of Class G airspace. This, coupled with the fact that the aircraft in question will need to be airworthy (even if Bruntingthorpe was to be a final destination) and the fact that a maximum of 50 arrivals per annum would have only a minimal impact in terms of airspace capacity, the CAA has no issues associated with the associated use of local airspace.

#### **Ministry of Defence (Defence Infrastructure Organisation)**

63. The MOD has no safeguarding objections to this proposal.

#### **Coventry Airport**

64. No comment.

**East Midlands Airport**

65. No comment.

**Environment Agency**

66. No objection.

**Leicestershire County Council – Highway Authority**

67. No comment.

**Publicity**

68. The proposal was advertised by site notices posted in the local villages on 29<sup>th</sup> October 2013 and also in the Harborough Mail on 24<sup>th</sup> October 2013.

**Representations**

69. A total of 4 individual letters/emails of objection or concern have been received from residents of the surrounding villages. ABANDON, a local action group, has also objected to the proposal. The following areas of concern/reasons for objecting are given in the letters received:

- local residents have to put up with enough noise already;
- cumulative impact of this operation and the other uses on the site is unacceptable;
- low flying aircraft over local villages is concerning from a safety perspective as well as a nuisance;
- one use leads to other uses springing up at the site, for example, aircraft storage and maintenance;
- noise from aircraft circling and landing; and
- conditions cannot be enforced.

**Assessment of Proposal**

70. Section 38 of the Planning and Compulsory Purchase Act 2004 requires the determination of planning applications in accordance with the Development Plan, unless material considerations indicate otherwise. Consequently, the starting point for the assessment of this application should be the Development Plan and other relevant national planning policies. In this case, the relevant parts of the development plan are detailed in paragraphs 36 – 55 above.

**Waste Development Framework Core Strategy and Development Control Policies Document (Waste Core Strategy)**

71. In terms of the presumption in favour of sustainable development (NPPF), Government policy seeks to ensure ‘the right development in the right place at the right time’; it emphasises the need to balance the economic, social and

environmental considerations of the development. The application site forms a small part of a much larger 'brownfield' site, albeit subject to restrictive policy objectives in the Local Plan. On the other hand, the site is remote from major settlements and not in a sustainable transport location.

72. The site is considered to be 'non-strategic' and needs to be considered against Policy WCS3 of the Waste Core Strategy. This policy seeks to guide waste development to more built-up areas, but does state that, where it can be demonstrated that a more dispersed location outside such areas is necessary, locations in smaller settlements or rural areas will be considered subject to the principles set out in Policy WCS4. Policy WCS4 sets out a sequential approach to locating new waste sites, with existing industrial/employment land being considered in the second tier. It is considered that the recycling of aircraft demands a specific location, particularly when dealing with the very large aircraft that have been recycled so far, such as Boeing 747s and VC10s. The runway requirements of such aircraft reduce the number of alternative sites, which are generally well distanced from major built up areas. In the light of the above it is considered that the proposal does not conflict with the locational policies of the Waste Core Strategy or the Harborough Core Strategy.

#### Landscape and Visual Impacts

73. The site is generally very well screened by mature woodlands, existing buildings and fencing. Aircraft stored in the approved recycling pans are barely visible from outside the site and any views of the aircraft are from a significant distance. It is considered that the landscape character is not unacceptably impacted by the development and as such the development does not conflict with the intentions of Policies WDC5 of the Waste Core Strategy or Policy CS/17 of the Harborough Core Strategy.

#### Noise

74. There have been no complaints about the recycling operations taking place on the BPG. However, there have been occasional complaints regarding the noise generated by aircraft circling, landing and taxiing to the approved pans. A few aircraft have also needed to have their engines tested, although this only lasts for a few minutes and occurs rarely.
75. The Environmental Health Officer (EHO) confirmed that in 2013, HDC received 19 aviation related complaints about BPG, with only three being related to the dismantling and recycling activities – all pertaining to the landing of 3 VC10s and made by the same person. The EHO accepts that aircraft such as VC10s are very noisy, but it is worth noting also that the entire VC10 fleet has been decommissioned and no more of these very noisy aircraft are expected. The EHO also notes that while the noise levels can be high, these high levels are short lived and that noise levels from aircraft on the ground taxiing have previously been assessed and have been found to meet levels of acceptability when assessed against World Health Organisation Guidelines for Community Noise.

76. On average, only one large aircraft lands at the site per month and therefore the noise impacts are both short lived and infrequent. In the light of the above and the comments from the EHO, it is considered that, in isolation, noise impacts from aircraft attending the site to be recycled and occasional subsequent engine testing are not unacceptable.

#### Dismantling Operations

77. The County Council is not aware of any complaints relating to the physical dismantling operations undertaken once the aircraft have entered the recycling areas. The operations are well distanced from the nearest village (Walton is 950 metres to the south, Upper Bruntingthorpe over one kilometre) and a noise bund and screening provide considerable mitigation. It is not considered that such operations in isolation have an unacceptable impact by way of noise or visual impact on local residents.

#### Air Safety Considerations

78. Understandably, concerns have been raised about the safety (to local villages) of aircraft movements into BPG, and some recent experiences from larger planes (civil and military) have given rise to 'unusual' flying activity in the area. On request, the applicant has provided details of the safety measures at the site:
- approved by HM Customs and Excise (since 1989) for long term parking and storage of >8000kg planes, subject to minimum 31 days stop-over;
  - flight plans are filed with the relevant authorities prior to movement of all large aircraft;
  - alternative emergency arrangements with other airports, in case of poor weather or unforeseen incidents;
  - notice to airmen of any 'abnormal' flight in the locality;
  - radar supervision from EMIA and Coventry, until visual approach to BPG, where there is a dedicated aviation frequency, manned 24/7;
  - own emergency fire vehicles, manned by experience crew, from rotas at East Midlands, Coventry, Heathrow, and Birmingham airports; a good water supply is available on site;
  - experienced crews delivering the large aircraft; and
  - ground handling equipment to move and service the aircraft and crew after landing.
79. The air space above BPG is 'Class G' uncontrolled, but given that the CAA and local civil airports have no stated concerns regarding flight activity in the area, it would not be reasonable to sustain an objection to the proposed development on grounds of air safety issues. The development has negligible impact on airspace capacity, especially if the number and frequency of flights is limited to a strict minimum.

#### Traffic

80. The recycling of the aircraft does generate HGV movements to and from the site, picking up recycled products, aircraft engines etc. It is noted that many of the roads around the site are narrow rural roads and not necessarily designed for larger vehicles. Notwithstanding this, the number of vehicle movements associated with the recycling development is minimal when compared with the overall number of vehicle movements associated with the wider BPG operations, in particular the vehicle storage and auction facilities. The Highway Authority, which is fully aware of the current highway issues around the site, has considered the proposal and makes no comment. It is considered that the proposal does not generate unacceptable impacts on the surrounding road network and that the development does not conflict with the intentions of Policies WCS14 and WDC10 of the Waste Core Strategy and TR/3 of the HDC Local Plan.

Other Considerations and Cumulative Impact

81. Since planning permission was issued for the aircraft recycling facility, numerous large aircraft have also landed at the site for other purposes, such as storage and/or maintenance. This has generated difficulties for the County and District Planning Authorities as it is sometimes not clear precisely what purpose some aircraft have arrived at the site for. This is further complicated by the fact that some aircraft may land for storage/maintenance and a decision may be made at some future point to scrap that aircraft.
82. In early 2014, several large ex-RAF aircraft landed at the site, which, if they were to be scrapped, would have breached several conditions of the scrapping permission. However, these planes are still stored and maintained at the site pending a sale and it is expected that they will fly out at a later date. While it is accepted that this event did not breach the dismantling and recycling permission, no planning permission exists for such storage and HDC served a Temporary Stop Notice (TSN) on 4<sup>th</sup> April 2014 on the site to prevent further landings. This TSN expired 28 days after it was served and no further action has been taken by HDC, despite complaints regarding this use continuing.
83. It is accepted that it is sometimes difficult for the public to determine precisely the purpose of an aircraft on the site, however, this should not detract from what is a very successful recycling operation, which has generated no complaints except relating to landings and very occasional jet engine testing. It is considered that by firming up the conditions attached to any subsequent recycling permission that it is possible to clarify further the limitations of the recycling operation and that the recycling operations can continue with no unacceptable impacts on local communities or the environment.
84. In terms of cumulative impact, it is considered that only the lawful aircraft operations need to be considered. The unlawful storage of aircraft is not a waste planning (i.e. County Council) matter and is for HDC to consider either by way of enforcement or a retrospective application to regularise the situation. On average, one large aircraft lands every 4-6 weeks, during the working day, and impacts upon the local community as it lands and taxis to the recycling pans. This is a very limited and short-lived impact and it is not considered that, either in isolation or when considering the other lawful uses on the site, there is an unacceptable impact on the local community or environment.

85. The number of vehicle movements associated with the development is negligible when compared against the existing vehicle movements from the site and, again, it would be unreasonable to consider that there is an unacceptable cumulative impact. When considering the whole recycling operation it is not considered that, in combination with the existing permitted uses on the BPG site, there are any unacceptable cumulative impacts.

#### Economic Impacts

86. The site operations generate a number of jobs both directly and indirectly. The NPPF places emphasis on promotion of economic growth and employment opportunities, including in rural areas, albeit on the basis of sustainable development. The ministerial statement on securing economic growth and jobs (March 2011) remains extant, and particular weight should be given to such matters, albeit again in the context of sustainable development objectives. In the light of the above, it is considered that significant weight should be afforded to the economic benefits arising from this development.

#### Conclusion

87. The location of the site, albeit in the countryside, is considered acceptable given the specific requirements of this type of recycling operation. The site is considered to be brownfield and there are no strategic policy issues with the proposal.
88. It is accepted that unrelated, unlawful aircraft operations are taking place at the site and that this has proliferated since the issuing of the dismantling and recycling permission in 2012. However, these other uses are not related directly to the dismantling and recycling permission and are a matter for HDC to investigate and manage. It is considered that these other unlawful uses should not detract from the lawful dismantling and recycling operation which has operated for three years without causing unacceptable impacts.
89. It is noted that aircraft attending the site to be recycled can disturb local residents by way of noise and surprise/nuisance. Notwithstanding this, the number of landings for dismantling and recycling purposes has been strictly controlled by conditions and is such that the frequency could not be considered to generate unacceptable impacts. Also, any nuisance or noise impacts are limited to week day, working hours and are of very short duration. The EHO and EA have raised no objections to the proposal, with the EHO considering that there is 'no demonstrable harm caused by the use of BPG for this use.'
90. Overall it is considered that the development would not conflict with the relevant policies of the Development Plan. The use of the site for the recycling of aircraft has benefited from a temporary permission to allow the impacts of such use to be adequately assessed. It is considered that the operations have been proven to be acceptable and that a further temporary permission would not be appropriate.

**Recommendation**

- A. Permit, subject to the conditions set out in appendix A.
- B. To endorse, as requested by The Town & Country Planning (Development Management Procedure) Order 2010 (as amended):
  - (i) How the County Planning Authority has worked with the applicant in a positive and proactive manner:

In dealing with the applications and reaching a decision account has been taken of paragraphs 186 and 187 of the National Planning Policy Framework.

**Conditions****Scope of the permission**

1. Unless required by the terms of conditions set out below, the development hereby permitted shall be carried out strictly in accordance with the details contained in the submitted plans and supporting statements, including the following drawings and documents:
  - a) the planning application form (dated 17<sup>th</sup> October 2013);
  - b) the Planning, Design & Access Statement (dated December 2011 and submitted with planning application no. 2012/0091/03);
  - c) the Supplementary Design and Access Statement (dated Jan 2012 and submitted with planning application no. 2012/0091/03);
  - d) the Waste Disposal Methodology (B3 Appendix C dated 17<sup>th</sup> February 2010 and submitted with planning application no. 2012/0091/03);
  - e) the accompanying application plans and drawings BAM 291-26-1-1 (site location plan), BAM 291-26-1-2 (site boundary including proposed building within site); BAM 261-26-1-3 (building plan and elevations); aircraft recycling map (B1A Appendix A) all submitted with planning application no. 2012/0091/03);
  - f) the drainage arrangement proposal dated 9<sup>th</sup> March 2012 (submitted with planning application no. 2012/0091/03); and
  - g) application covering letter from Brian Mullin dated 17<sup>th</sup> October 2013.
2. The use hereby permitted shall be limited strictly to those areas identified in red on the approved plans referred to in condition no 1 above. No additional areas of the Bruntingthorpe Proving Ground site shall be used for the purposes set out in this permission, including any ancillary storage of aircraft, or parts thereof, awaiting de-commissioning or subsequent disposal.
3. Details of the siting, design, intensity and light spread of any lighting installations on the application site shall be submitted to and approved in writing by the County Planning Authority prior to the installation of any such lighting. All lighting facilities shall be installed and maintained at all times in accordance with such prior approval.

**Limitations on use and working method**

4. The maximum number of aircraft that can be de-commissioned and or dismantled in any calendar year (i.e. including any aircraft from which parts and components are removed) shall be limited to the following;
  - 12 no. 747s or other planes of sub 180 tonnes operating empty weight; or
  - 20 no. sub 70 tonnes operating empty weight; or
  - 30 no sub 5 tonnes operating empty weight.

In any circumstances, no more than 2000 tonnes per annum operating empty weight of aircraft will be processed or in any way de-commissioned during any calendar year.

5. A diary record (i.e. date, time of day and identity number) of all aircraft that enter the Bruntingthorpe Proving Ground (BPG) for the purposes of de-commissioning shall be kept by the applicant and disclosed to the County Planning Authority on request.
6. No more than 4 aircraft or airframes shall be stored on the application site at any one time, whether awaiting de-commissioning or in the process of being dismantled or stripped of parts and components.
7. At least 2 working days advance notice shall be given to the County Planning Authority of the landing and/or arrival of all aircraft entering the BPG site for the purposes of de-commissioning under the provisions of this planning permission.
8. Notwithstanding aircraft located at the Bruntingthorpe Proving Ground site at the date of this permission, no aircraft shall be de-commissioned on the permission site unless the County Planning Authority has previously been advised of the aircraft's landing in accordance with condition 7 above.
9. All landing of aircraft referred to in condition no 7 above shall take place between 0800 – 1700 hrs on Mondays – Fridays. No such landings shall take place at weekends or on a Public or Statutory Bank Holiday. Only one such landing shall take place during any week (i.e. between 0800 hrs on Monday and 1700 hrs on the following Friday).
10. No operations related to the use hereby permitted (including movement of vehicles, delivery and removal of materials and equipment) shall be carried out within the permission area except between 0700 - 1800 hours Monday – Saturdays. No activities shall be carried out on Sundays, Public or Bank Holidays.
11. The development shall be carried out in accordance with the email from Brian Mullin dated 24<sup>th</sup> May 2012 in relation to access to the noise management plan for the site, which provides (inter alia) for access to the existing NoiseHub data, additional on-site mobile noise monitoring facilities, and the data from the complaints register held by Harborough District Council.
12. Once an aircraft has completed its landing on the main runway, all engines shall be placed on idle as soon as practicable. All subsequent taxiing of the aircraft shall be carried out, where practicable, with the engines on idle. Once an aircraft has entered the permission area, any subsequent movement of aircraft shall take place by tow vehicle only. Any testing of an aircraft's engines shall be limited to between the hours of 10:00 to 17:00 on Monday to Fridays only and subject to a limit of no more than a total of 1 hour on any of those days and no more than 30 minutes in any 1 hour period on two occasions on the same day.

13. The only aircraft engines that may be tested on the application site are those engines on aircraft that have landed at the site for the purposes of recycling and dismantling and such testing shall not be carried out on any Sunday or Public/Bank holiday. No aircraft engines shall otherwise be imported to the site for testing.

Transport

14. The on-site parking areas indicated on plan B1A Appendix A submitted on 24<sup>th</sup> February 2012 (under application no. 2012/0091/03) shall be made available for employees vehicle parking in connection with the approved use, and kept free from obstruction for such purposes during the lifetime of this consent.
15. All HGV movements (i.e. over 7.5 tonnes gross laden weight) shall arrive at or depart the application site via the Bath Lane entrance/egress to BPG and Bath Lane only, approaching and leaving this entrance from the junction of Bath Lane and A5199.

Drainage

16. The surface water drainage facilities identified on the approved plans shall be retained and maintained in a satisfactory operational condition for the life of this consent. All drainage and handling of liquid wastes on the site shall be carried out in full accordance with the operational procedures and practices set out in the drainage arrangement proposal document dated 9<sup>th</sup> March 2012 and submitted under application no. 2012/0091/03.

Reasons

- 1&2. For the avoidance of doubt and to ensure a satisfactory form of development.
- 3,4 To safeguard the amenities of the locality in the context of the impacts from the
- & 6. approved use and any other activities on the BPG site.
- 5&7. To enable the County Planning Authority to monitor satisfactorily the approved development during the period of this temporary consent.
8. For the avoidance of doubt and to ensure that there is control on the number of aircraft landing at the site for scrapping purposes.
- 9,10 To safeguard the amenities of the locality in the context of the impacts from the
- 11& approved use and other activities on the BPG site.
- 12.
13. In the interests of local amenity.
14. To ensure that proper adequate on-site parking facilities are available to serve the development.
15. In the interests of highway safety and the safeguard the amenities of local communities.
16. To safeguard the water environment and the ecological interests of the River Swift catchment area.

**Planning History up to 2004**

1. When the USAF vacated the site in the early 1970's, it was acquired by Peugeot/Chrysler. It was subsequently sold in 1983 to the current owner, C. Walton Ltd. Planning permission was granted in 1973 (ref no 71/0428/16 – Lutterworth Rural District Council) for change of use of the airfield to proving ground for the testing of motor cars and commercial vehicles, following call-in of the application by the Secretary of State and a public inquiry. The consent is subject to a number of conditions, including (no. 2) noise levels emitted from vehicles being limited to lawful levels on the public highway; (no. 3) restrictions on the number, size, speed and 'manner' of driving of vehicles that can be tested at any one time during night-time and at weekends; and (no. 11) the number and size of vehicles that can be tested at any one time during daytime hours.
2. In 1984 planning permission (ref 83/1774/3) was granted for the establishment of an Aircraft Museum, which has resulted in a significant collection of Cold War Jets on parts of the site (e.g. Victor, Hunter, Lightnings, Buccaneers, Jaguar, Nimrod MR2 and most recently a VC10).
3. Erection of an aircraft hangar/workshop and use of a small area for parking a vintage aircraft and use of runway for flying the aircraft was approved in 1992 (refs. 92/0710 and 1719/03). Those consents were renewed for a further temporary period in 1994 (ref. 94/1849/03). However, an application for similar development and continued use was refused in January 1997 (ref. 96/1800/03) and a subsequent appeal withdrawn.
4. In October 1996, the District Council resisted an application for use of the site for an open day to include taxiing and limited flying (max 6 displays and helicopter flights) in connection with the museum (ref. 96/1160/03).
5. A 'personal' planning permission was granted to the Lightning Preservation Group in December 2000 (ref. 99/0529/03), on a separate part of the site to the Museum. This allowed for a restricted number of aircraft to be stored in the hangar at any one time, and the running and testing of jet engines on limited times/days and occasions.
6. In February 1986, the District Council issued 4 enforcement notices in response to events and activities taking place on the site. These notices alleged the following breaches:
  - i. Notice 102: material change of use for vehicle racing competitions, club events, rallies and meetings and for flying gliding and fun days including ancillary activities;
  - ii. Notice 103: material change of use for recreational vehicles and aircraft;
  - iii. Notice 104: breach of noise condition no. 2 of the 1973 consent; and
  - iv. Notice 105: breach of (speed and manner of driving) condition no. 3 of the 1973 consent.

7. Appeals were lodged against these notices, but subsequently withdrawn. Hence, they took effect in 1986 and successful prosecutions brought in 1987. However, notice 104 was found to be invalid and no longer took effect.
8. Planning permission was granted in 1987 for the use of the main hangar (T1) for Class B1/B8 commercial use (ref. no. 86/1669/03). Applications to change the use of other hangars and additional land to storage use and shows, exhibitions and publicity displays were refused in 1986 (ref. nos. 86/0705/03; 86/0708; and 0709/03).

#### *Vehicle parking*

9. Consent was granted in March 1990 for the use of 6 aircraft parking bays for the storage of motor vehicles (ref. no. 86/2174/03), being those 'pans' on the south side of the site and including the current application site. A further temporary permission for parking and storage of vehicles on other parts of the site was granted in December 1991 (ref. no. 90/2422/03), with temporary structures (ref. no. 90/2421/03), subject to the number of transporters and hours of operation. Renewals of this consent were granted in 1994 (93/1602/03 and 94/0755/03), including a successful appeal against conditions.
10. In the meantime temporary permission was given for the same use of the area around the main hangar in September 1993 (ref. no. 92/1531/03), at the time when a variation of the numbers of transporters and hours of use was agreed (ref. 92/1532/03). Renewal of these consents were granted in 1994 (ref. 93/1532/03) and 1997 (ref. 96/0079 and 0080/03). Retrospective applications for similar use on hardstandings within the site received permission in 1996 (ref. 96/0538/03) and 2003 (ref. 2002/1882/03). A separate consent was granted in February 2001 for the parking and storage of motor vehicles and HGV trailers and retention of temporary buildings (ref. 98/0045/03)

#### *Car Auctions*

11. Although previously refused in 1991 and on appeal, planning permission was granted in 2001 for a workshop for pre-delivery inspection of motor vehicles (ref. 98/0550/03). A retrospective planning application for the use of Hangar T2 as a mixed use for B2 industrial, events and car auctions was granted in June 2010 (ref 2010/0574/03), being within an area designated as employment land on the Bruntingthorpe Industrial Estate. The auctions were operated by Mannheim Ltd, employing 4 full-time staff. Cars to be auctioned arrive by transporter and, for the most part, leave by the same means.
12. Subsequently, in October 2010, the District Council allowed the change of use of Hangar B1 (7,466m<sup>2</sup>) at the north-eastern end of the site and adjacent open hardstanding (1.94ha) on the east side (ref 2010/1089/03). This facilitated the transfer of the Mannheim auction business previously held in Hangar T1, at which stage the business employed 12 full-time staff and some 35 on auction days. Auctions are limited to no more than 3 days per week (usually held on Mondays and Wednesdays) or 145 auctions per year.

*1989 Appeal Decision*

13. A temporary permission was granted in February 1987 for additional use of land for shows, exhibitions and publicity displays, but appeals against conditions were dismissed in 1989. This appeal decision established that such uses as 'corporate incentive days', flying activities, shows and exhibitions, and other public events were not within the scope of the original 1973 consent. At that time, the Inspector found that such additional uses were unacceptable because of the potential to create further noise and disturbance. Subsequent appeals to the High Court and Court of Appeal were also dismissed.

*Emergency vehicles and driving tuition*

14. A number of consents have been granted for the use of land in connection with the training and tuition of emergency service vehicles, dating from 1984 (police – ref. 84/0173/3C). A temporary consent for such use of land was granted in 2002 (ref 2002/0442/03) and renewed in 2004 (ref 2004/0312/03). Similar consents have been granted for driving tuition since 1991 (ref 90/2420/03).
15. The use of two warehouses for the storage and maintenance of emergency service vehicles on the site was approved in 1990 (ref 89/1890/03). However, erection of some 35,000 sq m of buildings for the storage and maintenance of emergency fire service vehicles and equipment was refused in 1990 (ref. 90/0320/03) and a subsequent appeal withdrawn.
16. An area was refused for the endurance testing of vehicles on a 24 hr basis (except Sundays) for Caterpillar UK Ltd in October 1999, on land to the north-west boundary of the site (ref 99/0537/03). However, a temporary and personal consent was granted subsequently for this use in 2003 (ref 2003/0555/03), although these activities have been taken over by JLG Ltd (sub-contracted to Mr. Walton). Although the consent has not been renewed, HDC has indicated that the original consent was in fact unnecessary; as such activities can persist under the terms of the original 1973 consent over the whole site.

*Public air shows*

17. A number of one-off individual consents have been granted for staging an annual public airshow (and ancillary temporary buildings) in 1993 (ref. 93/0180/03); 1994 (ref. 94/0292/03); and 1995 (ref. 95/0721/03).

*Corporate events*

18. A personal and temporary one year planning permission was granted in 1998 (ref no 96/1770/03) for use of parts of the proving ground for corporate motor events, involving demonstration and testing of motor vehicles and related driver instructions, hospitality, vehicle maintenance and repair. Subsequent temporary consents were granted for extensions of time in 2000, 2002, 2003 and 2004, subject to S.106 Agreement on the measure of noise levels and an operational programme.

19. The most recent consent expired in May 2005, and a further permission for these 'corporate' events was not pursued. However, various 'corporate' days continue to operate on the site under 28 day 'permitted development' rights. It has been stated that the impact of these temporary consents was to nullify elements of enforcement notices 102 and 103, but not insofar as they relate to flying activity for the uses specified in the notices.

## **DEVELOPMENT CONTROL AND REGULATORY BOARD**

The considerations set out below apply to all the preceding applications.

### **EQUAL OPPORTUNITIES IMPLICATIONS**

Unless otherwise stated in the report there are no discernible equal opportunities implications.

### **IMPLICATIONS FOR DISABLED PERSONS**

On all educational proposals the Director of Children and Young People's Service and the Director of Corporate Resources will be informed as follows:

#### **Note to Applicant Department**

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970 and the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Equality Act 2010. You are advised to contact the County Council's Human Resources Department if you require further advice on this aspect of the proposal.

### **COMMUNITY SAFETY IMPLICATIONS**

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

### **BACKGROUND PAPERS**

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

### **SECTION 38(6) OF PLANNING AND COMPULSORY PURCHASE ACT 2004**

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

Section 70(2)	:	determination of applications;
Section 77(4)	:	called-in applications (applying s. 70);
Section 79(4)	:	planning appeals (applying s. 70);
Section 81(3)	:	provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
Section 91(2)	:	power to vary period in statutory condition requiring development to be begun;
Section 92(6)	:	power to vary applicable period for outline planning permission;
Section 97(2)	:	revocation or modification of planning permission;
Section 102(1)	:	discontinuance orders;
Section 172(1)	:	enforcement notices;
Section 177(2)	:	Secretary of State's power to grant planning permission on enforcement appeal;
Section 226(2)	:	compulsory acquisition of land for planning purposes;
Section 294(3)	:	special enforcement notices in relation to Crown land;
Sched. 9 para (1)	:	minerals discontinuance orders.