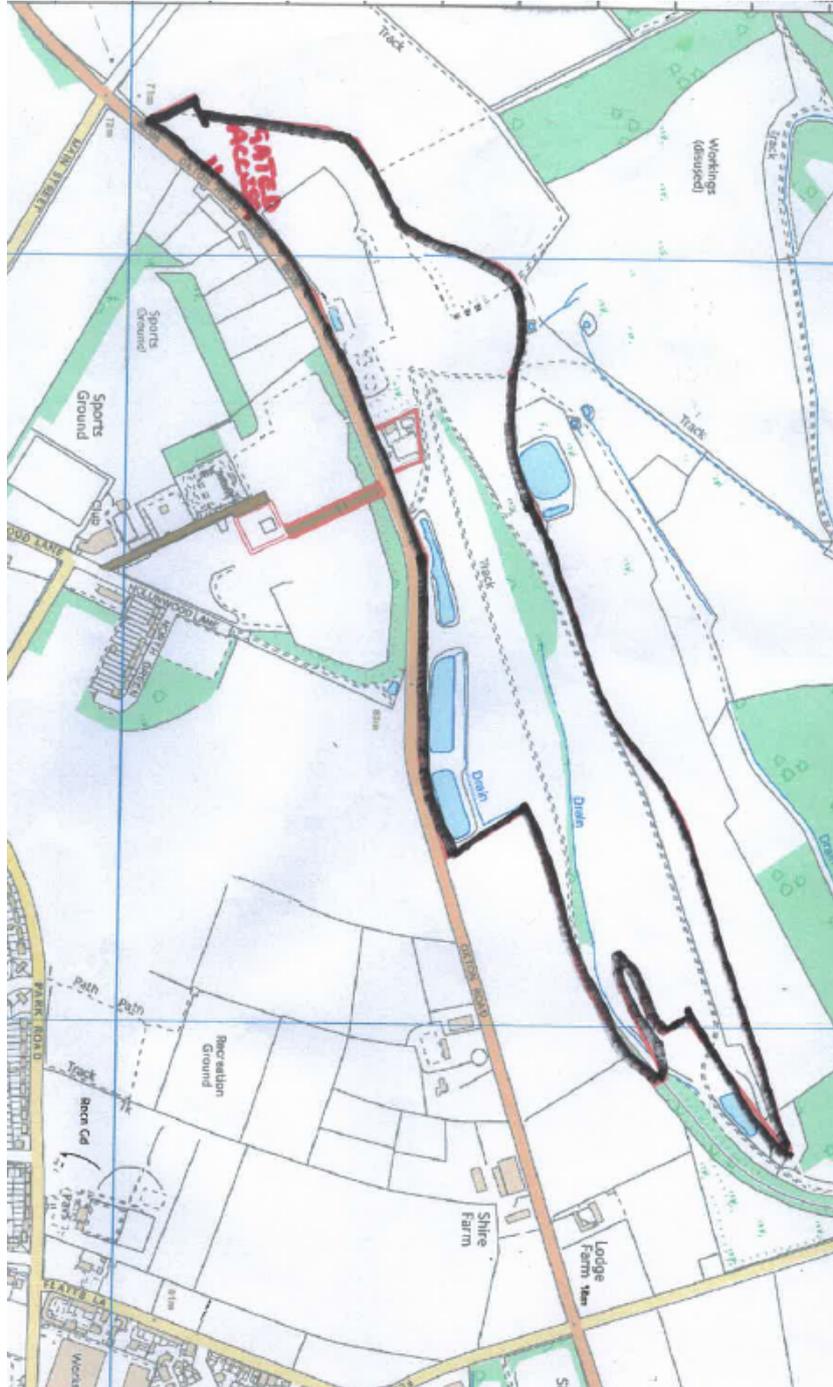




Application Number: 2016/0913

Location: Land Adjacent Calverton Colliery Off Oxtan Road Calverton Nottinghamshire



NOTE:

This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site. Reproduced with the permission of the Controller of H.M.S.O. Crown Copyright No. LA 078026
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Report to Planning Committee

Application Number:	2016/0913
Location:	Land Adjcent Calverton Colliery Off Oxton Road Calverton Nottinghamshire
Proposal:	Change of use of part of the Colliery site for use by radio controlled model aircraft, including a grass runway strip and parking area.
Applicant:	Mr Brian Wilson
Agent:	
Case Officer:	Amy Cockayne

1.0 Site Description

- 1.1 The application site relates to part of the former Calverton Colliery site and is therefore a Brownfield site within the Nottinghamshire Green Belt. The site is accessed via Oxton Road to the north of the village of Calverton.
- 1.2 The site is in a natural state, with many species of vegetation present including trees and shrubs. The site itself incorporates a section of the old Colliery site which is level in nature and has safe vehicular access. The wider site area rises to the north to the former slagheap for the former Colliery use.
- 1.3 The nearest residential properties to the application site are Lodge Farm, where the dwelling is situated approximately 160m from the boundary of the site, Warren Place situated approximately 220m from the boundary of the site and dwellings at Patchings Farm Art Centre, over 500m from the application site.

2.0 Proposed Development

- 2.1 The application seeks permission for the change of use of the land for uses in relation to the Rolls Royce Model Flying Club, who are seeking to relocate from Hucknall in Nottinghamshire as the previous land used for the Club is now unavailable.
- 2.2 Contrary to original information submitted with the application, no buildings are proposed to be installed at the site. A runway 100m in length is proposed to be created, although this would be formed through the mowing of grass on

the site and would not include any hardstanding. No trees are to be removed from the site. Part of the site would be used for the parking of vehicles of the Club members.

3.0 Consultations

3.1 The consultations for the original scheme included;

A Site Notice was posted, nearby residents were notified via letter, a notice posted in the local paper and a site notice posted at the entrance of the site.

Five letters of objection were received from local residents, with comments including;

- Impact upon livestock – stress can lead to harm of animals including fatal conditions
- Loss of livelihood due to fatality of animals
- Health and safety risk to uses on adjoining fields i.e. Horse Shows
- Noise and disturbance to nearby dwellings
- Future development on housing allocations of nearby sites increasing number of noise sensitive premises in close proximity to the Colliery
- Impact on Local Wildlife Site – proposed use not compatible
- Noise pollution
- Disruption to natural balance of surrounding land
- Use does not enhance the area or support the local community

3.3 Revised plans were received amending the siting of the proposed runway on the site on 4th May 2017. Reconsultations were carried out with the neighbouring properties and previous objectors. A site notice was also posted at the entrance of the site. Five further letters of objection were received, all previous comments were repeated and additional comments included;

- Distress and unnecessary stress to animals
- Access to site and trespass
- Invasion of privacy
- Close to busy road, endangering road users
- Concerns relating to extent of Ecological Survey

3.4 Four further letters of representation (10 duplicates) have been received from the public objecting to the development, with comments including;

- Excessive noise level of engines disturbing clients and residents
- Use of model aircraft at public open spaces restricted by Gedling Borough Byelaws – risk caused to other users of the site
- Risk of fire
- Gedling Borough Local Plan Housing Allocation proposed at land nearby
- Dangerous activity i.e. crash landings

- Concerns over size of the large scale model aircraft
- Activity can take place in all weathers
- Large gatherings over weekends

3.5 It is noted that one comment received from a member of the public supported the use of electric powered models.

3.6 Calverton Parish Council were notified and objected on the following grounds;

- Noise – Local Wildlife Sites considered noise-sensitive premises as well as residential properties, three sites within 500m.
- Road Safety- distraction to drivers, and safe access and egress
- Approving the application may preclude desirable community use facilities being developed on the site
- Unacceptable use on the site threatening the community's enjoyment of the land

3.7 The Parish Council submitted further comments for the revised plans, reiterating the previous concerns. A further letter expressing the Parish Council's concerns was received in July 2017, objections to the proposal included;

- Close proximity of noise-sensitive premises i.e. dwellings to the proposed flight boundary and launch point
- Potential risk to Gedling's future housing site selection process in the direction of growth required by Calverton's emerging Neighbourhood Plan and compromise of Gedling 5 year housing land supply
- Unreasonable to assume that it is practical to impose a condition requiring flying to be contained within the site – difficult to translate outline on plan into a clear flying boundary in the sky
- Wildlife affected by movement and noise of model aircraft – Aligned Core Strategy has adopted Sherwood Special Protection Area
- Temporary permission gives weight to the concerns previously raised but is an unsatisfactory compromise – once ground-nesting species have been adversely impacted, it may be too late to undo the damage
- Skylark, Lapwing, Yellowhammer, Lesser Redpoll and Mistle Thrush all seen on site and require protection
- Protection of Marsh, Bee and spotted orchids and abundance of wild plants and flowers has been overlooked

3.8 Nottinghamshire County Council (Highways) have confirmed there is an existing wide access serving the site and a dedicated parking area quite a distance from the highway. Therefore there are no concerns in relation to the development.

3.9 Natural England was notified and has confirmed there is no objection to the development as there are no significant adverse impacts upon designated sites.

3.10 Nottinghamshire Wildlife Trust was notified; no comments were received.

3.11 Public Protection has advised that there are no concerns in relation to the noise impact of the development to the locality, subject to times of operation to be attached as a condition. The Club have measures in place to reduce disturbance from noise and a Code of Practice which is aimed at minimising disturbance.

4.0 Assessment of Planning Considerations

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) 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 other material considerations indicate otherwise'.

5.0 Development Plan Policies

5.1 National Planning Policy

5.2 The most relevant national planning policy guidance in the determination of this application are contained within the National Planning Policy Framework (NPPF) (March 2012) and the additional information provided in the National Planning Practice Guidance (NPPG).

5.3 The following core planning principles of the National Planning Policy Framework are relevant to this planning application:-

- 7. Requiring good design (paragraphs 56-68)
- 9. Green Belt
- 11. Conserving and enhancing the natural environment (paragraphs 109-125)

5.4 Gedling Borough Replacement Local Plan

5.5 The following saved policies of the Gedling Borough Replacement Local Plan (2005) (Saved Policies 2014) are relevant to this planning application:-

- ENV1: Development Criteria
- ENV36: Local Nature Conservation Designations

5.6 Aligned Core Strategy

5.7 The Aligned Core Strategy was adopted in 2014 and it is considered that the following policies are relevant:

- Policy 1: Climate Change
- Policy 10: Design and Enhancing Local Identity
- Policy 17: Biodiversity

5.8 The Local Planning Document

5.9 Most recently, the Local Planning Document Publication Draft (LPD) has

been in preparation, published and subject to examination.

5.10 Paragraph 216 of the NPPF sets out that from the day of publication, weight may be given to relevant policies in emerging plans depending on how advanced the Plan is and whether there are extant objections. At the present time, it is considered that the following LPD policies are relevant and may be given moderate or limited weight, depending on whether or not there are unresolved objections:

5.11 Relevant policies in the LPD include:

- LPD 18 Protecting and Enhancing Biodiversity (limited weight)
- LPD 19 Landscape Character and Visual Impact (moderate weight)
- LPD 32 Amenity (moderate weight)
- LPD 35 Safe, Accessible and Inclusive Development (limited weight)

5.12 Calverton Neighbourhood Plan

5.13 Calverton Neighbourhood Plan (CNP) was published November 2016. The Referendum is due to be held on 30th November 2017 and therefore the Plan may be afforded moderate weight at this time.

5.14 There are no policies in the Calverton Neighbourhood Plan which would specifically prohibit the proposed development; however the Plan recognises that the land to the north and east of Park Road/Flatts Lane, known as the 'North West Quadrant' Policy G1 is an area for housing growth.

5.15 The main planning considerations in the determination of this application are the principle of the development within the Green Belt, the impact of the proposal on the immediate surroundings and character of the area, impact upon the highway network and to highway safety, the impact of the proposal on the residential amenity of nearby properties, and the impact to wildlife and livestock as well as the Sherwood Forest pSPA.

6.0 Green Belt

6.1 At the present time, any change of use of land within the Green Belt constitutes inappropriate development. Part 9 of the NPPF advises that any development in the Green Belt is considered to be 'inappropriate' except where they are exempted by Paragraph 89 and 90; a change of use is not exempted.

6.2 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. One of the five purposes which Green Belt serves is to assist in safeguarding the countryside from encroachment.

6.3 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The National Planning Policy Framework (NPPF) advises that substantial weight should

be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 6.4 Paragraph 81 of the NPPF imposes a positive obligation on local planning authorities to plan to enhance the beneficial use of the Green Belt, including looking to provide opportunities for outdoor sport and recreation.
- 6.5 I consider that the proposed use of this brownfield site for the purposes of outdoor sport and recreation would be a beneficial use of the Green Belt, as encouraged by the NPPF, and that this constitutes the very special circumstances necessary to justify this inappropriate development in the Green Belt.
- 6.6 These very special circumstances must outweigh the harm to the Green Belt by reason of inappropriateness and any other harm, as considered below.
- 6.7 Whilst there is no specific definition of openness in the NPPF, this is a concept which relates to the absence of building; it is land that is not built upon. After discussions with the applicant, the provision of a storage container was re- considered and this facility has been removed from the proposal.
- 6.8 The proposed development would not require any engineering works, such as hardstanding or ground works; the runway can be maintained by mowing the existing grass and the access routes from the highway and parking areas can be facilitated upon the existing form of the land. As such, I consider that the proposed use for the purposes of flying model aircraft would preserve the openness of the Green Belt in this location and would not conflict with any of the purposes of including land within the Green Belt.

7.0 Emerging Local Planning Document and Calverton Neighbourhood Plan

- 7.1 The policies within the emerging Local Planning Document (LPD) and the Calverton Neighbourhood Plan (CNP) are currently afforded moderate weight. Both the LPD and CNP recognise that the land north and east of Park Road/Flatts Lane is an area for housing growth. However, the context of LPD Policy 16 and its supporting text consider that not all of the safeguarded land is suitable for development. There are other constraints, for instance, the need to provide a landscape buffer to the north to protect the setting of heritage assets.
- 7.2 Whilst the H16 proposed allocation is in excess of 200m from the Oxton Road, the additional sites being considered as part of the Inspector's recent request are located considerably closer to the Oxton Road being some 160m distant which could raise amenity issues for future developments should model flying activity be permitted. The allocation of sites including any additional sites is a matter for the LPD and the Inspector and not the CNP.

7.3 It is recommended that if planning permission is granted for the proposed use of the site that the use is only permitted for a limited time period of 12 months. As it is anticipated that the LPD would not be adopted until mid/late 2018, the development would be considered subject to the review in light of the final adopted LPD at that time.

8.0 Impact on Character of the Surrounding Area

8.1 The surrounding area is predominantly rural, with the site being situated to the north of the village of Calverton. The last use of the site was as the Colliery site which closed in 1999. The site is privately owned, although is frequently used by walkers.

8.2 The natural state of the site is proposed to be retained, with no engineering operations or works to existing vegetation (excluding the occasional mowing of the grass for the runway) due to take place on the site to facilitate the proposal. The siting of the runway and access and parking areas are upon bare land and areas with sparse vegetation. There are no proposed buildings or hardstanding at the site, which would retain the existing character. The use of the site would be for an established Model Aircraft Club for leisure and recreational purposes only, with no business activity on the site. I am therefore satisfied the natural character of the site's surroundings in this isolated location would be maintained.

9.0 Highway Impact

9.1 Saved Policy ENV1 states development proposals are to include adequate provisions for the safe and convenient access and circulation of pedestrians and vehicles. I am mindful that the site is private land under the ownership of the Coal Authority, and the applicant is in contact with the Coal Authority to ensure the site would be used lawfully. Due to the existing highway layout, there is a layby near to the entrance of the site. As such, the Highways Authority has advised that there are no concerns in relation to the proposal.

9.2 Concerns have been raised regarding the flying of aircraft over Oxton Road, adjoining the site to the south. Although the Highways Authority have not noted the same concerns in respect of the safety of the public around the application site, should permission be granted a condition has been attached to the recommendation to ensure that no flying takes place outside of the site as outlined on the submitted plan. The Borough Council could therefore take enforcement action should there be evidence that model aircraft are being flown outside of the application site.

10.0 Impact upon Residential Amenity

10.1 Saved Policy ENV1 seeks to protect the amenity of nearby residents from impact as a result of the level of activity generated from development. The proposed use would generate some activity of Club members entering and leaving the site from the public highway, and the meeting of members within

the designated area of the site as outlined on the submitted plans, although I do not expect that this general level of visitors to the site would have an undue impact on neighbouring residential amenity given the siting and overall size of the application site.

- 10.2 Paragraph 123 of the NPPF states that planning decisions should aim to avoid noise from giving rise to significant adverse impact on health and quality of life as a result of new development, and minimise other adverse impacts through the use of planning conditions. LPD 32 of the Local Planning Document also gives special consideration to noise impact upon residential amenity.
- 10.3 The applicant has submitted to the Council its Code of Practice and Club Rules as supporting information with the Design and Access Statement of the application. This document refers to British Model Flying Club standards, which are derived from Department for Environment, Food and Rural Affairs Code of Practice on Noise from Model Aircraft 1982. The Code of Practice recommends acceptable separation distances from noise-sensitive premises i.e. residential dwellings; 500m for the point of launch of radio-controlled models, 300m from the point of launch of model aircraft with limited engine run, and any model should not be flown closer than 200m to noise-sensitive premises. The point of launch would be created through cutting an area of grass 100m x 50m to be used as a runway. I am satisfied that measuring from the edge of this area as indicated on the submitted revised plans; there are no noise-sensitive premises which are sited closer these minimum distances. The nearest residential properties are Lodge Farm to the east, this dwelling is situated over 650m from the point of launch; and Warren Place to the south-east, approximately 530m from the point of launch. Appropriate conditions are attached to the recommendation limiting the flying of model aircraft to within the application site, and between specified hours only, therefore avoiding the potential flying of aircraft directly over residential properties or at anti-social times to avoid any undue impact to the detriment of residential amenity.
- 10.4 In this instance, I consider that any nuisance would be covered by non-planning legislation for the protection of neighbouring residents' amenity. The applicant has also advised that the Club uses appropriate measuring equipment for noise generated from the aircraft which has been considered acceptable by the Borough Council's Public Protection service. However, it is accepted that the full impact of the use is difficult to assess even with the submitted Code of Practice and Club Rules. Accordingly, it is considered that the full impacts of the development should be reviewed in 12 months and in this instance a temporary permission would therefore be justified.

11.0 Impact on Wildlife and Livestock

- 11.1 Saved Policy ENV36 of the Replacement Local Plan seeks to protect long-term ecological viability of the habitat with measures to minimise damage and disturbance to the habitat and wildlife.

- 11.2 The Ecological Assessment submitted with the application indicates that there would be no significant impact arising from the proposal upon habitat sites or species at the site by reason of the nature of the development and the siting of the proposed runway and car parking areas. The lack of shelter and sparse ground vegetation at the siting of the runway and car parking areas result in unsuitable conditions for newts and ground nesting birds, and the minimal change in the form of the land would not result in adverse effects to existing areas of habitats. Although the model aircraft would be in-flight for much of the time that the site is in use, the Ecological Assessment states that the flying speed would not pose a threat to birds.
- 11.3 Many objections have been received in relation to the impact of the model aircraft upon livestock in fields in the wider area around the application site, including but not limited to; horses, pigs and goats. Concerns relate to unnecessary stress to animals as a result of noise and disturbance of overhead aircraft. I note that there are no livestock within the application site itself. Whilst it is appreciated that the proposed use may be a cause of concern for livestock owners, this is not considered to be a planning reason for resisting the application.
- 11.4 LPD 18 states that harm to habitats and species should be avoided in the first instance, and if not possible, mitigated. As such, due to the points mentioned above I am of the opinion that the proposed use of the land at the site would not result in adverse effects to the existing habitat and species on the site due to minimal disturbance to the existing form and state of the land.

12.0 Impact on the Sherwood Forest Region

- 12.1 Paragraph 3.17.3 in the Council's Aligned Core Strategy (ACS) (2014) states *"Whilst there is not a formal designation, it does mean that these areas are under consideration by the Joint Nature Conservation Committee, and may be declared a prospective Special Protection Area. Whilst this is not a formal designation, it does mean that these areas are under consideration by the Joint Nature Conservation Committee, and may be declared a proposed Special Protection Area in due course. The Aligned Core Strategies and Infrastructure Delivery Plan therefore take a precautionary approach and treat the prospective Special Protection Area as a confirmed European Site. The infrastructure Delivery Plan sets out requirements for a range of mitigation measures as recommended in the Habitats Regulation Assessment Screening Record. A decision on the extent of any possible Special Protection Area is not known"*.
- 12.2 Natural England's current position in respect of the Sherwood Forest Region is set out in an advice note to Local Planning Authorities (March 2014) regarding the consideration of the likely effects on the breeding population of nightjar and woodlark in the Sherwood Forest Region.
- 12.3 While no conclusion has been reached about the possible future classification of parts of Sherwood Forest as a Special Protection Area

(SPA) for its breeding bird (nightjar and woodlark) interests, Natural England advise those affected Local Planning Authorities (LPAs) to be mindful of the Secretary of State's decision in 2011, following Public Inquiry, to refuse to grant planning permission for an Energy Recovery Facility at Rainworth where the potential impacts on these birds and their supporting habitats was given significant weight.

- 12.4 In light of this decision the Advice Note recommends a precautionary approach should be adopted by LPAs which ensures that reasonable and proportionate steps have been taken in order to avoid or minimise, as far as possible, any potential adverse effects from development on the breeding populations of nightjar and woodlark in the Sherwood Forest area. This will help to ensure that any future need to comply with the provisions of the 2010 Regulations is met with a robust set of measures already in place. However unlike the Council's ACS, Natural England's Standing Advice Note does not recommend that the Sherwood Forest Region should be treated as a confirmed European site.
- 12.5 In terms of the legal background, a potential Special Protection Area (pSPA) does not qualify for protection under the Habitats Regulations until it has been actually designated as a SPA. Furthermore, the site does not qualify for protection under the NPPF as paragraph 118 refers to pSPAs and footnote 26 explicitly states that pSPAs are sites on which the Government has initiated public consultation on the case for designation. This has not occurred and therefore the Sherwood Forest Region does not qualify for special protection and a risk based approach is not necessary to comply with the Habitat Regulations or the NPPF.
- 12.6 With regards to this specific application, Natural England has advised that based on the plans submitted, the development would not have a significant adverse impacts on designated sites and has no objection. It is however noted by Natural England that the proposed development is located in the Sherwood Forest area in proximity to habitats identified as important for breeding nightjar and woodlark. The Local Planning Authority is therefore referred to Natural England's Standing Advice Note (March 2014) in respect of this matter which encourages Local Planning Authorities to follow a risk-based approach, ensuring that proposals are accompanied by robust assessments of the likely impacts arising from the proposals on breeding nightjar and woodlark and include measures to minimise any potential direct, indirect and cumulative impacts that are identified.
- 12.7 While not specifically required to address this risk-based approach under the Habitat Regulations or the NPPF, the applicant has provided supporting ecology information which advises that the Conservation Status for woodlark is Green and nightjar as Amber within the list known as Birds of Conservation Concern from the British Trust for Ornithology. The report suggests that any birds nesting in the wider area would be used to a level of disturbance from the nearby A614 and B6386, as well as agricultural machinery.

12.8 In addition, as detailed in Paragraph 10.4 of this report, a limited period permission is proposed. While this will ensure that future housing growth in Calverton is not prejudiced by the proposal, it is also considered that a limited period permission (expiring in December 2018) is a further risk based measure, should the Government initiate formal consultation in relation to a Sherwood Forest Region pSPA.

12.9 As detailed above, approval of the proposal albeit for a limited period of time would be at variance with paragraph 3.17.3 of the Aligned Core Strategy and the proposal may not be acceptable if the Government initiates consultation on a Sherwood Forest region pSPA. However in this particular instance, I am satisfied that there are material planning considerations which permit departure from the ACS namely; the fact that Natural England has raised no objection to the proposal, the proposal is for a limited period and the approach accords with the Habitats Regulations and NPPF. In these circumstances, I am therefore of the opinion that in this instance the Sherwood Forest region should not be treated as a confirmed European Site. Accordingly, the above considerations indicate that a decision should be taken at variance with para 3.17.3 of the Aligned Core Strategy.

13.0 Conclusion

13.1 I am satisfied, on balance, that the very special circumstances by reason of providing outdoor sport and recreation on a brownfield site outweigh the harm to the Green Belt by reason of inappropriateness and any other harm; including impact on the openness of the Green Belt, on the character of the surrounding area, on the highway, on residential amenity and on wildlife and livestock.

13.2 Given the above factors, it is considered that it would be reasonable to grant a limited period permission for 12 months to enable the Borough Council to further assess the impact of the proposal. In this instance, a limited period permission is considered to be reasonable, as the development does not propose any structures/built environment.

Recommendation:

To Grant Limited Period Conditional Planning Permission, subject to the following conditions:

Conditions

1. This permission is a limited period permission which shall expire on 31st December 2018 and the use hereby permitted shall cease on or before this date and the site shall be reinstated to its original use.
2. This permission shall be read in accordance with the following plans/details: Redline Site Location Plan (scale 1:5000) received by the Local Planning Authority on 4th May 2017, Rolls-Royce (Hucknall) Model Aircraft Design and

Access Statement (Club Rules and Code of Practice) received by the Local Planning Authority on 15 August 2016. The development shall thereafter be undertaken in accordance with these plans / details, unless otherwise agreed in writing by the Local Planning Authority.

3. The use hereby permitted shall enure solely for the benefit of Mr Brian Wilson and members of the Rolls Royce (Hucknall) Model Aircraft Club and no other person(s) or organisation.
4. There shall be no flying of any model aircraft outside of the redline application site boundary (shown on the 1:5,000 scale plan received on 15 August 2016) at any time.
5. Notwithstanding the submitted details, the use hereby permitted shall not take place other than between the hours of: 10.00AM - 6.00PM Mondays - Fridays, 10.00AM - 6.00PM Saturdays and 10.00AM - 4.00PM Sundays and Bank Holidays.

Reasons

1. To enable the Local Planning Authority to review the situation at the end of the limited period.
2. To define the permission.
3. The nature of the development is such that it is only considered acceptable having regard to the Club Rules submitted by the applicant.
4. To define the permission and the interests of residential amenity and highway safety.
5. To protect the amenities at present enjoyed by the occupiers of nearby residential properties.

Notes to Applicant

The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework. Discussions have taken place during the consideration of the application to address adverse impacts identified by officers and/or address concerns raised in letters of representation submitted in connection with the proposal. The application for planning permission is subsequently approved for a limited time period subject to conditions.