

Report of the Chief Executive

SYWELL AERODROME

1 Purpose of report

To update members on matters related to Sywell Aerodrome and seek instructions on any appropriate further action.

2 Executive summary

The report summarises the current position and refers to a number of options members may wish to consider.

3 Appendices

Appendix A - Update on Council resolutions.

4 Proposed action:

It is proposed that members **RESOLVE** how they wish officers to proceed in relation to this matter.

5 Background

5.1 Members will recall that in 2011/12 a Member Working Party considered a large number of detailed issues related to Sywell Aerodrome. This report does not revisit all of that detail.

5.2 On 26 June 2012 Council considered the report of the working party and resolved as follows:

- i) the report be noted
- ii) no further enforcement action be required in relation to the description used by the applicant for the development and the all weather surface runway's actual position;
- iii) no further enforcement action be required in relation to the "as built" surface water drainage system but that it be ensured that regular monitoring of the surface water systems oil interceptors would take place and that the Environment Agency (EA) be asked about details of the pollution sensors in the water course used by the "as built" drainage system;
- iv) as the council had no powers to intervene on matters related to Sywell Wood, that it would liaise on a regular basis with the Environmental Agency (EA), Forestry Commission (FC) and Sywell Aerodrome Ltd

- (SAL), to ensure good management of the Sywell ancient woodland site and broker a meeting with SAL, the Forestry Commission (FC) and the Wildlife Trust to see whether they could become involved in the evaluation of Sywell Wood as a potential county wildlife site;
- v) reports be brought back to the Development Committee in six months and 12 months time, to review the effectiveness of negotiations with SAL to facilitate the operation of a regular JCC in accordance with the Department of Transport guidelines;
 - vi) arrangements for the inspection of the noise monitoring equipment as required be recorded on a quarterly basis;
 - vii) SAL be asked to advise pilots not to pass over Sywell village and school when landing or taking off and for SAL to regularly communicate with the school to inform each other of activities that could affect each other;
 - viii) The Chairman, Vice Chairman and the Head of Planning and Local Development meet with SAL to ask that its flight protocol be revised to avoid over-flying the school;
 - ix) It be ensured that SAL forward air traffic movement (ATM) records on a monthly basis in accordance with the conditions of the consent and regularly inspect the ATM register and complaints log at least four times per year.

Whilst progress has been made on most of the resolutions not all have been fully implemented. A brief summary is included at appendix A. Key to some of the resolutions is a need to have effective communication with the aerodrome. It has proved difficult to progress this point. Resolutions (v) and (ix) in particular require some form of working relationship with the aerodrome.

- 5.3 There have been various attempts to open a dialogue but the current position is that there is no effective dialogue at all. The Leader and The Chief Executive tried to assist by meeting with the Managing Director of the aerodrome in 2013 but despite numerous requests a follow up meeting has not yet taken place.
- 5.4 Clearly the best and most sustainable solution for the future would be to engage positively with the aerodrome. A positive and constructive working relationship between the aerodrome, the local community and the council would be the best outcome for all concerned.
- 5.5 Correspondence with the aerodrome has effectively stalled since January 2014. The Managing Director of the aerodrome was written to again on the 5 March 2015 in a further attempt to reopen a dialogue and if a reply is received a verbal update will be given at the committee meeting.
- 5.6 The council receives few complaints about the Aerodrome from anyone other than the members of the community who have been involved with the matter for some time. It is appropriate for the council to consider whether or not, in times when resources are stretched, any significant priority can be afforded to an issue of such complexity that is only an active issue for a small number of individuals. A group known as the West Ward Aviation Focus Group (AFG.) continues to press its case.

- 5.7 A relatively recent development (January 2015) is that a local resident and member of the AFG. has submitted a complaint to the Local Government Ombudsman that the council is failing to enforce the planning conditions related to the permission for the building of the hard runway. This planning permission was granted on appeal in November 2007 and the hard runway has been in-situ since 2009. Members may recall that a major point of difference between the complainants and the aerodrome relates to the positioning of the runway. This in turn leads to the concern about aircraft over flying the school. It is worth mentioning at this point that there have been no complaints or concerns raised by the school.
- 5.8 There have been some recorded instances of the planning conditions being breached with the landing of overweight aircraft and the aerodrome has been written to. This is not a regular occurrence and as with any enforcement of any planning condition an informal approach is always the first course of action. Enforcement action should only be taken when it is expedient to do so in the public interest. It is clear that the majority of conditions have been or are being complied with to some extent. Some of the more technical aspects again require an effective dialogue with the aerodrome. This council like all other local planning authorities would seek to discuss technical breaches of conditions with relevant parties to negotiate a conclusion.
- 5.9 This brings us to the primary issue of the requirement for a Joint Consultative Committee (JCC) to be established. This was set out in the Section 106 agreement related to the planning application.
- 5.10 The aerodrome position on this is that they have done all they need to. A committee was established but it did not flourish amid claims that the chairman was not independent of the aerodrome. Only three meetings were arranged. The complainants argue therefore the section 106 agreement has not been complied with. The aerodrome will argue that it has. Once again a stalemate position has been reached. The former Head of Planning and Local Development obtained counsel's advice in April 2012 on this particular point. That advice supports the aerodrome's position.
- 5.11 The legal advice suggests that the council could as an alternative try to engage with the aerodrome about their approach to meeting the duties that they have under section 35 of the Civil Aviation Act 1982 which requires them to have consultation arrangements in place and include the local community and council in those. This matter has been raised with the Managing Director of the Aerodrome in the 5 March letter and at the time of writing this report a response is awaited.
- 5.12 Of course this still brings us back full circle to a need to engage in discussions with the aerodrome. There is a view that the council should press its case legally. It is difficult to see how this could be done as there is no action the council can take to force the JCC to be reconvened. We have the counsel's advice indicating that the JCC provisions in the section 106 have been complied with. Also, given the low level of complaints that occur at present and the level of financial and reputational risk to be considered this cannot be recommended by officers at this time.

5.13 The only reasonable options seem to be as follows:

- a) To take no action as the level of concern is localised to a small number of local residents and is not a wider issue affecting the local community.
- b) To continue to pursue a constructive dialogue with the aerodrome.
- c) To reconvene a member working party to reconsider all of the detailed issues once again and to make further recommendations to council.

6 Legal implications

These are discussed within the body of the report.

7 Financial risk and value for money implications

These are discussed within the body of the report.

8 Implications for resources

Considerable staff resources have been devoted to these issues over many years and if members wish further activity to take place more will be required. Members need to carefully consider how much priority can or should be directed to this matter.

9 Implications for equalities

None specific to this report.

10 Author and contact officer

John T Campbell, Chief Executive

11 Consultees

Julie Thomas, Head of Planning and Local Development

12 Background papers

Various background papers and committee reports held by the Head of Planning and Local development.

SYWELL AERODROME

Summary of current position on resolutions of council on 26 June 2012 relating to Sywell Aerodrome.

- i) Complete
- ii) Complete – no action necessary.
- iii) Contact was made with the Environment Agency by the previous Head of Planning and Local Development. The Environment Agency confirmed they were satisfied with the “as-built” drainage system.
- iv) The Managing Director of the aerodrome was advised to contact the Wildlife Trust. Whilst part of the historical complaints there has been no ongoing complaint relating to Sywell Wood in the last 3 years.
- v) It has not been possible to establish any effective discussion or negotiations with the aerodrome. There is counsel’s advice that the requirement in the Section 106 relating to the establishment of a JCC has been complied with. The aerodrome has been contacted again recently regarding section 35 of the Civil Aviation Act 1982.
- vi) This resolution is ambiguous. The “noise monitoring equipment” is located on a pole at the western end of the hard runway and cannot be regularly inspected in any practical way. The council, in any case, receives few complaints re noise from aircraft. There have been a number of complaints regarding noise from motor vehicles at specific events – the last of these was in May 2014.
- vii) The matter of the flight protocol has been raised with the Civil Aviation Authority. They have confirmed that the aerodrome’s published flight protocol refers to not over-flying the school. The aerodrome’s flight protocol on their website also clearly asks that pilots should take off in a certain way to “ensure that you are clear of Sywell Primary School.” Pilots are also advised to avoid over-flying settlements and noise sensitive areas (Overstone, Mears Ashby, Moulton, Harwick, Hannington, Walgrave, Orlingbury and where possible Sywell Village).
- viii) Complete.
- ix) The ATM records are being requested in summary form quarterly. Since the previous Head of Planning and Local Development left the Council physical inspections have not taken place. This is another aspect where a dialogue/working relationship with the Aerodrome would assist.

