APPEAL BY THE TRUSTEES OF STOW MARIES GREAT WAR AERODROME TRUST AGAINST THE DECISION OF MALDON DISTRICT COUNCIL TO REFUSE PLANNING PERMISSION FOR A CHANGE OF THE OPERATIONAL ARRANGEMENTS

AT

STOW MARIES AERODROME, HACKMANS LANE, COLD NORTON, ESSEX

STATEMENT OF MALDON DISTRICT COUNCIL
1.0 **Background Information and Policies**

1.1 This statement should be read in conjunction with the following documentation, which has been previously sent out by the Council with the appeal questionnaire:

- Officers report to North West Area Planning Committee on 12 June 2017
- Relevant extracts of the Maldon District Approved Local Development Plan 2017

The planning application was determined at Full Council on 13 July 2017. A copy of the Officer report to Full Council and the related Minute was not provided as part of the appeal questionnaire but is provided as Appendix 1.

2.0 **The Appeal**

2.1 This appeal arises from the decision of Maldon District Council to refuse planning permission for a change to the operational arrangements for the use of the Airfield at Stow Maries Great War Aerodrome, Hackmans Lane, Cold Norton, Essex by Notice of Decision dated 27 July 2017 (reference 16/01142/FUL). The arrangements proposed are as follows:

- The airstrip to be used by fixed wing and propeller driven aircraft, helicopters, apart from emergency services machines, may only use the site in the event of emergency or during Public Event days
- Take offs and landings only after 08.00 hours and no later than either 20.00 hours, or sunset whichever is earlier
- In the Winter months (November to April inclusive) there shall be no more than 25 landings and 25 take offs per day
- In the Summer months (May to October inclusive) there shall be no more than 25 landings and 25 take offs on weekdays
- In the Summer months (May to October inclusive) there shall be a maximum of 50 landings and take offs per day at weekends and bank holidays apart from Special Public Event Flying days when maximum
landings and take offs are increased to 75 take offs and 75 landings per day

2.2 Planning permission was refused for the development for the following reason:-

1. *The development would take place in a relatively quiet and tranquil rural location. The proposed significant increase in flight movements from that what is approved at this time of 360 movements per annum, to the proposed maximum of 8,000 movement per annum, is considered to result in a detrimental impact on the area and on the existing residential amenity due to a substantial increase in the number of disturbances. The proposal would significantly and unacceptably change the character of the surrounding area and therefore the development is considered to be contrary to Policies D1 and D2 of the Maldon District Local Development Plan and Paragraph 123 of the National Planning Policy Framework in that the impact of the increased flight movements would adversely affect the tranquillity of the rural area.*

2.3 A description of the site and the proposal forms part of the Officer Report for the application (*Appendix 1*).

3.0 **Planning Policy**

**National Planning Policy – the NPPF**

3.1 The Core Planning Principles which form part of the NPPF (paragraph 17) include a requirement to include a requirement that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Another of the Principles includes a requirement to take account of the different roles and character of different area and makes specific reference to the need to recognise the intrinsic character and beauty of the countryside. Achieving sustainable
development is a golden thread which runs through the NPPF; the three dimensions of which are social, environmental and economic.

3.2 Paragraph 123 of the NPPF states that planning policies and decisions should aim to:-

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason

3.3 The NPPG section ‘Noise’ advises on how planning can manage potential noise impacts of new development and sets out ‘Observed Effect Levels’ for noise as follows:-

- Significant observed adverse effect level – noise exposure above which significant adverse effects on health and quality of life occur
- Lowest observed adverse effect level – noise exposure above which adverse effects on health and quality of life can be detected at a level to cause changes in behaviour and attitude. A noise level which has an adverse effect and where ‘consideration needs to be given to mitigating and minimising those effects (taking into account the economic and social benefits being derived from the activity causing the noise)’.
- No observed effect level – noise exposure below which no effect at all on health or quality of life can be detected

Further extracts of the NPPG will be included below.
3.4 Other relevant guidance is the Noise Policy Statement for England 2010 (the first aim of which is to ‘Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development’), the World Health Organisation ‘Guidelines for Community Noise’ and the National Physical Laboratory’s interpretation of the guidelines.

The Development Plan

3.5 Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission or an appeal shall be determined in accordance with that plan, unless material considerations indicate otherwise.

3.6 The Maldon District Local Development Plan was approved in July 2017. The adopted Local Development Plan Policies which are contravened by the development the subject of this appeal are Policy D1 and Policy D2. A copy of these adopted Policies was provided as part of the previously submitted appeal questionnaire.

3.7 Policy D1 ‘Design Quality and the Built Environment’ requires that all development must respect and enhance the character and local context and make a positive contribution (criterion 1) in terms of a number of factors including c) landscape setting, townscape setting and skylines. The Policy also requires that all development protects the amenity of surrounding areas taking into account, inter-alia, noise and visual impact (criterion 4) and that new development contributes to and enhances local distinctiveness (criterion 8).

3.8 Policy D2 ‘Climate Change and Environmental Impact of New Development’ requires that all development must minimise its impact on the environment by incorporating a number of principles including minimising all forms of possible pollution (including noise) and that any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures (criterion 6).
3.9 **Relevant Planning History**

3.10 The Officer Report also sets out the relevant planning history for the site but of particular relevance to the determination of the current appeal are the following applications:-

- **09/00250/FUL** – Re-instatement of airfield and erection of 2no. aircraft hangers to match former buildings on site – approved
- **17/01071/FUL** - Variation of conditions 13 & 14 on approved planning permission FUL/MAL/09/00250 (Re-instatement of airfield and erection of 2no. aircraft hangers to match former buildings on site) – undetermined at the time of writing

3.11 Condition 13 of planning permission reference 09/00250/FUL requires the following:-

13. *No more than 2 public events shall operate in any calendar year and such events shall not exceed 3 consecutive days. Such events shall be organised in accordance with a scheme to be submitted to and approved in writing by the local planning authority that incorporates a travel plan together with park and ride facilities.*

**REASON** To ensure that the intensification of activity at the site does not cause unacceptable harm to the amenity value of the countryside, and amenities of neighbouring residents in accordance with policy S2 of the adopted Maldon District Replacement Local Plan.

3.12 Condition 14 of the same planning permission requires the following:

14. *There shall be no more than 12 aircraft movements (take offs and landings) undertaken from the site in any 24 hour period, subject to a maximum of 74 movements (take offs and landings) undertaken in any calendar month, and subject to a maximum of 360 movements (take offs and landings) undertaken in any calendar year, unless otherwise
agreed in writing with the local planning authority for the purposes of public events.

REASON To ensure that the activity at the site does not cause unacceptable harm to the amenity value of the countryside, and amenities of neighbouring residents in accordance with policy S2 of the adopted Maldon District Replacement Local Plan.

4.0 Planning Considerations

4.1 The Local Planning Authority considers that the main issues which require consideration as part of the determination of this appeal are whether or not the proposed development would:

- harm the amenity of the occupiers of local residential properties
- harm the character of the area

4.2 The application site is located in a remote rural area where background noise levels would typically be low to very low. Local residents will be used to living in a tranquil area and are likely to have chosen to live in the area partly due to this characteristic. There are residential properties located approximately 300m from the appeal site boundary (Flambards Farm to the north) which is in addition to other residential properties within close proximity to the west of the appeal site (Charity Farm at a distance of around 350m, Edwins Hall Cottages at a distance of around 500m and Blacklands at a distance of around 600m). There are also public footpaths which run along or very close to three of the four boundaries of the site, the location of which are shown as red dashed lines on the plan at Appendix 3.

4.3 The Local Planning Authority has assessed that the character of the site and the surrounding area is enhanced by its tranquillity. At paragraph 12 of the noise section the NPPG states that there are no precise rules for assessing tranquillity, but it is likely that an area of tranquillity will be “relatively undisturbed by noise from human caused sources that undermine the intrinsic character of the area.” It goes on to state that “such areas are likely to be
already valued for their tranquillity, including the ability to perceive and enjoy the natural soundscape, and are quite likely to be seen as special for other reasons including their landscape.”

4.4 In this case it is noted that the site is located within a rural location, outside and well away from the defined boundaries of the Maldon District. There are few other noise sources within the area other than public highways. As background, it is considered relevant to note that policy S8 of the Local Development Plan (Settlement Boundaries and the Countryside) states that “the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty.” It is therefore considered that it is reasonable for the Local Planning Authority to assess that the site is located within an area of some tranquillity and this in turn contributes to the amenity of the area and the living conditions of its residents. However, it is also noted that some erosion of this tranquillity has previously been allowed in the form of the authorisation of the use of the site as an airfield under the terms of application 09/00250/FUL.

4.5 The permitted use of the aerodrome (subject of planning permission 09/00250) is for a very low key use of the aerodrome (refer to conditions 13 and 14 above). The proposed use would intensify its use significantly, adversely affecting the character of the site and its surroundings. Based on up to 25 landings and 25 take offs per day November to April, up to 25 landings and 25 take offs on weekdays May to October, up to 50 landings and take offs per day at weekends and bank holidays May to October and up to 75 take offs and 75 landings per day on up to 14 Special Public Event Flying days, flights at this site could be increased to maximum of 23,800 aircraft movements if planning permission were to be granted. Even with a proposed cap of 8,000 per annum, the appellant suggests in their appeal statement (on page 8) that this would need to be increased for special occasions such as the Remembrance Day event held towards the end of the flying year. Given the nature of the permitted use of the site as an aerodrome and the relatively flat topography in the vicinity of the site, the impact of any intensification of the use of the airfield, which has
two runways, would inevitably be spread over an area much greater than the site and its immediate surroundings as aircraft approach and leave the site.

4.6 Even with the recommended conditions, it would not be reasonable for the type of aircraft to be controlled. This could exacerbate the noise impact caused as some aircraft would inevitably be noisier than others. In addition, if the increased flights were to predominately by modern aircraft, this would not be in-keeping with the site as an historic airfield.

4.7 Furthermore, even with the recommended conditions, the adverse impact of the development would be exacerbated if aircraft movements are bunched together at a particular time of the day when weather conditions are conducive to flying or over a sustained period during stable weather conditions.

4.8 With respect to the proposed increase to 50 and 100 movements per day, whilst this is not expected to cause any change in behaviour or attitude (being within the NPPG’s ‘Lowest Observed Adverse Effect Level’), they would still be audible and result in a material change to the character of the area.

4.9 There is particular concern regarding the ‘Event Days’ aspect of the proposal when up to 150 flight movements a day are proposed which would be in addition to fly-bys. There would be up to 7 ‘Events’ proposed per annum which would equate to a total of up to 14 days per annum. These events are likely to be across a weekend and are likely to be 2 or more consecutive days. These events are also likely to be during good weather conditions when local residents are most likely to be outdoors where the noise impact of the increased flights would be most significant. There was a failure to evaluate the noise impact of these Events in the planning application the subject of this appeal.

4.10 This aspect of the proposal, in particular, would result in a very significant increase in aircraft movements compared to those currently permitted. The intensity of aircraft movements of up to 150 per day over a number of days would cause material harm to both the amenity of local residents and the
tranquil rural character of the area within which the site is located. A significant number of the objectors to the proposal refer to adverse impacts being caused by noise and disturbance associated with the limited number of event days currently held at the aerodrome.

4.11 At section 6.7 of the noise report, it is acknowledged that there would be a noise increase within a 12 hour period of 2dB on a day of 50 movements and 5dB on a day of 100 movements. However, it is noted within the Officers report that there are flaws in the assessment based on the lack of assessment in relation to the ‘Special Public Event Flying Days’ and also a flawed assessment of the noise level that is currently generated as a result of the fallback position. Officers of the Local Planning Authority have utilised the submissions to form an opinion of the additional noise impact that would result. However, it is true to say that the appellant, through their independent consultants, have not accurately clarified the noise impact of the proposed use and this therefore raises significant concerns as to whether the Local Planning Authority or the Planning Inspectorate can reach a sound decision in favour of the proposal on the basis of the evidence that has been submitted.

4.12 Even if it is not anticipated that the proposal would cause a Statutory Nuisance under the Environmental Protection Act 1990, the noise generated by the increase of flights proposal could still have an adverse impact on the quality of life of those living in the locality. The Council’s Environmental Health enforcement officers would not be able to use their powers under the Environmental Protection Act even if the quality of life of local residents were to be adversely affected, unless this was significant enough to also amount to a Statutory Nuisance.

4.13 Furthermore, there is no completed Unilateral Undertaking which would be necessary to secure the setting up of an Aerodrome Consultative Committee which formed a significant element of mitigation proposed as part of the planning application the subject of this appeal. This Committee would be an important means of involving the community in the operation of the aerodrome and to resolve issues of importance locally. As a result, there would not be a
body to determine optimum flight paths to and from the aerodrome to ensure the minimum disturbance to noise sensitive properties within the locality; and to manage the Prior Permission Required procedure for visiting pilots to ensure there is a slot available in accordance with permitted flight limits and to ensure the pilot understands the Aerodromes Standard Operating Procedure. It is partly due to the lack of a completed Undertaking, that the local planning authority recommends that, if the current appeal were to be allowed, the permission is time limited for a period of one year to provide a trial period and an opportunity for the impact of the proposed use on the amenity of the occupiers of local residential properties and the character of the area to be reassessed.

4.14 In conclusion, the local planning authority's view is that the proposal would harm the character of the area and would harm the amenity of the occupiers of neighbouring residential properties, contrary to the NPPF, NPPG and Policies D1 and D2 of the Maldon District Approved Local Development Plan.

5.0 Other Matters

5.1 It is acknowledged that the proposal would potentially assist with the expansion of the existing tourist and visitor facilities at the site but there is insufficient evidence that the future of the site and its continuing national importance as a WW1 airfield site is dependent on the current level of proposals being permitted. Limited financial information was submitted as part of the planning application the subject of this appeal and does not demonstrate that the proposal is essential or adequately quantify the financial benefits of the proposal and, therefore, this line of support for the proposal cannot be given substantial weight.

5.2 The appellant, as part of the planning application, suggested that they were proposing a greater amount of activity at the site than was currently required to facilitate long term planning for the Aerodrome so that they do not need to make further applications in the future. This is confirmed through the submission of a revised planning application which is yet to be determined by
the local planning authority (reference 17/01071/FUL) for a smaller increase in flight numbers. A copy of the planning application form for this planning application is provided as Appendix 2. This current planning application proposes that there shall be no more than 4,200 aircraft movements (take-off or landing) undertaken from the site during any one calendar year (1 January – 31 December) with a daily limit, in any 24 hour period, of 30 movements (15 take-offs and 15 landings), apart from Special Public Flying Events when the limit shall be 120 movements (60 Take-offs and 60 landings). The proposal is also for no more than 4 public events which include a programme of flying displays (Special Public Flying Events) a year which shall not exceed 2 consecutive days. This matter weighs against the proposal the subject of this appeal.

In accord with paragraph 140 of the NPPF, the local planning authority has assessed that the benefits of the proposal for enabling development would conflict with planning policies and that there is insufficient evidence that the proposal is necessary to secure the future conservation of the heritage asset. As a result, the benefits of the proposal are not outweighed by the disbenefits of departing from the approved LDP and the harm the development would cause.

6.0 Conclusion

6.1 The proposed development would cause harm to the character of the area and the amenity of the occupiers of existing residential properties.

6.2 The economic and social benefits of the proposal do not outweigh the environmental disbenefits. As a result, the development is not sustainable development which weighs very heavily against the proposed development.

6.3 On the basis of the above, it is considered that the proposed development contravenes Local Development Plan Policies D1 and Policy D2 and current government guidance contained within the NPPF and NPPG.
The appeal proposal, if permitted, would cause demonstrable harm to matters of acknowledged importance contrary to national planning policy and development plan policy. Therefore, the Inspector is respect fully requested to dismiss this appeal.
List of Appendices

Appendix 1 – Officer report to Full Council and the related Minute

Appendix 2 – planning application form relating to application reference 17/01071/FUL

Appendix 3 – plan of public footpaths within the vicinity of the appeal site.