

**Planning Committee:** 31 March 2004  
**Investigation No:** ENF467/48/03

**Principal Item Number:** 01

**Town/Parish Council:** Baginton

**Case Officer:** John Archer

**Coventry Airport, Siskin Parkway West, Middlemarch Business Park, Baginton**

Alterations to runway overrun area, construction of new buildings, engineering works including internal access road and importation of materials for hard standing areas and use of part of airport for the storage of new cars.

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**BACKGROUND TO REPORT**

On February 17<sup>th</sup>, the Planning Committee approved a number of actions in relation to various works at Coventry Airport. These actions related to the following seven issues: -

1. Construction of new buildings on the south side of the airport
2. Importation of brick rubble material being crushed in the vicinity of Gate 4 on the south side of the Airport
3. Works to the runway overrun area adjacent to the threshold of runway 05 (Bubbenhall Road end)
4. Creation of an internal access road to the rear of Oak Close, Baginton
5. Storage of motor vehicles adjacent to the Royal Oak public house, Baginton
6. Works to nearby trees
7. Condition of security fencing

On March 9<sup>th</sup>, the Planning Committee approved further actions in relation to Issues 1 to 3 and further investigation of the storage of cars adjacent to Baginton village (Issue 5).

This Report provides an update of Issues 1 to 3 and 5 on the current status of the works and to progress made with regard to actions approved by Members in relation to Issues 1 to 3 and 5. As a result of the manner in which it is now proposed to address the issues outstanding, I propose to combine Issues 1 and 2 into a single section. Progress on Issue 4 will be reported to a future Committee. As set out in the previous Report, Issues 6 and 7 are not being pursued.

Investigation of Issues is ongoing and further site inspections have been made regularly due to the evolving nature of some of the works. The outcome of these inspections has been reflected within this report. This report has been written in the light of circumstances as at 22<sup>nd</sup> March.

**SUMMARY OF LATEST INVESTIGATIONS**

**Issues 1 & 2 – Erection of Passenger Terminal and Associated Works**

On the south side of the airport, adjacent to existing operational buildings that have been in place for some time, additional modular buildings have been erected. It is understood

these are to provide temporary terminal facilities for passengers utilising the ThomsonFly operation which they intend to commence on 31<sup>st</sup> March.

Before considering the current situation, it will be helpful to remind Members of the permitted development rights that exist for airports.

### **Airport Permitted Development Rights**

The Town and Country Planning General Permitted Development Order 1995 (Part 18 of the Order) sets out what constitutes permitted development (and therefore does not require express planning permission) in relation to development at an airport. Development (including the erection or alteration of an operational building) connected with the provision of services and facilities at an airport is permitted development. Furthermore, the use of buildings within an airport for purposes connected with air transport services or other flying activities at an airport is also permitted development. This includes buildings required in connection with embarking and disembarking of passengers at an airport.

These permitted development rights do not extend, however, to the construction of a passenger terminal with a floor space exceeding 500 square metres (not including “piers and satellites”). The floor space is an external measurement. Moreover, the above permitted development rights are withdrawn where the development would require an Environmental Impact Assessment (EIA) as set out in the Environmental Impact Assessment Regulations 1999. Therefore, even if a passenger terminal (involving the construction of one or more buildings) is constructed of less than 500 square metres it is not permitted development if the Council or the Secretary of State has stated that an EIA is required (the process of taking a view as to whether an EIA is required or not is referred to as a Screening Opinion).

### **Update on Investigations since 9<sup>th</sup> March**

West Midlands International Airport Ltd (WMIAL) submitted a letter (dated 8<sup>th</sup> March) following the preparation of the Committee Report to the 9<sup>th</sup> March. This was circulated as an addendum to Members at that Committee.

In brief, this letter confirmed the removal of building B and the stairway to building A from the site. Following the removal of the stairway, Officers had an opportunity to measure the external dimensions of this building on March 9<sup>th</sup> and concluded that the external measurement of building A (excluding the buildings referred to as piers by WMIAL) falls below 500 square metres. This was verbally confirmed by myself at the last Planning Committee.

The letter also reaffirmed WMIAL’s position in respect of the exclusion of parts of the building referred to as ‘piers’ from the 500 square metre calculation. Work is proceeding on the building and further investigation is ongoing with an independent aviation expert. No conclusion on whether or not the construction of the passenger terminal exceeds 500 square metres has been reached as yet. However, it is not necessary to resolve this at this stage as there are other factors affecting the ability of WMIAL to rely upon their permitted development rights.

## EIA Investigations

In relation to the issue of the need for Environmental Impact Assessment (EIA), Members will recall that this is based upon two tests, one of which is quantitative and the other open to a degree of interpretation. Firstly, Government guidance establishes applicable thresholds for EIA development and the threshold in relation to construction of airfields is works exceeding 1ha. Secondly, the guidance requires that EIA development must have a significant effect on the environment. Significance should be assessed against the following three broad selection criteria:-

- Characteristics of Development
- Location of Development
- Characteristics of Potential Impacts

Following an assessment of the proposals associated with the works currently being undertaken, including the intended level of operations announced by ThomsonFly in their December press release and as advertised on their website, I conclude that there would be a significant effect on the environment.

In relation to the first test, WMIAL stated in its letter of the 8<sup>th</sup> March 2004 that the area of works falls below 1ha and this was supplemented by a more detailed plan which was part of the presentation to Members on the 9<sup>th</sup> March attached as Appendix One. Following further investigation, I have now had an opportunity to consider further the issues relating to the extent of works and the 1 ha threshold in light of the information supplied.

The Plan submitted by WMIAL indicates the extent of the operation when works are complete. The area is given as 9379 square metres, i.e. 621 square metres below the 1 ha threshold. The definition of “works” for the purposes of defining Schedule 2 Development is set out in the EIA regulations as follows:

*“area of works” includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation”*

Members will recall that immediately adjacent to the area of works as defined by WMIAL, the heap of rubble material has existed to a significant extent for a period of time. This material has been drawn from to construct the base of the terminal circulation road and spur indicated in the WMIAL drawing. Notwithstanding the welcome intent of the airport to remove the balance from the site, it constitutes an “area of work” as defined in the regulations. This extends the area of works well beyond the 1 ha limit.

In addition, the working area necessary to create the roadway has extended outside the final area defined on the WMIAL plan. Moreover, the construction of a substation between the rubble area and the apron (noted by Members on their site visit), though necessary for the wider functioning of the airport does have linkage with the temporary terminal facilities and therefore also constitutes part of the “area of work” associated with the terminal development.

Taking the area of the completed operation as given in the plan submitted by WMIAL and adding to it the other areas that fall within the definition of “area of works”, leads me

to a conclusion that the area exceeds the threshold for Schedule 2 Development. Notwithstanding the actions of WMIAL to remove the area of rubble, the regulations make it clear that they are to apply not only to the completed state of a development but also to transitory works associated with its implementation. There removal does not preclude the development from falling within Schedule 2 and given my conclusion that the scale of operation is significant, then EIA is required.

The consequence of the need for EIA is that the permitted development rights granted by Article 18 of the General Permitted Development Order are removed and express permission is required for the development, to be accompanied by an Environmental Statement setting out the environmental effects. A Screening Opinion will have been issued to WMIAL by the time of the Planning Committee informing them of the conclusion that EIA is required for the development associated with the construction of a passenger terminal at the south side of the Airport.

The covering letter to the opinion points out that permitted development rights do not exist for the works undertaken and requests an undertaking that the buildings will not be brought into use as a passenger terminal. It also requests the cessation of further works and the submission of a planning application and Environmental Statement; or as an alternative, to provide a timetable for the early removal of the works. The reaction of WMIAL and an up to date position will be reported at the meeting of Planning Committee.

In the event that an application and Environmental Statement are not forthcoming by the date of the Committee (March 31<sup>st</sup>) and the development proceeds and the use commences, enforcement action will be required and authority to undertake enforcement action is requested. The exact nature of the enforcement action is being discussed with Counsel and a paper will be circulated to Members prior to the Planning Committee. Consideration will also be needed to the use of an injunction if necessary.

In my previous report, I informed Members of a request being made to the Secretary of State to exercise his powers to decide whether EIA is required in the event of the area of works being below 1Ha. This was prior to the further work undertaken since the last Committee and the conclusion that the development falls within Schedule 2. It is now appropriate therefore to defer this request. The Secretary of State has been asked to defer this request in light of the Council adopting its screening opinion. WMIAL will however have the right to challenge the opinion and therefore the decision may well revert back to the Secretary of State.

### **Proposed Actions**

- 1.1 That Members note the issue of a Screening Opinion that the development requires EIA and that the development should be the subject of a planning application accompanied by an Environmental Statement
- 1.2 In light of the above, that authority be given to undertake enforcement action as necessary

### **Issue 3 – Works to the Runway**

WMIAL's letter of 8<sup>th</sup> March provided the necessary assurances that the works to the overrun area will not be used as an extension to the runway, namely for the take-off, landing or turning of aircraft, except in an emergency. The letter also confirmed the

removal of the turning head at the end of the overrun area. In addition, the acting Airport Manager indicated his willingness to position frangible boards at the end of the threshold to ensure aircraft do not enter this area (except in overrun instances). However, since this proposal was made, the CAA has indicated to the Airport that the positioning of such markers is not acceptable (see attached letter as appendix 2). This is unfortunate, but I understand additional surface markings are to be applied to emphasise the non operational nature of this area for runway purposes and this is considered acceptable.

In relation to the technical report on the material the Airport have used to surface the overrun, we are still awaiting this information and therefore have not yet been able to accept this as a satisfactory surface for overrun purposes. The CAA have been contacted to ascertain their views on the surfacing material on the basis of the information that has been provided and I hope to be able to receive a response to report at the next Planning Committee.

The overrun area has now been measured on site by Officers and this is confirmed as approximately 184m in length and 46m in width with a rounded end and no turning head. The works undertaken differs in respect of the length (9m longer) and the fact that the end is rounded as opposed to a straight edge. Whilst the additional surfacing does not have the benefit of a Certificate of Lawfulness, these works are considered permitted development under Part 18 of the Order given the assurances made within WMIAL's letter of the 8<sup>th</sup> March subject to confirmation as to the appropriateness of the material.

These measurements have been checked with measurements previously undertaken of the overrun area prior to the replacement of the threshold markers. The length of the overrun area has not changed and therefore the thresholds have been replaced in the same position. This supports the statements made by WMIAL in their letter of the 8<sup>th</sup> March regarding there being no changes to the declared distances of the runway and to the letter of the CAA dated 27<sup>th</sup> January 2004 attached as Appendix 3.

### **Proposed Actions**

3.1 That confirmation of the details of material and the views of the CAA on its appropriateness for overrun use is sought and reported to the next Planning Committee.

### **Issue 5 – Use of Land adjacent to the Royal Oak Public House for the Storage of Cars**

This issue was considered previously at the February 17<sup>th</sup> Planning Committee. The activity at that time was the storage of new cars. The acting Airport Manager has indicated that this activity is ceasing and the area will now be used for the storage of passenger cars as below.

The further information now given by WMIAL confirmed in respect of car parking that it is intended to operate a valet parking system whereby only vehicles of those passengers arriving and departing at that particular time are parked adjacent to the temporary terminal as indicated on plan attached as Appendix 1. It is understood that all other passenger cars will be block parked on the north side of the airport adjacent to the main entrance in Baginton village as shown on plan attached as Appendix 4.

This area of the Airport is where permitted development rights have been removed as part of the Section 106 Agreement signed with the Airport as part of the Parcellforce

development in 1998. The Section 106 Agreement also stated that this area not be used for any other uses other than landscaping and car parking.

Following site inspection and an assessment of the history of the use of this area of the Airport, areas 1 and 2 are hard surfaced and have predominantly been in use as car parks for many years. Area 3 is predominantly grassed and was in part previously occupied by a club building and therefore has not been used for car parking. The acting Airport Manager has confirmed it is not WMIAL's intentions to hard surface this area.

The use of areas 1 and 2 for car parking connected with the provision of services at the Airport is considered in planning terms a lawful use of this area and therefore beyond any enforcement action. Area 3 is currently used as landscaping and therefore parking would represent a change of use of the land. Clearly, if the area was to be hard surfaced that would represent an engineering operation and therefore constitute development requiring planning permission. The acting Airport Manager has confirmed that it is not planned to use this area and therefore the most appropriate course of action is to maintain a watching brief in order to determine if there is a likelihood of a change of use or development taking place.

### **Proposed Actions**

5.1 Maintain a watching brief on the car parking usage on the north side of the airport and report to future Planning Committee as appropriate

### **RECOMMENDATIONS**

1. That the Proposed Actions set out in respect of Issues 1 to 3 and 5 be approved
2. That a further report be made to the next Planning Committee on April 26<sup>th</sup>