
Wateringbury **568428 153704** **30 October 2007** **TM/07/03347/FL**
Wateringbury

Proposal: All weather helicopter landing pad and associated earthworks and lighting
Location: Wateringbury Place 50 Canon Lane Wateringbury Maidstone Kent ME18 5PQ
Applicant: Wateringbury Place Holdings SA

1. Description:

- 1.1 This application was withdrawn from the agenda for the Area 2 Committee meeting held on 9 January, so that a number of technical issues could be investigated further. This report consolidates additional information that has now been received with the relevant parts of the previous report and therefore on this occasion the earlier report has not been reproduced as an annex.
- 1.2 Permission is sought to create an all weather helicopter landing pad with associated earthworks and lighting. The site is a south facing slope of rough mown grassland with no mature trees immediately close by. The helipad would be approximately 100m from the northern and western boundaries.
- 1.3 To create the landing area it will be necessary to cut and fill the sloping site and surface the landing pad in concrete. A circle of lights set into the ground would be provided around the centre of the helipad. It has been stated that these lights would be operated from within the helicopter. The landing area would be approximately 22m in diameter. The helicopter would not be based at Wateringbury Place permanently but would be used to transport the applicant and visiting guests to and from the premises. The approach and take off will concentrate on the routes available towards the east and north of the identified landing site. The need is described in the following way: "The applicants require all year round operational ability to address the secure travel arrangements of Wateringbury Place and their eminent guests for whom the Security Services of the British Government may have responsibility." The applicant has supplied additional, confidential information that confirms the nature of the personal security concerns.
- 1.4 The applicant has requested all year round operational ability to allow secure travel arrangements for themselves and their guests. The applicant proposes a maximum of 48 landings and 48 take-off flights each year from the application site. In addition they are prepared to accept a condition restricting the operational hours to between 0800 and 2000 unless this is not possible due to extenuating circumstances. The location chosen is stated to be the safest within the grounds on which to land an 8 person twin engine helicopter. The chosen site will be self draining and as the area is free from obstruction will be able to meet the standard requirements. Whilst it is recognised that there will be some disturbance to wildlife

during construction works, wildlife will quickly adjust. The agent considers that there is a generous safety margin in the event of mishap during take-off and landing.

1.5 Members will recall that the local Member raised a number of technical questions, related to the specific nature of the proposal, in advance of this application coming before Committee last month. Further clarification has been sought from the applicants' agent. The following additional information has been provided:

- *The 365 Dauphin Helicopter, rather than a SA360 Dauphin helicopter, is an example of the typical kind of craft that it is proposed to use. The agent has made exhaustive requests to obtain a copy of the flight manual of such a craft. The UK Division of Aerospatiale has advised that a replacement flight manual would attract a cost of £1000 +VAT, provided the applicant is a registered owner of one of their aircraft. Aerospatiale would not sell a copy to any individual, for security and copyright reasons.*
- *The Fire Station Manager at Kent International Airport has confirmed by reference to the CAA Licence Documentation that the 365 Helicopter is deemed to be rated 2 (very low) risk on a scale of 1-10 (where Heathrow is rated 10). The Fire Station Manager concludes that the Dauphin 365 is a very safe aircraft from the point of view of Fire Safety & Rescue. No published statistics are available regarding safe distances from the jet engines of the rotary aircraft. The wind shear of the 365 Dauphin is 1.5m.*

1.6 The application is being reported to committee at the request of Cllr English in light of the potential impact.

2. The Site:

2.1 Wateringbury Place is a Grade 2 Listed Building situated within the Green Belt and Wateringbury Conservation Area, but outside of the village confines. The extensive grounds to the east and north of the property also comprise an historic garden/parkland. The application relates to an area towards the northern part of the grounds and to the east of a private dwelling in Canon Lane known as Broomscroft Place.

3. Planning History (selected):

TM/86/11292/FUL Grant with conditions 24 March 1986
(TM/86/23)

Extension to provide private sports facilities, together with the erection of a block of 4 stables and access alterations (revised application).

TM/96/01209/LB Grant With Conditions 18 October 1996

Listed Building Application: Erection of an extension to existing sports complex to provide garaging for six classic cars.

TM/96/01210/FL Grant With Conditions 18 October 1996

Erection of an extension to sports complex to provide garaging for six classic cars.

4. Consultees:

- 4.1 PC: Strongly object due to location in grounds of listed building and to unacceptable noise, disturbance and safety concerns to residents, lack of necessity.
- 4.2 KCC Archaeological Officer: No archaeological measures are necessary.
- 4.3 DHH: The environmental health issue raised by this application is noise. PPG24 gives some guidance as to matters which should be addressed in applications such as this.

“Planning applications for helicopter landing/take-off facilities should be accompanied by information about the proposed take-off/landing flight paths and air traffic routes where appropriate. Preferably these should have been discussed and agreed in principle with the National Air Traffic Services (NATS) beforehand.”

- 4.3.1 The applicant estimates that there will be around 4 to 6 flights per month. In my opinion noise from the arrival and departure of a helicopter and from the associated running of the jet engine and rotors whilst on the ground is likely to cause noise disturbance to nearby residents, particularly those living in Canon Lane, for the several minutes it lasts. This level of noise cannot be reduced; rather a judgement needs to be made as to whether or not it is on balance acceptable in relation to the number of occasions on which it is likely to occur and in the context of the use of the helipad essentially for “private purposes”.
- 4.3.2 If, on balance, Members are minded to approve the application I recommend that conditions be imposed to restrict the number of flights to no more than 6 per month (12 movements) and, except in case of emergency, to restrict the times of use of the helipad to between 0800 hours and 1900 hours on any day. The applicant should liaise with the Civil Aviation Authority to ensure that the proposed site meets with their safety criteria.
- 4.3.3 In response to an enquiry from Cllr English regarding noise decibel levels within a particular radius of a helicopter, DHH has provided the following:

The relevant regulations are The Control of Noise at Work Regulations 2005 which came into force for all industry sectors in Great Britain in April 2006. The aim of these regulations is to ensure that workers hearing is protected from excessive noise at their place of work, which could cause them to lose their hearing and /or suffer from tinnitus. The level at which employers must provide hearing protection

is now 85 decibels (daily or weekly average exposure). In this case, whilst the competent enforcing Authority is the Health & Safety Executive, my opinion is that noise from the occasional arrival and departure of a passenger helicopter will not be so great as to require the use of hearing protection.

- 4.3.4 The Federal Aviation Authority has published measurement data in respect of the noise emissions from several passenger helicopters including the Aerospatiale 365 . Based on the data available I calculate that during the arrival/departure of the helicopter, noise in the garden of the closest dwelling to the west of the site will be some 77-79dB (A). This is comparable to the noise of a typical lorry mounted road sweeper at a distance of 4m. I have also calculated that the daytime LAeq10hr in the garden of that dwelling arising from the two movements (one arrival and one departure in an hour) would be some 45.6 LAeq dB. The 1 hour LAeq will be 55.6 dB (A). PPG 24 Planning & Noise advises general daytime outdoor noise levels of less than 55dB (A) Leq are desirable to prevent any significant community annoyance. In this case the noise will occur for a few minutes at a time on a relatively infrequent basis.
- 4.3.5 My understanding is that the time between engine start-up and takeoff is typically two to three minutes and the time between landing and the rotor stopping is typically around two minutes.
- 4.4 Health & Safety Executive: No comments.
- 4.5 National Air Traffic Service (NATS): The proposed development has been examined from a technical safeguarding aspect and does not conflict with their safeguarding criteria. NATS En Route has no safeguarding objections to this proposal.
- 4.6 Civil Aviation Authority: Confirm that all civil aircraft fly subject to the rules and regulations as laid out in the Air Navigation Order 2005 (ANO) and Rules of the Air Regulation 2007. (ROA). Private helicopter flights in low congestion areas do not come under the supervision of the CAA and this recreational activity is entirely the responsibility of the pilot and landowner. A pilot is legally required to hold an appropriate licence, to maintain a logbook of his flights, and to operate within the law.
- 4.6.1 The relevant rules state that a helicopter shall not be flown below such height as would enable it, in the event of a power unit failure, to make an emergency landing without causing danger to people or property on the surface. In an uncongested area (such as this site) it is necessary to maintain a 500 foot separation distance in any direction (with the exception of landing or take-off manoeuvres). In the event that any of the relevant rules are breached then the matter would need to be reported to the Aviation Regulation Enforcement team.

4.6.2 With regard to noise and nuisance these would be the responsibility of the pilot and/or landowner concerned, since they are responsible for such environmental impacts.

4.6.3 Confirmation has also been received that for night operations the pilot must be night rated, the helicopter must be suitably equipped with lights and there must be adequate lighting at the site. The altitude at which down draft would affect buildings and trees would vary according to the weight of the helicopter and local wind conditions. The risk of an explosion with turbine fuel is low.

4.7 English Heritage: Does not wish to offer any comments.

4.8 Garden History Society: No response received.

4.9 Private Reps: 19/0X/8R/2S The following points have been raised:

- Harm to Conservation Area.
- Noise Pollution in tranquil area.
- Light pollution from skyward facing landing lights.
- Harm to wildlife.
- Helipad is not a necessity and there is no justification unless for national security. Convenience of users would be at the expense of quality of life of community.
- Distraction for drivers.
- Loss of privacy due to overlooking.
- Hours of operation should be limited and night flying would be unacceptable.
- Need for screening prior to the development commencing, to reduce the invasion of privacy.
- Need to restrict the type of helicopter visiting the premises.

5. Determining Issues:

5.1 This proposal has raised a number of issues for consideration including various concerns amongst nearby residents. The application falls to be considered primarily in relation to the following policy context:

- PPG2, TMBCS policy CP3 and KMSP policy SS2: Development in the Green Belt.

- PPG15: Planning and the Historic Environment (impact on Listed Building and Conservation Area).
- Saved TMBLP policy P4/6: Historic Parks and Gardens.
- PPG24: Planning & Noise.
- PPS23: Planning and Pollution control (light pollution).
- TMBCS policy CP24: General standard of development.

5.2 In addition to the above, and in the light of the particular issues raised by the nature of this development and because such issues come up comparatively infrequently, I have taken the opportunity to review whether there are any recent appeal decisions or case law that might help with assessment of the case. Two appeal decisions reached by the Secretary of State for a site near Oldham do, I believe, offer some guidance.

Oldham Case

5.3 These proposals related to the formation of a helipad and hangar and associated roadway. Whilst the circumstances surrounding these proposals and the current site are not identical, they do provide a useful comparison. The Secretary of State concluded there were several main issues in the Oldham case, including the impact on the Green Belt, whether very special circumstances had been demonstrated sufficient to outweigh any harm to the Green Belt, and the effect on the living conditions of occupants of nearby properties.

5.4 Because of the amount of built development involved and the more or less permanent stationing of the helicopter, the Secretary of State concluded that both applications were inappropriate development in the Green Belt and would cause harm to its openness. As a result the applications were not in accordance with PPG2. Those considerations do not apply in the same way in the current case, because no new above ground level buildings are proposed, and the helicopter is not to be permanently stationed here.

5.5 With regard to the effect on living conditions of nearby properties at the Oldham site, the Secretary of State concluded that one scheme would not compromise the living conditions of neighbours to an unacceptable extent but that the other would cause unacceptable noise disturbance to neighbours. These decisions were based on the distance between the development and the nearest habitable property. A distance of 50m was considered to be insufficient to prevent noise disturbance, whilst a distance of 110m was considered acceptable. In both these cases it was indicated that there could be a maximum of 240 helicopter movements over a 150 day period in a calendar year.

Wateringbury Place site

- 5.6 With the above information in mind, I offer the following assessment in respect of the Wateringbury Place application.
- 5.7 Impact on the Green Belt: One of the principal attributes of Green Belts is their openness. PPG2 says that the carrying out of engineering operations within the Green Belt is inappropriate development unless it maintains openness and does not conflict with the purposes of including land in the Green Belt. Unlike the case at Oldham, no hangar, associated buildings, or roadway are proposed in association with the helipad. In this case, whilst there will be some levelling of the slope of the land, there will be no additional permanent built form on the site, such as to jeopardise the openness of the Green Belt. Given the above I do not consider that the formation of a helipad involving ground level work only, causes harm to openness such as to constitute inappropriate development within the Green Belt. There is no objection in terms of policy CP3 or PPG2 generally in my view.
- 5.8 Impact on Conservation Area, setting of Listed Building and Historic Garden: The helipad would be sited at least 300m away from Wateringbury Place and the more formal garden area. In light of the distance involved I do not consider it would harm the setting of the Listed Building, any particular features of the garden or the Conservation Area generally. If the proposal is found to be acceptable and there is concern about long term harm to the character of the Conservation Area, then a condition could be imposed requiring the concrete landing area to be removed and the land to be re-instated to its former condition if the helipad was no longer required. In my opinion, the proposal adequately meets the tests in terms of PPG15 (in particular the test of preserving or enhancing the character and appearance of the Conservation Area) and saved policy P4/6.
- 5.9 Proximity to dwellings and effect on residential amenities: The use of the proposed helipad in the proposed location will undoubtedly have some impact on the amenities of the occupants of adjacent houses and it is necessary to give careful consideration to the effects on neighbours. In particular the development will result in the introduction of outdoor lighting, noise and down draught.
- 5.10 It should be noted that any land that is not within the curtilage of a building can be used for up to 28 days in any one calendar year to land a helicopter and take off, without the need for a specific planning permission for a change of use of that land. This would be "permitted development". Those opportunities would arise in this locality if no engineering works were proposed and the use were to be limited to 28 days per year.

- 5.11 With regard to lighting it has been indicated that the landing lights can be operated from the helicopter and consequently they should only be on for a limited time during the approach and landing and take-off. It is suggested by the applicant that this matter can be covered by a condition and I am satisfied that this can be satisfactorily achieved.
- 5.12 NATS has confirmed that the proposed development has been examined from a technical safeguarding aspect and does not conflict with aeronautical safeguarding criteria.
- 5.13 With regard to noise and disturbance, it is accepted that a helicopter cannot function without making some noise from the engine(s) and main and tail rotor blades. This is likely to be noticeable to those living nearby, in particular the occupants of the house to the west, in Canon Lane which is the nearest residential property to the helipad. The rear elevation of this property would be approximately 130m away from the helipad which exceeds the distance of 110m established in the Oldham case as being an acceptable separation distance. As highlighted above, a judgement needs to be made about noise impact taking all matters into consideration. The applicant has indicated that between 4 and 6 flights would take place per month. This would therefore be around 1 or 2 a week, which is a fairly limited number. The applicant has also indicated that they intend to arrive during the day time/early evening subject to the normal weather and air traffic control delays experienced by all aircraft. It is not the intention to fly at night time. The applicant has also indicated that they are prepared to accept a restriction to 48 flights per year which would be an average of 4 each month. This would be considerably less than the 240 helicopter movements (in and out equals 2 movements) over a 150 day period, as outlined in the Oldham case.
- 5.14 Given the above information it is recognised that whilst associated noise cannot be removed from the development, the level of disturbance can be reduced by conditions restricting the number of flights per year and/or week and controlling the operation of the helipad, including hours of use. In this way any impact can be minimised. DHH has stated that he is not aware of an appropriate standard condition covering acceptable noise levels that would be applicable and defensible in these circumstances.
- 5.15 Neighbours have questioned the necessity for the helipad. As with many planning applications the need for a particular form of development is not directly germane to the decision except as it may be considered in balancing against other matters such as breach of policy and amenity considerations. There has also been reference to overlooking, loss of privacy and the introduction of physical screening. The agent has indicated that the helicopter is likely to be approaching from the north over farm land. There is already a mix of mature trees and established hedges along the site boundaries and I am unclear how additional landscaping could provide effective screening without interfering with the flight requirements.

- 5.16 The introduction of a helipad within the grounds of a Listed Building and Conservation Area and near to some private houses is a very sensitive proposal. It is recognised that the helipad cannot function without an element of disturbance but that on balance the level of disturbance can be limited to short and infrequent periods. In this context, the security issues highlighted in section 1 of this report weigh in favour of the development, bearing in mind the Council's statutory duty to have regard to the likely effect on crime and disorder, and, in exercising all its functions, to do all that it reasonably can to prevent crime and disorder.
- 5.17 Whilst the operation of a helipad within the grounds of a domestic property can raise various technical issues it is essential to remember that these may fall outside the realms of planning law. The operation of a helicopter is governed by other legislation such as the previously identified CAA Rules of the Air. It would not be appropriate for this Council to duplicate technical restrictions or impose conditions that are unenforceable in planning terms.
- 5.18 Provided that the helipad is operated with consideration to the amenities of the neighbours and in accordance with any Civil Aviation Authority standards, then it is concluded that there are no objections.

6. Recommendation:

- 6.1 **Grant Planning Permission** in accordance with the following submitted details: Letter dated 10.09.2007, Design and Access Statement dated 10.09.2007, Drawing 07.86.01 dated 10.09.2007, Letter dated 30.10.2007, Letter dated 22.11.07, Letter dated 14.12.07, Letter received 16.1.08 and email received 31.1.08 subject to:

Conditions / Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission. (Z013)

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. Helicopter landings, take-offs and stationing shall only take place in the helipad area shown on drawing number 07.86.01. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modifications), no helicopter shall land in, take off from, or be stationed on any other part of the applicants site.

Reason: In the interests of the residential amenities of the occupants of the adjacent residential properties.

3. The helipad referred to in condition 2 above shall not be used for helicopter landings or take-offs except for
 - a) a maximum of 96 movements (in and out equals 2 movements) per calendar year, of which
 - b) there shall be no more than 6 movements on any single day between Monday to Friday (excluding Bank Holidays and other Public Holidays) and not more than 2 movements on any single day on Saturdays, Sundays, Bank Holidays and Public Holidays.
 - c) The restriction on movements set out in 3a and 3b shall not be exceeded except in extenuating circumstances, details of which must be notified in writing to the Local Planning Authority within 7 days of their occurring.

Reason: In the interests of the residential amenities of the occupants of the adjacent properties.

4. The helipad shall not be used for helicopter movements except between the hours of 0800 and 2000 hours on any day, except for extenuating circumstances as defined in condition 3c above, details of which must be notified in writing to the Local Planning Authority within 7 days of it occurring.

Reason: In the interests of the residential amenities of the occupants of the adjacent residential properties.

5. A log shall be kept by the owner of the helipad referred to in condition 2, of all flying movements to and from it, including helicopter type, registration and time of take-off and landing. The log shall be made available for inspection by an authorised officer of the Local Planning Authority following 7 days notice of such a request.

Reason: In order to safeguard the residential amenities of the occupants of the area.

6. The helipad hereby permitted shall be limited to the use of one helicopter only and such use shall be carried out solely under the control of the applicant whilst he owns Wateringbury Place.

Reason: In the interests of the residential amenities of the occupants of the adjacent properties.

7. Within 3 months of the helipad hereby permitted no longer being necessary, the helipad works and all materials arising therefrom shall be removed from the site and the land restored to its previous condition.

Reason: In order to maintain the character and appearance of the area.

8. Any refuelling of the helicopter at the site shall only take place on the site of the proposed helipad as identified on drawing 07.86.01 and at no time shall refuelling take place elsewhere on the site.

Reason: In the interests of the residential amenities of the occupants of the adjacent properties.

9. The ground level lights hereby approved shall only be switched on during the helicopter approach, landing or take-off period and shall be switched off at all other times.

Reason: In order to protect the visual amenities of the area.

Informative

- 1 You are reminded of the need to operate the helipad in accordance with all relevant requirements of the Civil Aviation Authority and to ensure that the proposal meets with their safety criteria.

Contact: Hilary Johnson