

Committee(s):	Date(s):
Epping Forest and Commons Committee	12 th March 2018
Subject: Ministry of Defence. Safety Fencing – Kenley Airfield (public protection and safety)	Public
Report of: The Superintendent of The Commons	For Decision
<p style="text-align: center;">Summary</p> <p>In January 2009 your committee received a report from the Superintendent of the City Commons, detailing the refusal by Croydon Council of a planning application submitted by the Ministry of Defence (MOD) for the erection of a 1.2m high wood and steel palisade style safety fence around Kenley Airfield.</p> <p>The purpose of the fence was to separate visitors to the Common from flying activities and thus minimise the associated health and safety risks. At that time Croydon Council recommended that the Airfield's 'Safety Working Group' (SWG) investigate and trial, alternative safety measures. Shortly thereafter a trial safety system of moveable metal crowd control barriers was introduced along with a Safe Operating Procedure (SOP). The City worked closely with the MOD as part of the SWG.</p> <p>This 'temporary' situation has been maintained to the present day. However, a recent review of the near-miss incident records between visitors and flying related activities indicates that the temporary safety measures have been ineffective. The Superintendent has been advised by the Comptroller and City Solicitor that the responsibility for the H&S risk rests with those in charge of the flying operations i.e. the MOD and Surrey Hills Gliding Club (SHGC).</p> <p>The Ministry of Defence have recently confirmed that they are to submit a revised planning application to erect a 1.2m wooden safety fence placed on the hard perimeter track of the airfield which is within and would largely enclose their ownership. The proposed safety fence physically separates the space between visitor activity to the Common, MOD and civilian glider training whilst maintaining full visitor and operational access to the City Corporation's land holding. The MOD proposal allows visitor access to the airfield on non-flying days.</p> <p>Recommendation(s) members are asked to:</p> <ol style="list-style-type: none"> i. Support the planning application submitted by the MOD as far as the application benefits the Health and Safety of visitors to Kenley Common and respects the balance required to protect the heritage landscape. ii. Authorise the Superintendent to respond as approved, to the planning application. 	

Main Report

Background

1. Kenley Airfield, owned by the MOD, sits at the centre of and is to all intents and purposes, encircled by Kenley Common. There is no physical, permanent barrier between the two land ownerships albeit the perimeter track in the ownership of the MOD forms a visual boundary. Visitors commonly cross this ill-defined boundary. **Map 1.**
2. Under planning law the Common is a Conservation Area and contains two Scheduled Ancient Monuments (SAMs) within which sit the City's 'heritage features' such as blast pens, rifle range etc. The City Corporation's SAMs are currently on the Heritage at Risk Register (HARR) and are presently being conserved as part of the Heritage Lottery Funded Kenley Revival Project. Historic England (HE), are a full partner in the HLF funded project and have confirmed that the SAMs will be removed from the HARR once this project is completed. **Map 2.**
3. Glider flying regularly takes place on the MOD Airfield (either RAF or SHGC) which has historically caused Safety risks associated with visitors to the Kenley Common crossing onto the airfield whilst flying is taking place.
4. In 2007 and as recognition of the identified H&S risks, a SWG was formed with representatives from the MOD's Defence Estates, City of London Corporation, SHGC, RAF 615 Volunteer Gliding Squadron, Air Training Corp, Friends of Kenley Airfield, Croydon and Tandridge Councils.
5. In November 2008 the MOD submitted a planning application to Croydon Council for the erection of a 1.2m high wood and steel 'palisade style' safety fence around the airfield. The justification being that the fence would permanently separate visitors to Kenley Common from flying activities and thereby reduce the Health and Safety risks outlined above.
6. The proposal met with a largely hostile response from the local community as it was felt that the fence would deny public access to the MOD land albeit there is no legal entitlement for such access.
7. The MOD's planning application was refused by Croydon Council on the grounds that it would harm the character and appearance of the Kenley Airfield Conservation Area. In doing so they recommended that the SWG identify and test alternative physical safety measures and agree a SOP.
8. In July 2009 your Committee received a report from the Superintendent of the City Commons outlining Croydon Council's reasons for refusing the MOD's planning application. **Appendix 1.**
9. Subsequently the SWG agreed the SOP and introduced a trial safety system consisting of approximately 1275m of 'temporary' metal crowd control barrier system and refreshed signage. This 'temporary' situation has been maintained until the present day.

10. In 2011 Croydon Council wrote to the MOD stating that the temporary nature of the barriers was questionable and that they were ineffective as a barrier between visitors and flying activities as they are often 'moved from position'. The Council then explained that the barriers had been in situ more than 2 years and are seen by them as being permanent and thus deemed as 'development' and that planning consent would be required for their continuing presence.
11. The Council went on to acknowledge that, given the ineffectiveness of the 'temporary barriers' a more effective, permanent solution should be sought to help manage health and safety risks whilst ensuring that any permanent fencing is sympathetic to the historic character and landscape.
12. The matter went silent and remained unchanged until the current Superintendent of the Commons assumed his role in 2014.

Current Position

13. The MOD ceased flying operations in April 2014 and the airfield was, in military terms, 'de-activated'. No further military flying has taken place since that date.
14. SHGC have continued to fly from the airfield under license from the MOD up to the present time. This includes responsibility for the SOP and barrier maintenance. Despite SHGC's best efforts to maintain them the temporary barriers have been very regularly vandalised and/or blown/pushed over.
15. In 2017, following a review of H&S incident reports associated with flying operations and visitors to the Common, the Superintendent took advice from the City Solicitor with regard to liability which was ascertained as resting with the MOD and SHGC. **Appendix 2.** This was communicated to the MOD and the matter was then placed on the Open Spaces Risk Register until the matter was resolved. **Appendix 3.**
16. The latest incident report log is included as **Appendix 4.**
17. Subsequent meetings with the MOD, SHGC and Kenley Airfield Friends Group confirmed that the temporary barriers and the associated SOP have been ineffective and that near misses between flying activities and visitors to the Common remain worryingly frequent.
18. As such there is a known and foreseeable risk that does not appear to be effectively managed. The frequent near misses are objective indicators that this is the case.
19. It was also concluded that the temporary barriers were themselves unsightly and harmed the character of the conservation area as well as provided an additional health and safety risk in their own right, in that they are not fixed and are frequently overturned.

20. It appeared that the only reliable way to overcome all the above issues would be for the MOD to seek planning consent to erect a more sympathetically designed, permanent safety fence that allowed continuing public access as far as practicable, and to reflect this in a reinvigorated SOP.
21. In 2017 the MOD confirmed that they had 'reactivated' the airfield and that 615 Volunteer Gliding Squadron will recommence military flying activities in 2018, generally flying weekdays only. The SHGC shall continue to use the Aerodrome at weekends.
22. The imminent re-activation of the airfield has accelerated the need to resolve the long-standing H&S problems outlined in this report and the MOD have now drawn up a new design for a permanent safety fence to encircle the active airfield, based on the principles outlined in above.

Proposals

23. The new design proposal is for a permanent 1.2m high wooden safety fence of a similar style to that used by the City of London elsewhere on Kenley Common. 17 wooden gates, including two pairs of double gates for vehicular access, are proposed at critical points to facilitate visitor access on non-flying days and to ensure that the City can move vehicles around the airfield as required to manage the remainder of the Common. **Appendix 5.**
24. The MOD are proposing to place the safety fencing within the perimeter track of the airfield (of which the total width is in the MOD's ownership) effectively splitting it into two parallel tarmac 'highways' in a such a manner as to allow the public permanent benefit of between 4m and 11m width of this surface on the City's 'side'.
25. The Superintendent was present at the MOD's recent public consultation on the proposals which was extremely well attended. The MOD's presentation at that meeting confirmed the Superintendent's view that their proposals are both necessary and appropriate given the imminent increase in flying activities and the existing high number of near misses already recorded due to the ineffectiveness of the temporary barriers and SOP.
26. The Superintendent is also of the view that the design and location of the safety fence is as sympathetic as possible and strikes the right balance between the need to improve public safety (by segregating them from a high risk activity which is outside of the City Corporation's control) and the historic nature of the landscape.
27. Unlike the situation in 2008, the MOD has taken detailed advice on the proposed safety fence's physical design and location so that it is both sensitive to the heritage of the site and facilitates public access across its land as afar as is reasonably practicable.
28. The MOD proposes that the gates within the safety fencing will be left open and closed only when flying is taking place. Members should note that the

proposed design closely resembles its own fencing currently used to define boundaries and other features on Kenley Common.

29. Public feedback on the proposals appears in the main to understand and support the MOD's proposals albeit this is far from unanimous.
30. The MOD intend to submit the planning application in spring 2018.
31. In January 2018 the MOD wrote to the Superintendent asking for a letter of support concerning the 'in principle need' for the fence. The Superintendent consulted the Chairman and Director of Open Spaces and provided the MOD with a response. **Appendix 6.**
32. As the Airfield forms part of the Conservation Area, Historic England (HE) must respond to any planning applications effecting the area. HE objected to the 2008 safety fence planning application. However, the Superintendent is advised by HE's Inspector of Ancient Monuments that on this occasion they will express their 'disappointment' that the safety fence is deemed necessary specifically that it will, in their opinion, harm the setting of the Scheduled Ancient Monuments. However, it seems unlikely that they object to the planning application itself.

Options

33. Members may wish to consider the following options:
 - i. Authorise the Superintendent to comment in writing to Croydon Council in support of the MOD's planning application concerning the proposed safety fence on Kenley Aerodrome. **This is the recommended option.**
 - ii. Authorise the Superintendent to comment in writing to Croydon Council objecting to the MOD's planning application concerning the proposed safety fence at Kenley Aerodrome
 - iii. Stay silent on the matter.

Proposals

34. In H&S terms this is an 'interface risk' to which the City Corporation is not seeking 'physical/direct' control or to accept liability that rests with others. The City Corporation's role is that of a careful landowner striving to ensure that reasonably practicable safety measures are supported where it is in its interest to do so.
35. Members should consider the health and safety of visitors to Kenley Common and the potential for them to come to harm due to activities associated with the MOD and SHGC's flying operations.
36. Further, Members should balance the known and foreseeable H&S risks against any perceived detrimental impact the proposed safety measures might have on the character of the Conservation Area and there potential to harm the setting of the Scheduled Ancient Monuments

Corporate & Strategic Implications

32. The recommendations of this report support the City's KPP5 from the Corporate Plan *Increasing the outreach and impact of the City's cultural, heritage and leisure contribution to the life of London and the nation.*
33. The recommendations of this report support the departmental Business Plan:

OSD3	Enrich experiences by providing high quality and engaging, visitor, educational and volunteering opportunities.
OSD4	Improve the health and wellbeing of the community through access to green space and recreation

Implications

34. The City Solicitor has advised the Superintendent that responsibility for any risks associated with flying activities to visitors of the Kenley Common rests with the MOD and SHGC albeit visitors to the common form the majority of the 'at risk' audience.
35. There are no financial implications associated with this report.
36. There are potential reputational risks to the City Corporation with either of the available options. By not supporting the proposal the City Corporation could be seen to be passive when there is an opportunity mitigate significant foreseeable risk by acting as a responsible land owner/occupier without exceeding our responsibility or taking on additional duties.
37. There appears to be a general level of support from the local community with an appreciation of the MODs very active consultation on the matter. The MOD appears committed to maintaining public access onto its land when there is no flying activity.

Conclusion

38. Data collected during a prolonged trial of temporary barriers indicates that 'temporary' barrier and SOP has failed and that the health and safety risks associated with visitor across and around an active airfield may best be minimised by the proposals contained in the MOD's imminent planning application to Croydon Council. This has helped the Superintendent come to the recommendation made in this report
39. Croydon Council have set the MOD a very difficult challenge i.e. to solve the H&S issues whilst minimising detriment to the Conservation area.
40. In January 2018 The Chairman of this Committee approved a broad note of support to the MOD concerning the broad proposal to introduce safety fencing on the airfield on the grounds that it resolves long standing H&S issues. The letter acknowledges that the planning authority will make the final decision.
41. The local community appear to generally support the planning application.
42. Historic England are likely to express disappointment to Croydon Council relating to the MOD's application but, at the time of writing, have stated that they are unlikely to object.

43. Should the planning application be approved by Croydon Council the Superintendent will remove the matter from the Department's Health and Safety Risk Register.

Appendices

Appendix 1. EFCC report of July 2009.

Appendix 2. Statement to MOD following advice from the Comptroller and City Solicitor

Appendix 3. Open Spaces Risk Register

Appendix 4. H&S incidents. Sample

Appendix 5. MOD – fence design proposals for submission as planning application

Appendix 6. 'In principle' Letter of Support on behalf of the Chairman of the Epping Forest and Commons Committee

Picture 1. Typical fence used by the Open Spaces Dept. on Kenley Common

Map 1. Kenley Common and Airfield

Map 2. Conservation area and Scheduled Ancient Monuments

Andy Barnard

Superintendent of The Commons

T: 0207 332 6676

E: andy.barnard@cityoflondon.gov.uk