

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/17/04001/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Retrospective permission for erection of a timber hay store and change of use of an equestrian arena to an indoor play area, re-cladding of existing 'play castle' and creation of additional outdoor activity areas in defined spaces including use of quad bikes and buggies as set out in the Operational Management Plan
<b>NAME OF APPLICANT:</b>	Mr Ian Emerson Mini Maxi Moos Adventure Land Holmside Park Arena
<b>ADDRESS:</b>	Holmside Lane Edmondsley Durham DH7 6EY
<b>ELECTORAL DIVISION:</b>	Sacrison
<b>CASE OFFICER:</b>	Steve France Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The revised extent of the application site for the operation is 5.16ha of land at Holmside Park, on a site previously operated as Mini / Maxi Moos Leisure Park, between the villages of Holmside and Edmondsley, 2.5 miles west of Chester-le-Street. Holmside is around 240m west of the closest part of the outdoor activities, separated by a paddock and the deeply incised and wooded valley of Wardle's Burn. Edmondsley is over 1000m to the west, on higher ground with agricultural land between. There are also surrounding farm groups containing residential properties, including East Farm 825m to the east and Mill House Farm 400m to the north-west, separated from the development by Wardle's Wood and Cong Burn. Wheatley Green Farm is 480m to the north, separated by the two areas of woodland along Wheatley Green Burn and Wardles Burn and West Edmondsley Cottage Farm is 340m to the south-west, south of Wardles Bridge.
2. The operation includes the use of the existing large building erected as an equestrian arena, 0.46ha in size in its own right, and the open, sloping land between this building and the road to the south and south-east. The arena and subsequent outdoor land

uses have been served by a gravelled car park 0.47ha in area. Access is taken from the classified road that fronts the site and the buildings of West Edmondsley Farm, which includes a listed farmhouse. Parts of the site, including grazing land adjacent the site entrance and to the rear of the listed farm group have been retained by the landowner and excluded from the leisure operation. The precise extent of the site for the operation has been defined during the course of the application and fits within the wider land ownership and mainly equestrian based land uses of the applicant. The open land around the farm group and horse arena slopes down away from the road towards a small watercourse, Wardles Burn, which is set in a deeply incised valley of trees both designated as Ancient Woodland and protected by Tree Preservation Order are all excluded from the use. The woodland wraps around three sides of the site and contains a single public footpath which runs parallel to the east of the site.

3. The use of the site has been divided into a number of 'zones', defined within a Management Plan, that define different elements of the use.

## The Proposal

4. The application proposes the indoor arena be used as an indoor play area with inflatables, archery ranges, ball pits and an expanded café area. Outdoor areas are defined for the use of 'it's a knockout' chaperoned games, children's play areas and slides, an outdoor play fort and driven buggy and quad areas. Since approval for a change of use in 2009, the site historically operated initially aimed at children (Mini-Moos), then expanded to also attract older children and teenagers (Mini and Maxi Moos). The current application seeks to retain childrens' play areas, slides, ball pits, climbing frames and attractions, but also provide for a new adult market that could include team building groups and hen and stag parties through 'it's a knock out' games, quad trails and buggy chases. The 'it's a knock out' games and buggy chase are the new physical element of the operation. As part of this, the application proposes to extend the leisure use into a paddock due south of the existing arena and cark park (identified as Zone 1 in the Management Plan).
5. The application was originally submitted as two applications, one to ratify existing structures on site from the historic operation, and one to identify new or amended parts of the operation, with a new site operator leasing the land for a leisure operation with a different emphasis in terms of attracting a wider age range.
6. The application has changed during the extended course of its consideration and in an effort to simplify matters has now been combined into a revised single proposal. The new application includes a Management Plan and a more detailed site plan that specifies uses to areas of the site, and by default shows where the uses will not extend to. The Management Plan is based upon an independent noise survey that Environmental Health Officers required the applicants to undertake to inform their consideration and advice on the application. It includes restrictions on use and type of machinery and equipment and also specifies maximum numbers of customers on-site and days and hours of operation.
7. This application is reported to Committee as a 'major' development given the size of the operation.

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## PLANNING HISTORY

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8. 2/09/00317/COU - Proposed children's' farm including new agricultural building, conversion of part of existing arena to a soft play area, snack and sales area, educational room and provision of tractor and trailer ride.

DM/17/03901/FPA - Retrospective permission for erection of a timber hay store; The installation of a multi lane fibreglass slide on a formed earth bund and change of use of an equestrian arena to an indoor play area – application withdrawn.

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## PLANNING POLICY

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### NATIONAL POLICY

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
10. In accordance with paragraph 48 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
11. The following elements of the NPPF are considered relevant to this proposal;
12. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 6 - Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
14. *NPPF Part 8 - Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *NPPF Part 9 - Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce

congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

16. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of soil, air, water or noise pollution or land instability.
17. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

18. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government and is subject to continual review.
19. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
20. *Flood Risk and Coastal Change* - The general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably delivered and so developers do not waste their time promoting proposals which are inappropriate on flood risk grounds.
21. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 170 of the NPPF provides policy support to this aspect.
22. *Conserving and enhancing the historic environment* – details and advises on the framework of designated and non-designated Heritage Assets, how to assess their significance and the potential for planning decisions to harm them.
23. *Health and wellbeing* - seeks to ensure opportunities for healthy lifestyles have been considered in decision making along with the potential for pollution and other environmental hazards, which might lead to an adverse impact on human health.

## **LOCAL PLAN POLICY:**

24. The following are those saved policies in the Derwentside District Local Plan 1997 relevant to the consideration of this application:
25. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
26. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
27. *Policy EN10 – Protection of Ancient Woodlands* - restricts development that would have a detrimental effect on identified Ancient Woodland.
28. *Policy EN26 – Control of Development Causing Pollution* – permission will only be granted for development which is not likely to have an adverse impact on the environment having regard to likely levels of air, noise, soil or water pollution.
29. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.

## **RELEVANT EMERGING POLICY:**

30. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An ‘Issues & Options’ consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the ‘Preferred Options’ stage CDP was subject to consultation in summer 2018. On the 16th January 2019, Cabinet approved the ‘Pre-Submission Draft’ CDP for consultation. However, the CDP is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at*  
<http://www.cartoplus.co.uk/durham/text/00cont.htm>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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31. Note: As the application in its current form is to some degree a composite, including elements of the parallel application described in the ‘history’ section, since withdrawn, the following summarises the responses to both, so as not to disadvantage any consultee, public, statutory or internal.

## STATUTORY RESPONSES:

32. *Highways* – Highways Engineers have asked that the entrance to the site be improved for visibility at the site access. These works can be carried out within the highway verge.

## INTERNAL CONSULTEE RESPONSES:

33. *Environment, Health and Consumer Protection (Noise)* – Officers write as a summary to their detailed response, *'The applicant has provided a robust noise assessment of the activities on site. The assessment demonstrates that the noise arising is within the thresholds stated within the councils TANS and BS 8233. This does not mean that activities will not be audible to nearby residents, however it is not considered to be at a Significant Observed Adverse Level. However, it is clear from qualitative evidence provided by the assessment and residents' complaints that at times and when certain activities such as "it's a knock out" is ongoing the noise may cause some changes in behaviour such as spending less time in the garden and/or closing windows for short periods of time.*
34. *However as stated the above view is made based on a number of mitigation measures. Without the mitigation measures as it is believed the site was run when initially opened, then the impact is likely to be significantly worse as demonstrated by the level of complaint received. As such to ensure the method of operation is within acceptable parameters further controls are required. The further controls have been provided in the format of a Noise Management Plan. The noise management plan has been devised with due consideration for the issues raised by complainants, identified by the noise consultant and officers of this Service. This document requires a number of mitigation measures on site. This includes matters such as orientation of speakers, specification of buggies and also limiting the times and occasions for "it's a knock out" events. This document is intended on ensuring that activities cannot be undertaken that increase the noise impact discussed within the above response. The document, with relevant conditions attached to any permission, allows for specific regulatory control by the Local Authority to ensure that the issue of noise is appropriately managed and the uses on the site are adequately controlled. This is an improvement on the total lack of regulatory controls on the previous use, which has been demonstrated as having the potential of similar noise level to the further development.*
35. *The environmental impacts have been assessed which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and the Officer comments as follows:*
36. *Having considered the information submitted with the application Officers are of the opinion that the granting of planning permission for the development (without a Management Plan) may potentially result in a statutory nuisance being created, as clarified below. As discussed in some detail above, should the operators alter the use of the site or remove mitigation measures (contained in the Management Plan) then there is the potential that a statutory nuisance will arise. However, it is considered that the following conditions (to ensure compliance with the Management Plan) are sufficient to mitigate the potential of a statutory nuisance and therefore if affixed will remove the objection to the development:*
37. *'The management plan hereby approved as document (XX) shall be fully implemented and permanently retained thereafter. Any amendments to the said document must be submitted and approved in writing by the Local Planning Authority'.*

38. *Design and Conservation* – note the site is within the setting of a grade II listed building, the C18 West Edmondsley Farmhouse. In this regard *'the combination of the varying topography, shielding afforded by the hedgerows lining the main road, and the treed boundaries and detached farm buildings that tightly enclose the listed farmhouse, assist to create a lack of direct visual interrelationship between the asset and the areas affected. This reduces the impact on the setting of the designated heritage asset to a neutral conserving level. For the reasons set out above, there is no objection to this application from a heritage and design perspective'*.
39. *Landscape* – Landscape Officers note there are no landscape designations on or around the site, but suggest that the roadside hedge could be reinforced.

#### **PUBLIC CONSULTATION EXERCISE:**

40. Twenty-one consultation letters were originally sent out to Holmside Village and other surrounding dwellings. All original consultees and additional correspondents were re-consulted when the two applications were amalgamated on the applicant's Management Plan and revised site layout plan. Six responses (two from the same property) were received objecting to the revised application:
41. Concern is raised that the additional use of inflatables with the outdoor 'it's a knockout' activity will result in additional generators on site. Generators on the site servicing the building led to the involvement of the Environment Agency to have it removed. The proposals could see up to 12 generators in use at any one time, which will have a corresponding increase in noise, targeted at the summer months. Objections relating to buggies and quad bikes, both for noise and intrusion into the woodland remain – the woods are extensively used by the local community and should not be used for the profit of minority interests. The use of mobile 'Tannoy Systems' will also add significantly to the overall level of noise pollution.
42. The objectors contend that, *'the geography of the site sees even low levels of noise being heard extensively throughout the whole village, the overall effect of the revised application if they are accepted will potentially see most if not all these proposed changes being in use at the same time for significant periods throughout the year. Throughout the summer of 2018 there was scaled down versions of the activities proposed for the site. The amount of shouting and noise from visitors could be heard at such a level that it was possible to hear the noise as if they were immediately outside our property in the street. This level of disruption will significantly increase in the corresponding rise in visitors being attracted to its a Knockout events that will detrimentally impact on the residents in Holmside. Holmside is a quiet rural community which has at its heart all the benefits of the natural environment we live in these proposed revisions will fundamentally and negatively change that in a way that will directly impact on the lives of the whole community in our village'*.
43. Objectors to the north-east suggest the use of bunds to reduce noise from the buggy operations, noting noise levels have increased recently and that in the mid-1990s there was noise from quads running through the woodland and into the fields at Mini-Moos. Concerns are raised at the operation infringing on existing rights of way. Noise impacts over the last summer emanate from 'young voices shouting and screaming', carrying 'over the short distance' to adjacent farm groups. Intrusion into the woodland by the use and built development is alleged. Effects are contended to affect elderly residents in particular. This urban type use is contended inappropriate in a rural setting.

44. The original applications were sent objections from around 14 dwellings, a petition with 24 addresses from Holmside, and objections from the Parish Council and The Woodlands Trust. In the absence of any advice to the contrary, these objections, submitted when the applications were first consulted on, must be regarded as maintained. It is noted that there was a high degree of overlap and consistency in the responses to the now combined applications.
45. Edmondsley Parish Council wrote following the applications being discussed at one of their meetings, noting Cllr. Wilson's attendance, passing on residents' concerns relating to: Noise from loud voices, screaming and swearing, tannoy and loud music, all of which the residents can hear very clearly, damage to the Public Right of Way, damage to ecology, increase in traffic beyond the capacity of the road network, and the dangerous nature of the activities proposed, with the potential for alcohol consumption. They note the submission of the petition.
46. The Woodland Trust have written to object and updated their objection when the NPPF was revised. Their detailed objection is two-fold – that the proposals represent a physical intrusion into the Ancient Woodland and physical damage to a protected and irreplaceable natural asset, and then that the proximity of the use will likewise cause damage. They suggest a 50m separation to the woodland to protect it.

#### **APPLICANT'S STATEMENT:**

47. My name is Paul Banks, I am the Managing Director of Holmside Park. I am submitting this letter in support of our planning application. We purchased the lease of Holmside Park, formerly Mini Moo's Farm, in March of 2018. We have spent half a million pounds during refurbishment of the indoor and outdoor park facilities along with employing some 30 locals to help run the facility.
48. We have invited the local community on several occasions to the Park to help understand how we were going to advance the park. We had 10 people attend the first meeting and 12 attend the second. We now send communications out via letter once every quarter to Holmside Park residents informing them of what we have done to improve the park and what we would like to do, looking for their feedback. My person telephone number and email address are always on these communications.
49. I feel it is important to state from the start that the former owner of Mini Moos Farm does not have anything to do with Holmside Park.
50. To date, all things that we promised the village that we would do, we have done. This includes; the removal of the generator which was a temporary situation due to the lack of electricity to the complex. Brought in an independent sound survey company – reports should be with the planning application in the possession of the planning officer.
51. The survey showed that the activities we were now doing on top of the old ones have had little to no effect to the environment or people. Also, that the noise levels should not be used against us in the planning application. Despite these factors, as a company we still looked at ways of reducing further disruptions to our local community.
52. We have spent a huge amount of money on installing a new electrical supply to the complex which then takes away the need for the generator. A Directional sound system which allows us to communicate directly to our clients. We also implemented a procedure which only allows the petrol driven fans to be operated when the games

are in play. Unlike previously when all fans were running constantly for the 3 hours of the gaming competition.

53. On the Motorised side, again it was found that there was no impact to the environment or people with this. However, as a company we have moved the motorised area to the furthest part of the complex away from the village. This would mean that if there was any impact this would then lessen it.
54. On gaining planning permission for these extra activities, the company will again be investing in young people creating jobs in the park for apprentices and full-time maintenance people. The company stipulations for employment in this park is all employees going forward would be coming from a radius no more than 8 miles from Holmside Park. We believe this is right thing to do for the area, in what is high in unemployment and little opportunity for young people which may force them out of the village and local areas. Our last lot of job vacancies were sent out via post to all houses in local villages, those positions were then filled by local people. We believe all the skills needed to run our facility at Holmside Park are available in the surrounding areas. We do believe in going forward that our business at Holmside Park will become an asset to the community in which it serves.
55. Our view is to always work with the people in the local community to achieve the best for both the company and the surrounding area alike.
56. To this end the company has to be always looking to be in front of the curve on what is relevant in today's market and the one thing that our facility is focussed on is the health and wellbeing of both the adults and children of the community who get the opportunity to come and use our facility with all the health benefits it brings, be it, the obstacle courses, the play facilities or the walks through the woodlands.
57. I hope the committee understand our goals and feels it is worthy of the planning permission in which we seek.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P0UY03GDIVA00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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### The Principle of the Development

58. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issue in this instance relate to the noise implications of the use, with highway safety and the effect on the adjacent woodland also important considerations.
59. It is important to acknowledge that this site has been in operation for 10 years as a leisure attraction and during this time additional activities have been introduced primarily to attract a wider audience/customer base. As such the proposals represent an evolution of an existing operation that benefits from planning consent.

## The Development Plan

60. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Derwentside District Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
61. The Local Plan was adopted in 1997 and was intended to cover the plan period until 2006. However, the Framework advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Policies GDP1 and EN1, are the two most relevant policies for the use of the site, the former seeking to protect the amenities of neighbouring occupiers and land-users, the latter seeking to protect the Countryside. Officers view on the acceptability of the use in noise terms must be led by the detailed assessments, investigations and advice of Environmental Health Officers. As an established leisure use in the countryside, bringing economic activity and employment into a rural area, the use is considered compatible with Policy EN1 in benefitting the rural economy. These policies are considered to have compatibility with the NPPF and therefore have material weight in considering the planning application.

## The NPPF

62. In terms of the Framework, the 'most important policies for determining the application' are, as noted above, GDP1 and EN1 are considered to have a high degree of consistency with the advice in the NPPF and are not out of date so, paragraph 11 of the NPPF is not engaged.'

## Noise

63. The principle consideration of the proposals is the effect on residential amenity required by Policy GDP1(h) informed by the advice in the NPPF and NPPG. The application, in its varying forms, has been with the Planning Department for some time. Whilst it is acknowledged that this has caused frustration to some local residents, this has had the benefit of allowing the use and its impacts to be formally assessed in operation, rather than requiring a judgement being made on likely impacts, with no technical reports originally submitted. Further, where unacceptable impacts have now been identified, this has allowed mitigation for them to be assessed, discussed and to inform the Management Plan that now accompanies the application. The surrounding residential environment is in the first instance the settlements of Holmside and Edmondsley, but also includes surrounding farm groups such as Mill House Farm to the north-east, Wheatley Green Farm to the north, East Farm to the east and West Edmondsley Cottage Farm to the south-west.
64. The NPPG advises that noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Noise concerns can override other planning concerns, but neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise policy statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development. Local planning authorities' decision taking should take account of the acoustic environment and in doing so consider:
- whether or not a significant adverse effect is occurring or likely to occur;

- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

Government advice notes that, 'As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy.

65. This has been the role of the Council's Environmental Health Officers in this application. They set out the parameters required for the Noise Assessment to be undertaken by a recognised independent firm on behalf of the applicants to inform both whether the proposals were likely to result in a Statutory Nuisance, an area within their own control, and reasonable expectations of residential amenity which is the Planning assessment.

66. The NPPG sets out a tabulated summary of the noise exposure hierarchy, based on the likely average response, with seven levels of increasing noise effect with recommended actions. The current application appears to sit within the following band:

**Perception:** Noticeable and intrusive

**Examples of outcomes:** Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.

**Increasing effect level:** Observed Adverse Effect

**Action:** Mitigate and reduce to a minimum

67. The Noise Assessment advised that the effect of the operation is at 'Observed Adverse Effect' level, and the Management Plan identifies the 'actions' required to 'mitigate and reduce noise to a minimum'. The Environmental Health Officer considers this, 'suitable and sufficient so as to ensure the above threshold levels are met and the impact of the development is reduced to that below a 'significant observed effect level', which is defined in the Noise Policy Statement for England (NPSE) March 2010 as, 'the level above which significant adverse effects on health and quality of life occur'.

68. He writes, 'I have noted the objections stated by local residents and this Service has also been involved with complaints received from residents. A number of complaints were received when the premises began to operate and were duly investigated. A number of complaints related to an external generator. Once the operators were notified of the complaints they took steps so as to remove the generator this action alleviated a number of complaints. However, complaints were also received in relation to the general operation, specifically the "it's a knock out" element. This was investigated further, including officers offering to visit the complainants' premises on a Saturday to monitor the noise arising. The complainant declined this offer.

69. Further, 'When considering the impact of a proposed develop it is also pertinent to consider what is the existing noise arising from the areas which already benefit from consents. As such the applicant was asked to provide an assessment of the noise associated with the children play areas in the absence of the areas that this application refers to. The assessment found that the noise levels arising from the activities preceding the "it's a knock out", were very similar to the period at which the event was occurring. This therefore gives the indication that although the "type" of noise may differ from that which already has permission the actual noise level differs little. However, it should be noted that the effect of noise on an individual can differ significantly depending on the source. Often noise such as children playing is not seen as "unpleasant", whereas noise from adults raised voices is likely to be

considered more intrusive. In addition, the “it’s a knock out” area is closer to residents’ properties than the children play area and as such any noise arising is not directly comparable’.

70. The Technical Officer’s summary, set out in the Internal Consultee Responses above, concludes that a condition requiring adherence to the Management Plan should result in the site activities not reaching the Significant Observed Adverse Effect Level (in the NPPG). On this basis Planning Officers consider that the noise implications of the proposals have been assessed in detail against the national advice and requirements and conclude that against this assessment hierarchy the proposals are acceptable subject, as recommended by Environmental Protection Officers a condition that requires compliance with the Management Plan. This of course gives the Council control over compliance. The proposals are concluded compliant with Policy GDP1(h) on this basis.

#### Highway Safety

71. Despite historically serving the Mini-Moos operation, the Highways Officer objected to the existing access serving the new operation, concerned that the wall surrounding the farm group that includes the listed building obscures visibility for cars egressing the site. He has provided dimensions for an enlarged arrangement that could be implemented in the highway verge. It is suggested that should this consent be granted, that a condition be applied to ensure the implementation of the required arrangement before the peak period of the use. This would bring the required compliance with Policy TR2 to ensure that a ‘safe and suitable access to the site can be achieved for all users.

72. On this basis highways safety issues are considered to meet the requirements of both the Framework and relevant Development Plan Policy.

#### Ancient Woodland

73. The woodland that wraps around the open areas proposed for the use, (plus the listed farm group, equestrian arena and grazing land) is both designated Ancient Woodland and subject to formal Tree Preservation Orders. A single Public Right of Way (number 17) runs north/south through the woodland to the east of the operation, from the road to crossing of Cong Burn at Mill House Farm.

74. The objection from the Woodlands Trust sets out in detail the Policy background for considering applications affecting Ancient Woodland. When the current operator’s use first started there appears to have been an intrusion into the woodland by customer’s quads, with a number of objections by local residents specifically in relation to this. Objectors acknowledge that the Mini-Moos operation had previously included this type of use of the woods, but that the Mini-Moos business has over recent years gradually receded to a much-reduced level of operation. The Management Plan and the site plans now clearly show that there must be no intrusion into the woodland by the leisure operation and its customers. If the application is approved on the basis of the Management Plan, the Council has enforcement control over any transgressions of this requirement. This is considered to address objections relating to the physical intrusion of the leisure use into the woodland. It is noted that this does not preclude quads being used for maintenance of the woods and the land ownership by the land-owner or the lessees.

75. The second leg of the objection in relation to the woodland relates to the implications of the proximity of the use and its flora and ecology. Again, it is noted that the application seeks a variation of an existing use rather than a new use. Whilst the

Mini-Moos operation has run down, it is clear from the site layout at the point of application, and from historic Google Earth images that tractor rides and forms of buggy and quad bike rides have been a feature of the former leisure operation. The Woodland Trust suggest a 50m buffer for the use from the trees. The extension of the use into parts of the site not previously used is shown on the plan as Zone 1 – where the ‘it’s a knock out’ element is run. This is 77m from the woodland at its closest.

76. In view of the historic uses and operation on the site including encroachment into the woods, the introduction of the Management Plan, in ensuring a cessation of physical intrusion but with an intensified use of the surrounding open areas, is considered on balance to potentially represent a neutral effect in the relationship with the Ancient Woodland. This conclusion is relevant both to the Ancient Woodland designation and to the protection afforded to the Trees by Policy EN11, reflecting the presence of the TPO.

#### Other Issues

77. Objection has been made to the effect of the use – principally the quads – in terms of resident’s leisure use of the woodland and footpath. The Management Plan effectively prevents interaction between walkers on the path and the leisure operation and gives the Council enforcement control over this if required. It does appear that the locals’ use of the woods strays beyond the Public Right of Way into the wider woodland area. This is an issue for the landowner, especially if the wider access amounts to a trespass.

78. Residents claim that there is no benefit to the village from the use. The Mini-Moos facility was an established attraction that both created employment in its own right and will have brought additional expenditure from visitors into the wider area. The new operation likewise employs from the local area and will have additional benefits in attracting visitors to the area. This is of positive material weight when considering the planning application and brings compliance with the requirements of Policy EN1. Creating employment opportunities for rural areas and small villages is an important aspiration of the Council and is a material planning consideration.

79. Some residents contend the site, with the use of inflatables in particular makes the site, ‘visible for miles’. Landscape Officers suggest that the hedgerow across the front of the site could be reinforced. As described in the introduction, the site slopes away from the main road, and whilst the ‘loop’ for the buggies is roadside, the main part of the operation, sited on the sloping land, is separated from the roadside by the landowner’s, as opposed to the operator’s, land excluded from the use and retained for grazing. The roadside hedge provides perfectly adequate screening from the road. Glimpsed partial views south of the open parts of the site are possible from Wheatley Green Road 670m north of the site. This impact is not considered significant, and the countryside in this location is not designated as a protected landscape.

80. Residents object that the operation will detrimentally affect house values in the area. This is not a material issue in the planning assessment.

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## **CONCLUSION**

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81. The principle of the use and therefore its compliance with Policy EN1 is already established through the previous operation, therefore the ‘most important’ policy for determining the application is GDP1. This Policy requires an assessment of the

increased noise issues on residential amenity. Providing the Management Plan is conditioned, Officers conclude this aspect of the proposals is acceptable.

82. Additional important elements of the planning application assessment relate to highway safety and Ancient Woodland. Again, a condition is considered an appropriate mechanism to secure the necessary highways entrance improvements. The operator has indicated a willingness to undertake these improvements should the application be approved. For the Ancient Woodland, the historic leisure use of the site has been attributed a direct impact on the issues raised as of concern by the Woodland Trust and residents. Acknowledging that the proximity of the revised operation will have an indirect effect on the woodland, balanced against a guarantee of no direct physical impact the proposals are considered on balance to have no greater effect on this protected flora.

83. It is on this basis that subject to appropriate conditions requiring compliance with the submitted Management Plan and implementation of access visibility improvements the application is recommended approved.

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## **RECOMMENDATION**

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96. That the application be APPROVED, subject to the conditions detailed below:

1. The development hereby approved must be operated wholly in accordance with: the submitted 'Operational noise management plan', Updated Application Site Plan and the Zones Plan, within the areas defined as the Application Site and the Extended Lease.

Reason: To ensure an acceptable level of amenity for surrounding residents and protect the surrounding Ancient Woodland and Tree Preservation Order in accordance with Policies GDP1 and EN11 of the Derwentside District Local Plan (saved policies) and the advice in the NPPF and NPPGs.

2. Within four months of the date of this consent, the applicants must submit for approval in writing by the Local Planning Authority and implement in full a scheme to improve the visibility splay at the entrance to the site.

Reason: In the interests of highway safety, in accordance with Policy TR2 of the Derwentside District Local Plan (saved policies) and the advice in the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

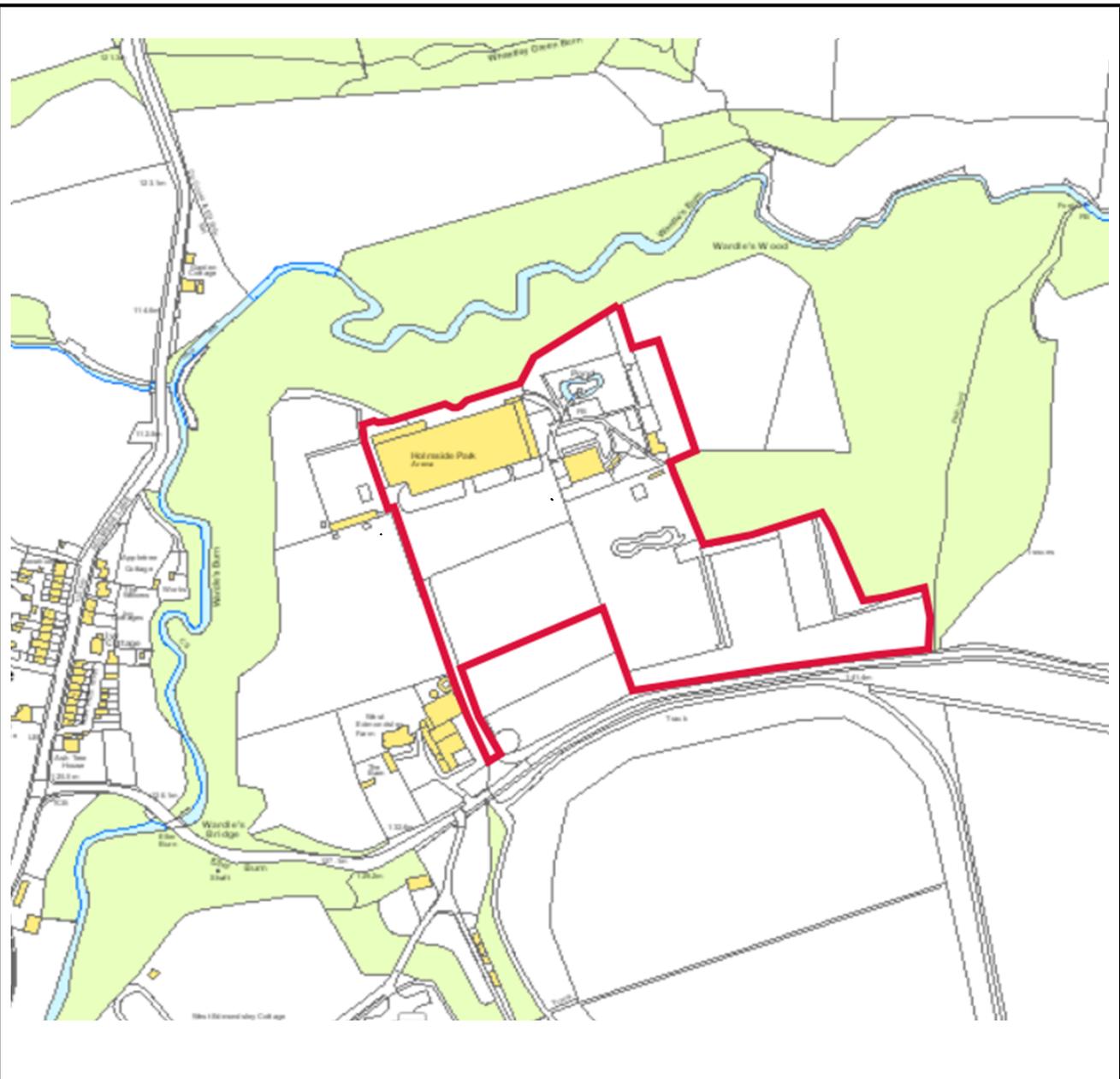
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## **BACKGROUND PAPERS**

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The National Planning Policy Framework (2018)  
National Planning Practice Guidance Notes

Derwentside District Local Plan 1997 (saved policies)  
Statutory, internal and public consultation responses  
Submitted forms, plans and supporting documents



**Planning Services**

REVISED DESCRIPTION: Retrospective permission for erection of a timber hay store and change of use of an equestrian arena to an indoor play area, re-cladding of existing 'play castle' and creation of additional outdoor activity areas in defined spaces including use of quad bikes and buggies as set out in the Operational Management Plan.

Application Number DM/17/04001/FPA

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**Comments**

**Date** 31<sup>st</sup> January 2019

**Scale** NTS