

**DURHAM COUNTY COUNCIL**  
**AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the **Council Chamber - County Hall, Durham** on **Thursday 28 February 2019** at **1.00 pm**

**Present:**

**Councillor I Jewell (Chairman)**

**Members of the Committee:**

Councillors A Bainbridge, D Bell, L Boyd, A Hopgood, C Martin, J Robinson, A Shield and S Zair

**1 Apologies for Absence**

Apologies for absence were received from Councillors D Boyes, G Darkes, O Milburn, J Shuttleworth, T Tucker and S Wilson.

**2 Substitute Members**

Councillor S Dunn substituted for Councillor T Tucker and Councillor M Wilson substituted for Councillor S Wilson.

**3 Declarations of Interest**

There were no Declarations of Interest.

**4 Minutes**

The minutes of the meeting held 20 December 2018 were agreed as a correct record and signed by the Chairman.

**5 Applications to be determined by the Area Planning Committee (North Durham)**

**a DM/17/04001/FPA - Mini Maxi Moos Adventure Land, Holmside Park Arena, Holmside Lane, Edmondsley**

The Senior Planning Officer, Steve France gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes).

Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had previously visited the site and were familiar with the location and setting. The application was for retrospective permission for erection of timber hay store and change of use of an existing equestrian arena to an indoor play area, recladding 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 and was recommended for approval, subject to conditions.

The Senior Planning Officer referred Members to a plan on the projector screen highlighting the extent of the applicant's land, a large area outlined in blue, and also the area which the application referred to, a number of smaller areas outlined in red. Members were referred to four zones for: use of quad bikes; a slow-speed led trail; a play fort; and petting farm, picnic area and slide. The Senior Planning Officer noted that an area that included helicopter rides was not being considered as part of this application.

Councillors were informed of the key issues in relation to the application as set out within the report and noted that subject to adherence to the Management Plan, there were no objections from statutory or internal consultees, subject to the conditions within the report.

The Senior Planning Officer noted there were a number of objections received from the public and also from the local Member for Parliament, Kevan Jones MP. Issues raised had included: issues of noise being exacerbated by the topography; operation of quad bikes; damage to ancient woodland; unauthorised buildings; tree felling; access and traffic; dust from the operation of buggies; pedestrian access concerns relating to Edmondsley. The Senior Planning Officer reiterated as regards the areas of land and activities that formed the application to be considered by Committee. He noted that there was one letter of support received, citing benefits in terms of jobs and that noise levels were at acceptable levels.

The recommendation was for approval subject to the conditions as set out in the report.

As Councillor A Hopgood had arrived slightly late, after the meeting had started, the Chairman asked her if she felt able to participate and she replied that she did.

The Chairman thanked the Senior Planning Officer and asked Ms Deborah Dixon to speak in objection to the application.

Ms Deborah Dixon noted that she and residents of Holmside and Edmondsley were wholly opposed to the application. She added that there had been lots of letters in objection from the public and noted the rural woodland location, being in the past both peaceful and attractive. Ms Deborah Dixon noted a fear for the future was that village life would be destroyed following increasing noise levels. She explained that the noise levels were unbearable, with shouting from the visitors to the site and the repeated "one, two, three" over the tannoy becoming mentally distressing.

Ms Deborah Dixon added that noise carried and that there was no mitigation against this. She added that residents were spending less time in their gardens and having to keep their windows closed and asked whether this was fair for residents.

Ms Deborah Dixon noted that this was the current situation, and that should the application be approved she felt it would worsen, with advertising already stating groups of up to 100 people on top of the sound levels of music being played.

Ms Deborah Dixon explained in relation to traffic and highways issues that the area was not lit and was not part of a bus route. She added that accordingly Holmside and Edmondsley were used as a thoroughfare and that the road network was not suitable for the levels of traffic.

Ms Deborah Dixon noted that in terms of the advertising of “phase two” of developments at the site were advertised earlier in 2018, the suggestion of a done deal. She added the application did nothing for the benefit of the village, nothing for the economy of the village as there was no shop or public house.

Ms Deborah Dixon explained that if the application it would rip the heart out of the village and community and that it would become increasingly difficult to attract new people to the village and therefore the rural community would be lost forever. She noted there was not objections from residents in relation to the mini-moos operation, the aspect for children, however, the application before the Committee was materially different and that it was not child focussed. Ms Deborah Dixon noted that it was felt to be a breach of residents’ human rights and they did not feel it was fair. She noted residents did not feel reassured, complaints were registered each week as regards noise and distress. Ms Deborah Dixon noted a 10-year lease held by the applicant and that on that basis the issues would grow and become more detrimental. She concluded by stressing that residents did not feel that the conditions within the report were sufficient to protect their village and way of life and therefore they would ask that the Committee vote to reject the application.

The Chairman thanked Ms Deborah Dixon and asked Mr Paul Banks to speak in support of the application.

Mr Paul Banks explained he was the Managing Director of Battlezone Paintball and Holmside Park and ran five businesses within the North East creating jobs over the last 20 years. He noted that the business had tried a number of times to engage with the local community, and now a lot of people did engage and talking to those people a lot of the previous issues were no longer there. Mr Paul Banks explained he lived in the North East and wanted to create wealth for local communities, with an aim to recruit locally if possible. He noted the park employed 30 people and was looking to employ 10 more people, and that there was an apprentice and it was hoped to create two more positions. He noted several people from Holmside worked at the park.

In reference to the comments made as regards advertisement of “phase two”, Mr Paul Banks noted this referred to the helicopter and fort, with this application representing “phase three”. He explained that the business operated an open-door policy in terms of listening to any concerns from those in the village.

Mr Paul Banks explained that the facilities were designed to allow for those less-abled to be able to come and participate and enjoy, for all ages to come, getting people out and about.

He added that the proposed activities operating on one day, a Saturday, over a four-month period, would help to support the business overall, protecting that element and to help pay the bills. He concluded by noting photographs taken by objectors from within private land owned by other parties and asking for the Committee to approve the application.

The Chairman thanked Mr Paul Banks and asked the Solicitor – Planning and Development, Neil Carter to speak in relation to correspondence received from Kevan Jones MP.

The Solicitor – Planning and Development noted the letter had placed emphasis on the application being part retrospective and reminded Members that this in itself did not constitute a reason to refuse the application. Members were advised that the previous track record of the applicant also was not a good refusal reason. The Solicitor – Planning and Development noted that the structures referred to by the objectors were under enforcement investigation, however, did not form part of the application before the Committee. He added that should there be a breach of the management plan condition, then the usual enforcement powers could be utilised and therefore any anticipated breach was not sufficient to sustain a refusal reason. In relation to human rights, the Solicitor – Planning and Development noted they were engaged; however, they were not absolute rights but qualified rights and as such could be interfered with so long as that interference was in accordance with the law and also proportionate. He concluded that his advice was that granting the application did not unlawfully interfere with the objectors’ human rights.

The Chairman thanked the Officers, registered speakers and the Solicitor – Planning and Development and asked the Committee for their comments and questions on the application.

Councillor A Shield noted the issues were in terms of the locality of the application and noise. He noted that noise was a subjective view, and that a statutory nuisance was a specific level of noise, however he explained that even a lesser noise could be very aggravating if repeating as described by objectors. He noted that National Planning Policy Guidance notes where issues “can or are likely to occur” and Policy RL9 of the saved Chester-le-Street Local Plan noted that activities in the countryside were permitted providing they did not damage the countryside or the amenity of neighbouring residential properties. Councillor A Shield noted the Officer’s recommendation and that subject to adherence to the Management Plan there were no statutory or internal objections to the application. He added it was for the Committee to decide upon whether there would be adherence and he noted he was undecided on the application at this point.

The Senior Environmental Health Officer, Mark Anslow noted that Councillor A Shield was correct in relation to the issues and the NPPG.

Councillor J Robinson noted diary information kept by a resident in relation to noise levels and disruption, up to 12 hours a day and seven days a week and explained he could see how this would be irritating. He added he did not see anywhere within the report as regards any condition to provide comfort for residents in relation to this and asked if Environmental Health could provide some robust assurance. The Chairman noted that the issues in relation to noise from the generator had been resolved, as noted within the report and explained at the site visit held previously. The Senior Environmental Health Officer noted that the noise from the generator that had previously been in use had represented the majority of the noise complaints and the applicant had removed and replaced this. He added that hours of operation may be able to provide some mitigation, especially in terms of the "it's a knockout" events and that should the Committee feel it would be beneficial further details could be set out.

Councillor L Boyd noted there appeared to be a conflict of information in between the objectors and the applicant and asked if a delay to allow some discussions could be beneficial.

The Senior Planning Officer noted that the application had taken a long time to come to this point, with significant issues such as the noise from the generator having been now resolved. He added that therefore the process would be to monitor against the Management Plan, noting an independent noise assessment had been conducted and this had informed the Management Plan. It was reiterated that Council Officers felt the application was acceptable subject to the conditions and adherence with the Management Plan. In reference to any further discussions between objectors and the applicant, the Senior Planning Officer noted he could not see what any deferment of the application would achieve, those parties disagreeing. He noted that the application was as set out in the report with a recommendation and conditions.

Councillor A Hopgood noted that the second recommendation referred to highways and access works that were not implemented and noted that there was a three-month timeframe to submit for approval in writing. She asked if this was including the time to carry out the works in addition. The Senior Planning Officer noted it was for submission and to carry out works in full. Councillor A Hopgood noted that if the Committee was minded to approve, then this would mean around the end of May potentially before works would be completed and asked if the works were not completed would the operation of the site not be permitted. The Senior Planning Officer reiterated the condition as set out. Councillor A Hopgood asked if there was an issue would there be a drawn-out process of enforcement action, while the operation of the business would continue throughout the summer season. The Area Planning Team Leader - North, Andrew Farnie explained that there had been lengthy discussions between Planning and Highways Officers and regards this matter and the condition had been strengthened. He added that following the three months if there was a breach then there were powers, albeit limited, in terms of next steps. He explained that a stop notice could be issued, however, that may not be the most effective option.

Councillor A Hopgood asked as regards the length of time to carry out whatever enforcement action that would be taken as appropriate and asked whether there could be more within the condition in terms of compliance prior to operation. The Solicitor – Planning and Development noted that as described by Officers the would need to be a breach before any enforcement action could be taken. He noted that those processes had timescales attached and that while they would be looked at as soon as possible, it was not possible to say that they would be immediate or prevent use of the site.

He noted that it appeared as if Members wished for a negatively worded conditions in terms of no operation of the site until highway works were completed, however, he noted that the site was already currently operating and that a three-month timescale was usual and reasonable. Councillor A Hopgood asked as regards whether the highways works to widen the access formed part of the original application in relation to mini moos. The Senior Planning Officer noted that the works were not carried out in 2009, with the current applicant being a leasee and not the original applicant. He added that while enforcement had not been taken in 2009, the condition within the report meant that should the works not be taken forward then enforcement could be taken accordingly.

Councillor J Robinson noted he was still not able to see any reassurance from Environmental Health in relation to noise levels and times of operation. The Senior Planning Officer noted that in relation to the “it’s a knockout zone” this was Monday to Saturday, 10.00am to 5.00pm as set out in the Management Plan.

Councillor A Shield noted that if noise was still considered an issue, could there not be a stipulation in terms of creating a physical barrier in terms of planting, such as leylandii to screen noise. The Senior Planning Officer noted that this may be something the applicant would be willing to look at. The Chairman asked if Mr Paul Banks would clarify for Members. Mr Paul Banks noted that the “it’s a knockout” activities would operate over four months, only on Saturdays between 11.00am and 4.00pm. He added that the buggies and quad bikes would not operate on Sundays. The Senior Environmental Health Officer noted that in terms of planting to screen noise, this was only effective with planting of over 50 metres in depth, and therefore not practical in this case. He added that there was already the area of woodland that provided some mitigation and the noise assessment had been carried out and that following changes made and discussions with residents there had been some positive comments received. It was explained that an e-mail received from a resident noted “in respect of noise, levels were now not excessive... the generator noise had been removed... and at this stage noise was not at the original levels”. The Senior Environmental Health Officer noted that the Management Plan had had a positive effective and noise from the current operational procedure was not excessive. The Senior Planning Officer noted that hours of operation could be stipulated for clarity.

Councillor A Shield asked that if the Management Plan was breached, would enforcement be via a Stop Notice, until there was compliance. The Area Planning Team Leader – North noted he had mentioned that option specifically in terms of the highways condition.

In reference to a breach in respect of the Management Plan, the Area Planning Team Leader - North explained that the type of enforcement would be dependent upon the nature of the breach and the likely option would be an Enforcement Notice, a process that had a right of appeal. He added that a Stop Notice could be looked at if there was a very serious breach. Councillor A Shield asked as regards monitoring of noise levels and devices that could be in place to check as regards a statutory nuisance. The Senior Environmental Health Officer noted that if there were complaints, Officers could visit and could install monitoring equipment if necessary. He noted that a statutory nuisance was not applicable to this application, as noted, however if it was raised by residents Officers would look into the matter.

Councillor A Hopgood noted that Condition One noted updated plans and asked if it could be strengthened. The Senior Planning Officer noted that it was implicit, however, reference numbers could be included and if plans were to alter, this would need to be reflected in a planning application.

Councillor C Martin noted residents had asked for fairness, and the Committee had to look at the application in terms of planning law and the requisite regulations and frameworks. He noted that Members had to look at the application in balance, in terms of issues of noise, the Management Plan and social and economic issues. Councillor C Martin noted that he felt on balance that the benefits outweighed the negative aspects and that he would therefore **move** that the application be approved as per the Officer's report.

Councillor S Dunn noted that it was clear from the information within the report and from the speakers and Officers that there had been problems and issues. He added that there was also evidence of a lot of work undertaken in terms of mitigation and the changes and investment undertaken by the applicant, for example in terms of the new generator, were welcomed. Councillor S Dunn noted that the engagement with the local community and employment opportunities for local people was also welcomed. He referred to a business that operated in his area that had a number of contentious issues. He explained that in that case a Management Plan had been put in place and it had proved to be very successful, with much reduction in nuisance. Councillor S Dunn noted therefore he was confident that a Management Plan, in line with Officer's recommendations, could be effective. He added that he had similar concerns as Councillor A Hopgood in terms of the highways works issues and suggested an amendment to the condition to reduce the timescale from three months to six weeks. The Chairman asked if this was reasonable from a technical standpoint. The Principal Development Management Engineer, David Smith noted that in terms of drawing up an acceptable scheme, plans, carrying out a procurement process and appointing contractors, and completing the works would take around three months. Councillor S Dunn noted he would withdraw his suggestion.

Councillor A Shield noted given all of the information provided to the Committee he would reluctantly **second** the application, though noted that paragraph 88 of the report referred to Landscape Officers suggestion of the reinforcing of the hedgerow and asked if this would be something to be added as a condition. Councillor J Robinson noted as regards following through in terms of the operation times.

Following a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions as listed within the report and as amended and added to by the Committee.

*Councillors A Shield and S Zair left at 2:15pm*

**6 Appeal Update**

The Committee considered a report of the Principal Planning Officer which provided details of a recent appeal decision in relation to application DM/18/0115/FPA for the erection of a shed within a parking bay on land to the south of 108 Meadowfield, Burnhope.

The Principal Planning Officer advised that the appeal had been dismissed, by the Planning Inspector.

The Principal Planning Officer noted a second appeal relating to application DM/18/01983/FPA at 70 Castlefields, Bournmoor for the retention of uPVC cladding affixed to the front of the property.

The Principal Planning Officer advised that the appeal had been allowed by the Planning Inspector, no application for costs having been made.

Members noted two appeals had been submitted under the written representations procedure relating to: refusal of DM/18/01399/FPA – construction of four dwellings on land to the east of The Byre, Consay Lane, Consay; and refusal of DM/18/01309/FPA – change of use and erection of private stables on land to the south of Denesyde, Medomsley.