

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/14/02461/FPA
FULL APPLICATION DESCRIPTION:	Change of use of Blackdene Wood to paintballing (sui generis), including operational development of sundry structures (Resubmission)
NAME OF APPLICANT:	Habour House Farms
ADDRESS:	Blackdene Wood, Mill Lane, Plawsworth, Durham DH3 4EH
ELECTORAL DIVISION:	Sacrison
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located within Blackdene Woods to the south east of Plawsworth Village between Chester-le-Street and Durham City on the A167, accessed from a country road named Mill Lane. The East Coast Main Line railway bisects the site on a viaduct that crosses the valley. The elongated woodland area that contains the site runs east / west parallel with the road. The overall size of the woods within which the paintball operation proposes use of a central area, is approximately 13 hectares in size.
2. Blackdene Woods is classified as ancient woodland and lies in a steep sided wooded valley along Blackdene Burn. The site is part of a Durham County geological site known as the 'Sacrison sub glacial channel' and the eastern part of the site (to the east of the viaduct) is designated as part of an Area of High Landscape Value (AHLV). The whole site and surrounding countryside is within Green Belt.
3. A small formerly residential single storey structure known as 'Mill Cottage' is located as Mill Lane bears south-east away from the site on the southern boundary of the wood. This has been used by previous paintball operators to provide a base, storage, parking and toilet facilities. An established car parking area next to the cottage is surrounded by mature evergreen hedging implemented as part of a previous consent on the site. A path leads from the cottage down into the woods to the stream and valley floor where the game 'zones' are sited. There are additional gated accesses into the woodland from its eastern and western extremities.
4. Abutting the northern boundary of the site is Southill Hall, a Grade II listed building, owned by The Court Service (Ministry of Justice) and used by high court judges as a secure lodge house whilst serving on the north east circuit. There is accommodation

available for four judges and their clerks, with the property normally occupied between Sunday and Friday evenings on a weekly basis. West of Southill Hall, also abutting the northern boundary of the site is Gardener's Cottage, a residential property. These properties and the eastern part of the woodland is designated as a Park and Garden of Local Interest. Mill House and Watermill Cottage situated on Mill Lane to the south west of the site are the next closest residential properties to the site.

The Proposal

5. Planning permission is sought for the future permanent use of the woods as a paintballing facility, including associated structures and ancillary operational development for up to 75 days per year. This is in line with the level the site has operated in the past. The use is not in current operation.
6. The application is a resubmission of a proposal considered by Committee in January this year. That application proposed a use of around 150 days per year, and was refused for the following single reason;

'The proposed use would have a significantly detrimental effect on the residential amenity that local residents could reasonably expect to enjoy, through the noise implications of the operation, by virtue of its unpredictable nature, its intensity from the potential number of customers and regularity in terms of number of days proposed and its focus on weekends and Bank Holidays, when residential amenity could be most expected. This is considered contrary to Policy RL9 of the Chester-le-St. District Local Plan (saved Policies 2009), Part 11 of the National Planning Policy Framework and Policies 18 and 19 of the emerging County Durham Plan'.

7. Members discussion concluded that the use in principle could be accepted in a countryside, Greenbelt designated location, on the arguments presented by Officers in the committee report, balancing the potentially conflicting demands on the use of the countryside. In terms of the effect on amenity Members were primarily concerned with the effect and extent of the operation on the Judges residence at Southill Hall. The objection submitted on behalf of the Judges residence indicated that if the use was restricted to a lesser level – 112 days per annum and restricted to Saturday, Sunday and Bank Holidays was specified - their objection was removed. Officers have pursued negotiations with the developer for this resubmission on this basis.
8. In terms of the detailed nature of these resubmitted proposals, consistent with the previous scheme, within a large operational site, of approximately 2 hectares, a central area would be defined for paintballing activities. Outside of this area there would be a permanent exclusion zone. The proposed site layout plan defines six different individual 'battle zones', straddling across the Burn extending in linear fashion along the watercourse. It is within each of the areas that the proposed paintball games sessions would take place, with rustic timber structures providing various scenarios for play. A summarised list of the game zones and their intended structures is as follows;
 - Tank zone - wooden tanks, timber screen structures and two timber footbridges over the burn.
 - Speedball zone - raised timber platform 1.9x3.0m and 2.6m high.
 - Crypt zone - small timber crypt, coffin and grave headstone structures

- Village zone - timber fence structures and hut structures with camouflage net cover (2.6m by 3.8m). Footbridge.
 - Castle zone - timber play castle of 22m in length and 5m in height (at longest and highest point) and two small sentry boxes. Two timber footbridges over burn.
 - Watchtower zone - 4m high watch tower surrounded by fencing and four timber huts of varying size, maximum 4m in height and 4.8m in length.
 - Base camp area - Two ex-military tents to be used as shelters. The largest being 14.6m in length, 5.6m in width and 3m in height. One to be used as a gun rack. A small timber framed building to be used as a score board. A black shipping container, 6m in length and 2.6m in height to be used for the sale of drinks, confectionary and additional paintball pellets.
9. Each paintball zone perimeter as well as the approaching footpath into the site would be delineated by 3m high black mesh fencing. Exclusion zones outside of the battle zone area would be marked by timber posts (1.1m high) and high visibility rope. Participants would stay within the demarcated areas and would only fire guns within the meshed fencing areas of the game zones. Bark paths would link between the base camp and individual zones. Terram fabric would be used underneath the chippings in well used areas.
10. Previous applications were for a specific operator who has now moved to a site elsewhere in the County – west of the A68 in the AONB. The current application sets out a series of intended operating hours, consisting Monday to Friday, Saturday, Sunday and Bank Holidays 08:30-17:30 for up to 75 days per year, with the management plan stating a likely two weekdays maximum per week. The application is submitted by the landowner – an operator would be sought if planning permission is granted.
11. The maximum number of people on site would be 150. The use of the battle zones would be managed to allow the flora of the woodland floor to recover. Therefore the maximum capacity of the site at any one time would be 30 people (15 people in each team) in 5 zones.
12. Access to the site is maintained from the existing access into the car park at Mill Cottage, re-furbished in order to provide storage, toilet facilities and a registration office as well as incorporation of a registration counter area. A small timber extension would be rebuilt and extended as well as the opening up of blocked up windows. Participants would then walk down a path adjacent the house into the woods to the base camp.
13. The applicants agent advises that in the winter months, a limited amount of external lighting would be required at the base camp at the end of the day to enable staff to clear up. It is noted that the paintball pellets are non-toxic and biodegradable. A regular litter pick up is proposed. The operator would arrange for a refuse disposal company to empty commercial bins housed adjacent the property/car park area to be picked up once a week.
14. The existing car park would be extended in an easterly direction into the adjacent field and be enclosed by a new hawthorn, holly and beech hedge. This would be the only entrance into the site by customers/participants. An existing entrance at the western side of the wood would provide for woodland maintenance.

15. The proposal relates to the use of the site for paintballing activities, the length and extent of the operation, and for the structures required for the use. The proposals are accompanied by a woodland management plan that would cover not only the area in paintball use, but also the wider woodland area. The proposals specifically exclude the use of motorised vehicles on the site, such as quad bikes or buggies, which has been a contentious issue in the past with a previous operator, both for their effect on the woodland, and in relation to highways issues resulting from loading/unloading. Control of the motorised vehicles is included in the submitted Management Plan, offered to be subject to a condition on any approval to give the Council full control of this issue.
16. The applicants have estimated that 2 full-time and 20 part-time jobs would be created.
17. The application is being reported to planning committee because it constitutes major development due to the size of the application site and as the permanent nature of the proposed structures constitutes operational development.

PLANNING HISTORY

18. A planning application was submitted for paintballing at the site in 2002. Temporary planning permission for a period of 5 years was granted in March 2006 for the change of use from woodland/agriculture for paintballing activities for a maximum of 75 days per annum including ancillary car parking adjacent to Mill Cottage. Prior to the temporary Planning Permission being granted, and while the application was being considered the site operated between 2000 and 2006 under permitted development rights which allows such activities to take place for up to 28 days a year without the requirement for planning permission.
19. This temporary permission expired in March 2011. The last operator apparently continued paintballing activities on the site under permitted development rights until as recently as September 2012.
20. The temporary planning permission was considered appropriate to 'allow the operations to be formally re-assessed, to ascertain the long term ecological and landscape impact of the proposed usage at this intensity'. Also attached to the temporary permission were a number of restrictive conditions, limiting numbers or people, number of days per year, time limits etc.
21. Two applications were withdrawn in June and November 2012, the first to allow the applicant to extend the red line boundary for additional car parking, the second on the threat of refusal, Officers not considering that sufficient information to allow proper assessment of the effect on both the nearby residential amenity and on the ancient woodland had been submitted.
22. As noted above, a subsequent application considered by Committee in January 2014 for the use of the site for up to 150 days per year was refused on the grounds of the potential effect on residential amenity.

PLANNING POLICY

NATIONAL POLICY:

23. In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the draft National Planning Policy Framework (NPPF). The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve ‘core principles’ that should underpin both plan-making and decision taking, these being; empowering local people to shape their surroundings, proactively drive and support economic development, ensure a high standard of design, respect existing roles and character, support a low carbon future, conserve the natural environment, encourage re-use of previously developed land, promote mixed use developments, conserve heritage assets, manage future patterns of growth and take account of and support local strategies relating to health, social and cultural well-being.
24. Para. 17- Core Planning Principles – includes requirements to:
- Proactively drive and support sustainable economic development to deliver business. Every effort should be made objectively to identify and then meet business and other development needs of an area and respond positively to wider opportunities for growth.
 - Take account of the different roles and character of different areas, protecting the Green Belts and recognising the intrinsic character and beauty of the countryside.
 - Contribute to conserving and enhancing the natural environment.
25. The NPPF outlines in para. 19 that significant weight should be placed on the need to support economic growth through the planning system. Paragraph 6 of the NPPF states the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 goes on to set out the three dimensions to sustainable development: economic, social and environmental. The economic role is to contribute to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure.
26. *NPPF Part 3 – Supporting a Prosperous Rural Economy*, states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
27. *NPPF Part 4 – Promoting Sustainable Transport* requires that the transport system to be balanced in favour of sustainable transport modes, giving choice in travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas.
28. *NPPF Part 8 – Promoting Healthy Communities*- Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to opportunities for sport and recreation can make an important contribution to the health and well-being of communities

29. *NPPF Part 9- Protecting Green Belt Land*- The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. Green Belt land serves 5 purposes: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
30. *NPPF Part 11 – Conserving and Enhancing the Natural Environment*. The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognising the benefits of ecosystems, minimising impacts on and providing net gains in biodiversity where possible.
31. *NPPF Part 12 – Conserving and Enhancing the Historic Environment*. In determining applications LPAs should take account of; the desirability of sustaining and enhancing the significance of the asset and putting them to viable uses consistent with their conservation, the positive contribution conservation of heritage assets can make to sustainable communities and economic viability, and the desirability of new development making a positive contribution to local character.
32. *The Noise Policy Statement for England (DEFRA, March 2010)* - sets out the technical guidance on assessing noise impacts and aims to: avoid significant adverse impacts on health and quality of life, mitigate and minimise adverse impact on health and quality of life and where possible contribute to improvement of health and quality of life.

<http://planningguidance.planningportal.gov.uk/>

NATIONAL PLANNING PRACTICE GUIDANCE:

33. The newly introduced 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.
34. *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.
35. *Historic Environment* – discusses the definition of ‘significance’ in relation to Heritage Assets as able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals.
36. *Health and Wellbeing* - development proposals can support strong, vibrant and healthy communities and help create healthy living environments which should, where possible, include making physical activity easy to do.

37. *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. Noise 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 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.

38. The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation. Adverse effects of noise can be mitigated by using planning conditions/obligations to restrict activities allowed on the site at certain times and/or specifying permissible noise levels differentiating as appropriate between different times of day.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

39. The following are those saved policies in the Chester-le-Street District Local Plan thought most relevant to the consideration of this application:

40. *Policy NE2 – Development beyond settlement boundaries* – outside of settlement limits development will be strictly controlled. Development should protect and enhance the character of the countryside and be consistent with maintaining the economic sustainability of agriculture and other rural businesses.

41. *Policy NE4 - Appropriate Development in the Green belt* - within the Green Belt planning permission will only be granted for the construction of new buildings for (amongst other things) essential facilities for outdoor sport and recreation and other uses of land that protect the openness of the greenbelt, the re-use or conversion of existing buildings which does not have a materially greater impact on the openness of the Green Belt.

42. *Policy NE6 - Development affecting the Visual Amenity of the Green Belt* - development within, or conspicuous from, the Green Belt will not be granted where the proposal by virtue of its scale, siting, materials or design is detrimental to the visual amenity of the Green Belt.

43. *Policy NE15 - Areas of High Landscape Value*- special attention will be given to maintaining and enhancing the landscape character and quality of AHLV. Proposals for development within AHLV will only be permitted where the: i) are of a high standard of design, ii) reflect the scale and character of buildings in the area iii) do not detract from the high landscape quality.

44. *Policy RL9 - Recreation in Open Countryside* - development related to the quiet enjoyment of the open countryside for informal recreation or for sports activities which require countryside location must not: i) damage the character and appearance of the countryside or the amenity of neighbouring residential properties, ii) cause damage or disturbance to PROW and other recreation facilities, iii) damage

flora, fauna, geological or geomorphologic features and wildlife corridors protected under the Natural Environment Policies. Associated improvements to the wider infrastructure of the countryside will be sought to accommodate any pressures generated from development.

45. *Policy RL10 - Recreation Provision in the Green Belt*- Within the Green Belt permission for outdoor participatory sports and recreation uses will be granted provided that the uses are predominantly participatory and outdoor; i) ancillary facilities (clubhouses, bars, car parking etc) are small in scale, and essential in that they not exceed what is necessary for users iii) the development would not harm the visual amenities of the Green Belt.
46. *Policy T8 - Car Parking Provision*- The design and layout of new development should seek to minimise the level of parking provision.
47. *Policy T15 - Access and Safety Considerations in Design*-Sets out criteria which is required to be fulfilled, relating to, safe access, highway safety, public transport, pedestrians, cyclists, service and emergency vehicles.

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.durham.gov.uk/Pages/Service.aspx?ServiceId=494>

EMERGING POLICY:

48. The emerging County Durham Plan was Submitted in April 2014 ahead of the current Examination in Public. In accordance with paragraph 216 of the NPPF, 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. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application, albeit it is noted that the Chester-le-Street District Local Plan remains the 'development plan' against which applications must currently assessed when the policies in that document are compliant with the NPPF:
49. *Policy 1 – Sustainable Development*, sets out a presumption in favour of such through 18 subsections including directing economic growth to existing centres, protecting agricultural land, promoting inclusive and healthy communities, achieving well designed accessible places, making the most effective use of land, and conserving the quality diversity and distinctiveness of the County including the conservation and enhancement of designated and non-designated heritage assets.
50. *Policy 18 – Local Amenity* states that permission will only be granted for proposals providing it can be shown that a significant adverse impact on amenity would not occur including, for example, loss of light and privacy, visual intrusion, overlooking, noise and odour. In addition to this, permission will not be granted for sensitive land uses where suitable mitigation measures cannot be put in place to rectify the adverse impact on amenity.

51. *Policy 19 – Air Quality, Light and Noise Pollution* – Development will be expected to prevent unacceptable levels of noise pollution through good design, with a list of particularly sensitive noise receptors, including residential property given particular attention, with assessments of impacts required. Where adverse impacts are identified suitable mitigation must be provided for development to be approved. Permission will not be granted where they would affect sensitive land uses and where the effects cannot be adequately mitigated.
52. *Policy 27 – Visitor attractions* – New visitor attractions will be permitted providing that; they are, amongst other criteria, in sustainable and accessible locations, the scale design and materials are appropriate to the location, supports development of a year-round visitor economy and in rural areas; meets identified need, constitutes appropriate diversification, supports local employment.
53. *Policy 35 – Development in the Countryside*, states that this will only be permitted where they accord with other policies in the plan, and with one or more of a number of exceptions including; being necessary for the viable operation of agriculture, where the proposal demonstrates it will directly support the enhancement of local services, community facilities and infrastructure, where environmental or tourism assets are enhanced, or in the case of a change of use of a heritage asset or other disused structure, demonstrates a viable sustainable economic use, does not require substantial rebuilding or extension, is in keeping with and enhances its setting, and has no significant impact on neighbours.
54. *Policy 39 – Landscape Character* prevents new development where it would cause significant harm to the character, quality or distinctiveness of the landscape or important features or views.
55. *Policy 40 – Trees Woodland and hedges* – Proposals for new development will not be granted that would result in the loss of or damage to trees or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the loss. The fragmentation, loss, deterioration of identified ancient woodland will require exceptional circumstances and appropriate compensation.
56. *Policy 41 – Biodiversity and Geo-diversity* – New development will not be permitted if significant harm to biodiversity and geo-diversity cannot be avoided, adequately mitigated, or as a last resort compensated for.
57. *Policy 44 – Historic Environment* – seeks to ensure that designated and non-designated heritage assets and their settings are appropriately protected.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

58. The statutory consultation responses from the last application are repeated as still relevant, no further comments have been made in relation to the resubmitted scheme:
59. *Northumbrian Water* – made no comment on the application.
60. *The Environment Agency* – have previously indicated no objection but advised that any equipment/ infrastructure located next to the river should be secured in order to

prevent them from washing away during flooding and potential risk off-site. They also advised that the sewerage undertaker should be requested to demonstrate that the sewerage and sewage disposal systems serving the development have sufficient capacity to accommodate the additional flows, generated as a result of the development, without causing pollution. Finally they request that car parking areas draining to soak-away should be passed through an oil interceptor before discharging to ground.

61. *Durham Constabulary (Architectural Liaison officer)* – Noted that whilst in operation this site has created no policing issues or concerns, and therefore no comments or recommendations are made on the proposals.
62. *County Highways Authority* - The application incorporates the required additional parking therefore no highway objection was made.

INTERNAL CONSULTEE RESPONSES:

63. *Landscape Officers* write; While there is no remaining objection in principal to the application, the details of the proposals and the practical undertaking of the management plan over time are still matters of primary concern. Any structures, such as drums, described as moveable should be removed to storage or sufficiently secured between times of use to prevent vandalism. All existing detritus within the wood should be removed off site. Future provision for waste disposal should be clearly described in detail. All structures should be biodegradable. As previously requested, the extent of Himalayan Balsam scheduled for regular seasonal cutting and control should be indicated on plan. Replanting mixes, sizes, planting specifications and establishment management details should be submitted all as previously requested. The proposed hedge, defining the overspill car-park, should be detailed on plan as a curved feature, rather than rectilinear. Overall dimensions and any details of hard standing should also be included.
64. *Environmental Protection Officers (EPO)* note that as the new application differs little from the earlier scheme there is a high degree of consistency with their previous advice, however comment is made on new information as required.
65. The site is characterised as a quiet rural area, however with loud noise occurrences – noting the presence of a well-used country road, the railway line, the watercourse, woodland and more distant traffic noise. The nearest noise sensitive dwellings are approximately 50m to the north and east of the proposed site, although the curtilage of the development may be significantly nearer, and are significantly higher in terms of topography being raised out of the valley.
66. There are no specific criteria used for assessment of noise from paint balling activity, therefore the assessment has been carried out to demonstrate the ambient noise levels at the nearest sensitive dwellings, and using a computer modelling system, compare this against the potential noise from the development. The noise levels have been assessed against the criteria set out in BS 8233 and the World health Organisation's Noise Guidance for Community noise document. Although not directly applicable, EPOs consider that these standards/guidance are the most appropriate to use in relation to this development, however it is acknowledged that this form of assessment does not fully demonstrate the impact of this type of development.
67. Once again, comments have been put forward that BS 4142 would be a more appropriate assessment criteria to use. However BS 4142 relate specifically to industrial or fixed plant noise and is used for constant/regular noise and therefore it is not considered this would provide a better assessment of the noise impact of the

development then that already provided. The intention of a noise impact assessment is to provide sufficient information to inform the planning process. It is not therefore appropriate to impose a methodology not intended for that purpose, just for the reason it will provide a different outcome supportive of either applicant or objector.

68. The main noise sources related to this development are the noise from the generator/compressor used to refill air guns, the noise from participants i.e. screaming and shouting and the noise from the firing of the paintball guns. The assessment provided by the applicant demonstrates that there will be little or no detrimental effect of the development in terms of the noise level. However due to the nature of the assessment, criteria used and type of ambient noise on the site it is not agreed that this fully describes the potential noise impact of the development. The current ambient noise is, as stated, likely to be dominated by the train noise which inflates the background level. However when a train is not passing the ambient noise level is likely to be reasonably low and therefore the difference between the specific impulse noise of the guns and or persons shouting is likely to be more noticeable and intrusive. In addition the train noise is likely to be less intrusive and more accepted by persons as it is "predictable" i.e. you can hear it coming unlike the noise associated with the development. Noise from the paintball gun and shouting participants is "impulse" in nature i.e. a single event with a high sound pressure and therefore not predictable in nature and more intrusive.
69. The LA_{max} levels measured against the predicted do also not give a fair approximation of the impact as it does not recognise the numbers of loud occurrences. For example the figures measured at the site are likely to relate to a train, which may pass once every 5-10 minutes. The predicted although lower are likely to be a lot more frequent i.e. 30 persons over a 10 minute game and therefore a greater impact. However there is no information of frequency of occurrence provided and therefore this is an assumption made on the information provided and site visit.
70. The site has previously benefited from planning permission (restricted to 5 years) for paintballing for a maximum of 75 days per annum, and has operated previous to this utilising the permitted development rights. It is noted that comments have been raised that complaints were made in 2000. However, the Environmental Health department do not have any record of these complaints and also no others have been received in the following number of years that the site was in operation. Therefore the assumption can be made that this use did not significantly impact on the nearby sensitive dwellings.
71. EPOs do not consider that the conditions proposed by the applicant in 3.14 of the Planning and Design Access Statement would aid in reducing the noise impact of the assessment nor are reasonable or enforceable, as the use of arbitrary noise levels in a site and development such as that proposed would be impractical to set, measure and enforce and would not lead to an appreciable reduction in the impact of the development. In addition the requirement to carry out assessment following receipt of complaint may impose a significantly onerous requirement on any operator as the formulation of a noise impact assessment can be costly. Finally, should it be demonstrated that an arbitrary noise level is being breached then it would be very difficult to attempt to carry out mitigation measures as the main noise from the site cannot reasonably be mitigated. Therefore this would render any noise assessment meaningless as there would be no suitable feedback.
72. Should further conditions be considered necessary to address the reasons for refusal of the previous application, specifically in relation to the control of noise and its unpredictable nature, the following should be considered:

- To address the unpredictable nature of the noise and reduce the impact on a weekend and ensure the traditional “day of rest” prevent the use on Sundays or impose a condition restricting the use of the site for consecutive days.
- A temporary consent of 2-5 years would enable further assessment of the site in operation.
- Condition implementation of the mitigation measures proposed in the noise assessment.
- A cap on the number of people on site at one time. This is one of the few possible “noise mitigation” measures available to reduce the impact of shouting etc. However it is potentially difficult to enforce and also is not guarantee that it will reduce noise levels due to the variety of people and groups using the site and its unpredictable nature.

73. It is concluded that the noise impact assessment demonstrates that the application will not significantly impact on the nearby residential premises, though as described above it is not considered that this assessment fully addresses the noise impact from the proposed use. It is clear that the development will impact on the nearby residential premises in relation to noise, specifically the impact noise from screaming and shouting will be audible in the gardens serving the nearest dwellings.

74. The new application proposes the use to run for 75 days - a substantial reduction on the previous application of 150 days and therefore a significant reduction in the potential impact of the development. The new time period proposed mirrors the previous permission which operated for a lengthy period of time, without leading to any complaints being logged. The applicant’s suggested conditions are considered not suitable; however it is considered that there are potential measures/conditions, as stated above, which if implemented will further reduce the impact of the development. Environmental Protection Officer’s advice is framed on the basis that their comments relate to the potential of the development to cause a statutory nuisance, as defined by the Environmental Protection Act 1990. Statutory nuisance does not equate to the loss of amenity however, which the remit of the Planning Authority.

PUBLIC RESPONSES:

75. Kimblesworth Parish Council consider the noise and floodlighting of detrimental impact to the residential amenity of residents of Mill Lane. There is insufficient parking and increased highways implications. The development will have an unacceptable environmental impact.

76. The public response to the consultation exercise from two nearby residential properties revisits all previous concerns in requesting refusal reason, including noise pollution, traffic, litter, effect on wildlife, and the effect on natural beauty for commercial gain. The proposed use is incompatible with the Green Belt and Ancient Woodland designations, with a lack of screening to the built elements, and a perceived lack of parking provision, the parking provided having an ‘urbanising’ effect on the Green Belt, as will commercial bin storage on the site. Independent wildlife surveys are demanded, with a ‘destruction of habitats’ proposed. There is dispute that complaints about the previous operation of the site are not recorded at the Council. Pedestrian access to the site is poor, and other users of the countryside will be upset by the operation

77. Issue is taken in detail with the applicant's approach to noise issues, with the weight given to background noise, and the suggestion of further survey work unacceptable. It is considered there have been no steps taken to address noise issues. The refusal of the paintball operation at Beamish is quoted as a precedent and it is stated that there are 4 other paintball operations in the 'Durham area'.
78. Objectors summarised the proposals as a reduction from 150 noisy days to 75 noisy days, which is still too many noisy days.
79. Two consultants have written, one for local residents at three properties (two of whom have also written on their own behalf as above, one writing on behalf of the Judge's residence. The first consultant considers that the number of complaints made to the Council indicates that the temporary consent previously granted indicated an unacceptable adverse impact. They also state that their clients believe the previous 75 day use was exceeded at the time. It is further noted that the objectors are aware of the 'fall-back position' of the use operating under permitted development rights on the land. Objections are lodged on the basis of; Principle, Impact on the Green Belt / AGLV, Residential Amenity, Highway safety and Ecology / Ancient Woodland, with the detailed policy context of such discussed in detail. Of particular note is the repeated demand for a further noise assessment to be carried out in accordance with BS4142, and likewise a demand for a Bat Survey. The recreation and economic benefits of the proposals are understood, however the adverse amenity and highways implications even at a lower level of use (whether 75 or 28 days) is wholly unacceptable and far outweighs the benefits.
80. On behalf of the Ministry of Justice an objection begins, noting the previous reasons for refusal and the detailed residential use of the Listed Building, providing secure accommodation for High Court Judges serving on the North-East court circuit. There is accommodation for four judges alongside their clerks, the premises usually occupied between Sunday and Friday evenings, with some staff working occasional weekends. 'The judges Lodgings are essential to provide a peaceful environment where judges can undertake work outside of court'. The reduction in the proposed number of days of operation is noted, however, 'the Ministry of Justice still objects to the granting of any development that will have a significant adverse effect on its residents and employees'. It is unacceptable to consider the fully operational impacts of the use on the basis of the proxy operation originally used to provide a level for assessment.

APPLICANTS STATEMENT:

81. The applicants planning consultant has submitted a number of supporting documents with the application including a Management Plan, Breeding Bird and other Wildlife Survey and a Heads of terms for a s.106 agreement which sets out notification procedures for paintballing activities to the police and the nearby Judges Lodgings. The current proposal is an evolution of the withdrawn scheme with the applicant's agents and advisors directing additional effort into addressing the noise and landscape issues specified as the refusal reason the last application.
82. The agent had pointed out that paintballing has taken place on this site (under formal planning consent and permitted development rights) since October 2000. The resubmitted, current application is to establish a permanent consent allowing the activities to continue in a viable way.
83. They acknowledge there is noise emitted from the operation, pointing out the Council intended to measure that noise but did not do so in any scientific way. The noise

from the use is acknowledged difficult to assess, because its impact on amenity can be affected by a number of factors – in this instance the level of background noise (the railway line close by, for example), the mitigation offered by the woodland and the topography, and so on. Noting this is not necessarily a tranquil location the agents have argued that just because you can hear the activities, does not mean that they are harmful – evidenced by the fact that during the operation on the site, over the last 12 years there have been no complaints in relation to noise - the only complaint related to parking on the road and this was resolved. The conclusion of the applicant's formal Noise Assessment Report is stated 'to satisfy the local authority that noise should not be a material consideration when determining the acceptability of the paintball centre in planning terms'. It argues that the assessment shows the proposed use does not result in any significant noise impact, even at the nearest noise sensitive receptors, and that absolute noise levels both internally and externally within properties are not increased as a result of the use. Overall it is considered that the noise levels emanating from the paintball use of the woods would not be intrusive or disturbing or result in any loss of amenity to nearby noise sensitive dwellings, and that considered against para. 123 of the NPPF, there will not be a significant impact on nearby noise sensitive dwellings.

84. It is noted the applicant only proposes to use the site at weekends, Bank Holidays and up to two days during any week. It is a purely day time activity when background noise levels are at their highest.
85. Harm to the woodland has been a continuing issue, with the applicant's agents discussing in detail the effect both on the ancient woodland, and on ecology issues, with much additional work done to address the Council's concerns on these issues through a suggested woodland management plan. It has been pointed out that the applicant could carry out activities under permitted development rights, and there would be no requirement to manage the woodland. The rutted tracks are the result of previous timber felling operations and, to a lesser extent, unauthorised use of the site by motorised vehicles by a previous operator. The current application is for paintballing only and there will be no use by motorised vehicles, and restoration of emblems of the woodland damaged by vehicles has been discussed and agreed.
86. The grant of planning permission would enable closer scrutiny over the effects of the use on the woodland – there is no reason why this cannot be dealt with by condition of planning approval and seen as an opportunity to improve the environment in addition to the detailed additions to the management plan which have evolved through the current application. The Applicant has indicated a commitment to comply with all environmental requirements. It is noted that paintballing activity takes place on a small area of the overall woodland, and the extended woodland management proposed extends beyond this, the use itself leaves the great majority of the woodland undisturbed. Previous planning consents included conditions relating to environmental issues (tree planting for instance) all of which have been complied with.
87. The bird survey indicated that there had been no reduction in the number of birds on the site. Paintballing is a recognised and legitimate countryside activity. It is very popular in the area, and provides an important recreational activity in the countryside. By its nature, it needs to be located in woodland areas.
88. The use of land is argued controlled and not intensive, and cannot take place during anti-social hours due to lighting constraints. In this location there are a number of background noise emitting sources, trains being the most noticeable.

89. It is concluded the use creates employment and provides for outdoor recreation consistent with demand from the community. The increase car park addresses previously raised highways concerns, with conditions capable of ensuring an acceptable level of residential amenity, consistent with the development plan.

The above 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 County Hall, Durham.

PLANNING CONSIDERATIONS AND ASSESSMENT

90. 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 issues in this instance relates to the principle of development and impact upon residential amenity, with visual impact and effect on the character and appearance of the area, impact on woodland and ecology, access and highway safety, and other site specific matters considered thereafter.

91. To add appropriate weight to the consideration of each of these issues for consideration of the current application, it is pertinent to note that the application is a resubmission. The refusal reason of the previous application focussed solely on the effects of the site on residential amenity, with other issues having been accepted by Members in the detailed assessment of those proposals. The current proposals are consistent except in relation to proposed duration with the previous scheme and it is reasonable for the applicant to expect that the Council's assessment will be consistent. To determine the application otherwise could lead the Council open to accusations of 'unreasonable behaviour' and costs in the event of an appeal. However as each application is considered on its own merits, those assessments must be revisited.

Principle of Development

92. Across the NPPF Local Planning Authorities are advised to plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access and to provide opportunities for outdoor sport and recreation, noting that a strong rural economy can be promoted through the expansion of all types of business and enterprise in rural areas and plans should promote the development and diversification of agricultural and other land based rural businesses, with rural tourism that respects the character of the countryside encouraged.

93. As previously acknowledged by Policy Officers, with the proposed use as outdoor recreation falling into the category of 'sport and recreation' it would in principle be appropriate, in both a Green Belt and countryside location. The proposals would not conflict with the five purposes of the Green Belt Land set out in the National Planning Policy Framework. The Framework sets out the circumstances in which the construction of new buildings and development can be appropriate. These exceptions include the provision of appropriate facilities for outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including the land within it. The purpose, nature and extent of the proposed games structures and associated ancillary features as well as the alterations to the existing building could therefore be considered appropriate and would comply with the principles set out in paragraph 89 of the NPPF. In coming to this conclusion, the nature of the generally wooden and canvas structures proposed, and the likelihood of these being quickly visually integrated into the natural setting by woodland verdi-gris has been taken into account. The secure container could be

likewise assimilated by appropriate colouring and camouflage netting, in character with the use. The finish of the structures can be controlled by an appropriate condition.

94. The proposals are considered to comply in overall terms with policies NE2, NE4 and NE6 of the Chester-le-St Local Plan in terms of how both the use and proposed operational development affect the openness of the Green Belt and the countryside, and these policies are considered to have high degree of compliance with the Planning Framework. The proposed use, being for recreational and leisure purposes balances between the restrictive policies designed to protect landscape character and quality and the NPPF's requirements for the planning system to drive sustainable economic growth, aspirations echoed by the stated corporate objectives of Durham County Council.
95. The proposal, being an outdoor participatory sports and recreation use is furthermore considered to comply with policy RL10 of the present development plan, as for participatory and outdoor recreation in the Green Belt, in line with the requirements and criteria of the policy.
96. In terms of the basic land use policies, and the drivers for sustainable economic development in the existing and emerging local plans, with the parallel 'golden thread' running through the NPPF, the principle of this type of development in a Green Belt, countryside location is accepted.

Residential Amenity

97. The impact of a proposed land use and/or development on the amenity of neighbouring properties is a material consideration when deciding whether a planning application should be approved or refused. The test is whether the impact on amenity would be sufficient to justify refusal, not whether the development would result in a statutory nuisance, reflecting the qualification from Environmental Protection Officers of their comments.
98. There are a number of residential properties sited in close proximity to the application site. The Judges Lodge in the listed building of Southill Hall is situated directly to the north of the woods at a distance of approximately 100m from the nearest proposed 'battle zone', with the garden being located at a distance of approximately 65m has a similar relationship to the site as the adjacent 'Garden Cottage'.
99. The residential properties of Watermill Cottage and Mill House, also objecting to the proposals, are located to the south west of the site accessed directly off Mill lane, at a distance of approximately 280m (from house) and 220m from garden to the nearest 'battle zone'. As such the layout of the zones is again considered to be of less concern at the present time for these properties, albeit it is acknowledged that at certain times and in certain atmospheric conditions, the operation may be heard more than at others.
100. The NPPF and NPPG require that the planning system should contribute to and enhance the local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution, further advising that decisions should avoid noise from giving rise to significant adverse impacts on quality of life as a result of new development. Directly relevant is policy RL9 of the development plan, which requires that development of sports activities which require a countryside

location must not damage the amenity of neighbouring residential properties, directly reflecting the national advice.

101. The residential amenity impact in this instance comes principally from the noise the use will generate, with the principle sources of noise outlined in the Pollution Control Officer's comments, these being the noise of the weapons, the noise of the participants shouting and screaming, and noise from the compressor used to refill the guns. The disagreement between the Council's and the applicant's methods of assessing the impacts, and indeed in objector's demands for different assessments, reflects the difficulties of measurement where averaged or anticipated sound does not reflect the effect of short 'spike' sounds, which by definition are potentially more noticeable, especially when they are random or sporadic. Whilst there is benefit in assessing and quantifying the background noise as a means of basing a decision upon an objective assessment rather than being subjective, the nature of the noise generated by the proposed use – both the airguns and the customers can be more intrusive than the comparatively high background noises of woodland in wind, fast moving water, trains or traffic, due to the nature of the noises emitted.
102. There are a number of noise sensitive receptors i.e. dwellings, located in the vicinity of Blackdene Wood that potentially may be impacted upon from the proposed use of this site for paintballing activities, with some neighbours claiming to have been affected by previous operations. The closest purely residential property is Gardener's Cottage which adjoins the northern side of the site. The garden of this property is sited approximately 55m from the edge of the nearest gaming zone with the dwelling sited approximately 100m from the nearest gaming zone, with an additional relationship to the base camp where participants congregate and instructions and demonstration on how to operate the guns are given.
103. Following withdrawal of a previous application for lack of information on this issue, the applicants submitted a detailed noise assessment with their last application, the details of which are summarised again by the Case Officer in the Applicant's Statement section, above.
104. It is noted that during the course of the current planning application, the site has again not been used. During the previous applications a Case Officer with a PCO visited Gardeners Cottage when the site was in use, with those officers concluding that if the use was carried out over a sustained period of time there would be a significant difference with the low ambient noise level which suggests that a sustained paintballing period in the locations beneath the dwelling would potentially reach a level that could lead to a significant affect upon the amenity of the property. It was further noted that residents had complained of screaming and shouting during games sessions and raised concerns regarding the intrusive tonal nature of noise and disturbance from the existing paintball use that has taken place. The indications were that the noise resulting from the paintball use is markedly different to that which might be expected in a rural area and at weekends when residents might reasonably expect a degree of peaceful enjoyment of their gardens.
105. Officers have consistently struggled with the fact that there is no apparent formal history of complaint from a use that has appeared to establish itself over a number of years despite resident's claims to the contrary. The nature or presentation of these complaints or queries may explain this. Likewise PCOs have acknowledged and given weight to this fact in their comments.
106. As with the previous application, the number of days proposed and the resultant focus on the days of the week where residential property could most reasonably

expect the most amenity from their properties and gardens is the crux of the problem at hand, as reflected in the wording of the refusal reason.

107. At the last Committee Meeting, Members were especially concerned at the effect of the then proposed operation of 150 days on the Judge's residence, but also noted that that consultee repeatedly stated that they had no objection in principle to the development, but were concerned with its extent, suggesting a compromise use of 112 days per year. This was the particular residential amenity that Members sought to protect with their decision for refusal, the relationship of the properties to the west of the site in Mill Lane, proportionately of less concern. This was the intent of the refusal reason, albeit the wording of this is not specific to that individual property. This is also the basis upon which Officers have pursued negotiations with the applicants following the refusal. In order to reflect both the stated requirements of the Judge's residence, and that of the wider residential community, Officers pursued a threshold of 75 days, on the basis that this was the level of previous operation that appeared to have achieved a level of acceptance or tolerance in the past, as the regularity was a specific component of the refusal reason. It is stressed that the planning process is a linear one – if an applicant has an application refused, but can address the reasons for refusal, then they should reasonably expect a favourable determination.
108. There are two main variables that may affect this linear approach – an inconsistent response from consultees, and changes in law, policy or advice. The Judge's representatives have significantly shifted their position without either explanation or acknowledgement of this. Members will note that EPO comments seek to frame conditions to further reduce potential effects on the judge's residence, and the surrounding residential property generally, in seeking to avoid certain days and consecutive days from any consent.
109. There have been two changes in the Policy context since the last decision. The emerging County Plan, the relevant Policies from which are outlined above, begins to accrue material weight depending on how contentious the new policies within it have been challenged through the Examination in Public. This will need an evolving judgement, however it is pointed out that the relevant policies are an evolution of the previous policies, and no wholly new issues are raised. The Chester-le-Street District Local Plan (saved policies 2009) remains the statutory 'development plan' against which the application must be determined. Additionally the Government had offered additional advice on assessing noise issues, in the NPPG, as outlined above, albeit this refers back to the Noise Policy Statement that was previously considered.
110. Whilst both EPOs and objectors consider the applicant's suggested conditions unworkable, EPOs do come to the conclusion that a series of conditions could take the level of the operation below the point where it would be considered a Statutory nuisance and therefore towards acceptability in terms of the planning assessment of residential amenity.
111. In terms of consistency of approach and taking into account the current and previous applications Officers concur with EPOs and conclude that the proposals may on balance be considered acceptable if restricted by conditions that would preclude use of the site on a Sunday, that restrict the number of days of operation consistent with the previous operation and prevents use of the site on consecutive days. However, the acceptability or otherwise of the scheme in terms of noise impacts is a balanced judgement both for Planning and Environmental Protection Officers. It is not felt that the submission of any further information in this regard would assist and that instead, whilst the applicant has requested a permanent consent, an approval should be framed around a temporary consent which would give an opportunity for a trial period

during which the Council has the opportunity to assess the actual impacts upon residential amenity. A 3 year duration of this temporary consent is considered to be sufficient to give the landowner surety of use to attract an operator, whilst restricted to allow further on-site monitoring of the effects and review of the use as appropriate. Such a condition is also considered to give a reasonable balance between protecting the amenity that residents could reasonably expect to enjoy and balances the working practices of the Judge's residence. Whilst government advice warns against repeat temporary permissions, the passage of time between the previous operation and that now proposed justifies a fresh look at this.

Visual Impact and Effect on the Character and Appearance of the Area

112. The eastern side of the site, up to the viaduct, is included within an Area of High Landscape Value (AHLV) in the current local plan (although this designation is not replicated in the emerging plan), where development must not detract from the high landscape quality. As previously mentioned, the whole site is designated Green Belt in open countryside.
113. It can be seen that the site is generally well screened for most of the year from the adjacent public vehicular highways to the south by mature tree cover and established flora, and by the steep valley – the use sits within the valley floor, with the public aspect from on top of the valley side. It would be possible when walking along Mill Lane to catch glimpses of structures (as was possible with those formerly on the site), however with a lack of footways the vast majority of passers-by are car-borne. Those structures proposed are larger, numerous and spread over a longer area than previous, but it is considered that as they would be generally constructed of a rustic timber which given the location should weather quickly, their location on the valley floor and the fact that the site is relatively well screened from public vantage points located beyond it should ensure there would not be significant impact on visual amenity. Whilst the Mill Cottage car park is visible from the road, it is well screened by the countryside by a maturing hedgerow, with an extended screen for the intended car park extension. The proposal is not considered to be detrimental to the landscape setting of the rural character and appearance of the area, where a range of an appropriate countryside related employment and leisure uses could reasonably be expected. The topography and the nature of the proposed structures are such that in a woodland setting, the visual impact and effect on the character and appearance of the area may be accepted. In this respect the proposals are considered acceptable considered against this aspect of the Green Belt, AHLV and countryside policies. It is noted that the emerging local plan designates the site within a Historic Park or Garden of local importance. Whilst the early stage of the plan is such that minimal weight is given to this policy (44), the same justifications would ensure it is considered acceptable.

Impact on Woodland and Ecology

114. Within the County Durham Landscape Character Area the designated Ancient Woodland which covers much of the application site seeks to conserve, enhance and restore characteristic features of the Oak/birch woodlands. Paragraph 109 of the NPPF requires that the planning system protect and enhance valued landscapes and geological interests. RL9 of the development plan requires that proposals should not damage flora and fauna and that development of sports activities which require a countryside location must not damage the character and appearance of the countryside or flora and fauna. Para. 118 of the NPPF advises that planning permission should be refused for development resulting in the loss or deterioration or irreplaceable habitats, including ancient woodland, unless the need for and benefits of, the development in that location clearly outweigh the loss.

115. The main ecological issue for consideration is the impact of future use of the site for paintball games and the degradation of the ancient woodland and thus the landscape character of the area. Having said this, the application site is far from pristine ancient woodland, with a lack of active management and damage from the previous operations contributing to a fairly poor environment. The application offers the opportunity of a mechanism for the improvement and formal management of the woodland, which will not be available if the application is refused.
116. The Councils Landscape Architect and Ecologists have undertaken extensive site visits and assessment and have in the past noted concern at the effects of activities on the site. These included the intensive use of tracks and footpaths through the woods, including use by vehicles, especially to the east of the viaduct and in the lower valley. With the application resubmitted, the evidence of these elements of the previous use are becoming re-assimilated into the natural environment. Where the paintball activity has occurred and on the river terraces there is a lack of ground or shrub flora. There has been little attempt at creating exclusions within the paintball areas to allow natural regeneration and there has been no active woodland management to this point in time. The proposed Woodland Management Plan sets out to manage these issues and proactively manage some of these issues on site that are compromising the woodland, but are not related to the former or proposed use – Himalayan Balsam and Rhododendron control, stream bank stabilisation, appropriate new planting and thinning works.
117. The internal consultees advise that the management plan provided within the application from being wholly inadequate in the last submission is now basically sound, and potentially capable of achieving the aim of improving the woodland. Whilst achieving the best for the Woodland area is a valid aspiration, the current version of the Woodland Management Plan gives the opportunity to achieve significant benefits for the poor Ancient Woodland area, that would otherwise be not available. The outstanding details are capable of resolution through condition, and Officers therefore again recommend that in terms of these previously significant area of concern, the current proposals are again capable of approval subject to a condition to finalise the management plan, and ensure its proper implementation.

Access and Highway Safety

118. The applicant proposes an extension to the existing car park which would be screened by an agreed specification of hedging. Highway, parking and access concerns have been raised by local residents, with photographic evidence of overspill onto the roadside verges around Mill Cottage, and in a layby with litter-bin some 375m from the site entrance that they attribute to the site operation. In support of the application the applicants agent outlines traffic and travel patterns associated with this type of development, in that it is envisaged that the majority of participants would travel to site in groups, either by car sharing or by mini-bus such is the nature of the group participation. The parking would be managed and marshalled within the site. It does appear that some of the previous problems with this aspect of the use related to the loading and unloading of the off-road buggies that were used for a time – these are not proposed included or allowed as part of the current proposals, and any suggestion of their operation can be controlled by restrictive condition. The Highways Officer is satisfied that an acceptable level of parking would now be provided, given a proposed extension of the existing car park as required by policy T8 of the development plan, and has raised no safety concerns with the visibility of the access, which is sited on the outside of a bend, is consistent with the requirements of policy T15.

119. The NPPF advises that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. In this case the perceived vehicle trips generated can be accommodated within the existing highway network.
120. The other transport related aspect of the development relates to sustainability. The agent makes a case that the site can be accessed by public transport by buses stopping on the A167, within walking distance of the site, and in turn there are direct rail links from Chester-le-Street to Durham, Newcastle and the national rail network. In actuality, this transport aspect of the site's sustainability is poor, but effectively unavoidable in a countryside location. The balance between the potential benefits of economic activity, employment generation and additional leisure facilities and the remote location relying on private vehicular access to the site is accepted.

Other Site Specific Considerations

121. Conservation Officers concurred previously that the proposed use and operational development, within the wooded valley would not be of detriment the setting of the listed Southill Hall, due to the existing topography and screening as required by part 12, with no concerns having been raised to the proposed Historic Parkland designation.
122. Concern has been raised regarding the safety and enjoyment of individuals' enjoyment of the countryside pursuing horse riding, jogging and cycling activities. In the context of these wider countryside pursuits, the extent of noise and disturbance individuals could be subjected to is not considered unreasonable, given the general background noise and activity that may be expected in the area – from the A167, the main East Coast Rail line, and general road traffic on Mill Lane, and the wider environment across which these activities can be enjoyed. A refusal on these grounds is again not considered reasonably justified.
123. The site is part of a Durham County geological site known as the 'Sacriston sub glacial channel' which is protected under policy NE8 of the current development plan and paragraph 109 of the NPPF. Due to the over-land nature of the proposals it is considered that there would be no impact on the geological structure of the site.
124. The application site straddles the Blackdene Burn and incorporates the construction of structures close to and over the Burn as well as activities being undertaken by participants in the vicinity of the Burn. The Environment Agency have advised in the past that they have no objection to the proposals although advise should planning permission be granted, that any equipment/ infrastructure located next to the river should be secured in order to prevent them from washing away during flooding and potential risk off-site. Therefore the proposal is considered to comply with the requirements of paragraph 100 of the NPPF which should ensure that flood risk is not increased elsewhere and that development is appropriately flood resilient and resistant.
125. Although there are informal paths through the application site there are no registered public rights of way within or abutting the site.
126. The previously stated technical requirements of the Environment Agency for oil interceptors could be met by condition.

CONCLUSION

127. It has been established that the principle of the proposed development, within the Green Belt and AHLV, and its potential visual impacts are considered acceptable within its setting. The applicant has made efforts to address these topics following the direction given by Members at the last Committee Meeting. The Woodland Management Plan has reached a stage where the outstanding minor issues are considered capable of resolution through an appropriately worded condition, and this component of the submission is identified as an opportunity to ensure pro-active management of the ancient woodland and control of the invasive species within it as a weighted benefit of an approval. The effect on landscape character and open-ness controlled by protective designations of Green Belt, AHLV and open countryside has been examined and found acceptable. Likewise other issues raised by consultees have been found acceptable, or capable of resolution through condition.
128. It is highly relevant that the NPPF requires planning decisions to proactively drive and support sustainable economic development to deliver business and that every effort should be made objectively to meet business and other development needs of an area and respond positively to wider opportunities for growth. In particular paragraph 28 states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. It is acknowledged that approval of these proposals would potentially provide jobs within the local area, and help to support other nearby businesses.
129. Weight has been given to the fact there is a potential fall-back position in that this type of use can, as previously, benefit from permitted development rights, whereby the use could potentially operate, without planning permission, for up to 28 days a year without restrictions being able to be imposed, i.e. no notice to the Judge's residence, no restriction on which days are operated, and no restriction on hours of use and also with no opportunity to ensure proactive woodland management. Note is however made that many of the structures as proposed constitute 'operational development' and therefore they and the use would require planning permission.
130. However, notwithstanding the positive aspects and general support in principle to leisure activities and economic activity within the countryside any decision needs to be balanced against the principle of ensuring that development does not compromise reasonable expectations of residential amenity. Safeguarding the amenity of existing residential occupiers, is a requirement of the NPPF in that planning decisions should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. This requirement, to safeguard the amenity of residents, specifically in relation to noise is set out within para.s 109 and 123 of the NPPF and generally within policy RL9 of the development plan. The conditions appended to the end of this report seek to achieve this.
131. The noise assessment submitted by the applicants for the last application, and relied on again for the current proposals, has been considered in detail by Pollution Control Officers. Noting the fall back position of 28 days unfettered use, and the apparent absence of complaint when the use operated at 75 days per year, EPOs acknowledge the use has the potential to compromise the amenity of the nearest residents if unregulated, and on this basis have suggested a number of potential conditions designed to both mitigate and make the presence of the noise more predictable. It is noted that the proposed suite of conditions is materially different to those suggested by the applicant. In particular, it is not considered that it would be reasonable to seek to review of the noise implications by way of condition as this could result in a fundamental alteration to the nature of the development permitted,

nor can the applicant's agreement to such conditions render them reasonable. The prime difference is that Officers feel that this is an appropriate situation for consent to be granted on a temporary basis. That will provide an opportunity of future review of the operation of the use in practice, including any noise or other residential amenity impacts.

132. The applicant is considered to have addressed the area of concern that led to the refusal of the application, reducing the days of operation from the previously proposed 150, past the Ministry of Justice's suggested 112, to the current 75 days. It is acknowledged that surrounding resident's concerns remain, and that they have revisited all elements of the scheme in framing their objections. The change in stance of the Ministry of Justice without explanation is disappointing. However, the proposed suite of conditions, framed in a temporary consent, are intended to balance the amenity requirements of the Judge's Residence and the amenity expectations of the more traditional residential properties, whilst giving the land-owner the opportunity to offer a reasonable length of commercial tenure to a potential operator, whilst allowing the Council the opportunity to monitor and potentially review the effects of the operation in due course.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions;

1. This consent is granted for a temporary period of 3 years from the date hereof when, unless the renewal of consent has been sought and granted previously, the use hereby permitted shall be discontinued and the land reinstated to its former condition, with the removal of all structures and chattels associated with the use, in accordance with details to be submitted to and approved in writing by the Local planning authority.

***Reason:** To allow the Local planning authority to monitor the operation and review the position in accordance with Policies NE2, NE4, NE6, NE15, RL9, RL10, T8 and T15 of the Chester-le-Street District Local Plan (saved Policies 2009).*

2. The paint-balling activity hereby approved shall not take place more than a maximum of 75 days per calendar year. The use shall not take place on Sundays, or on consecutive days. The applicant will retain an up to date log of the events undertaken each calendar year and this is to be made available to the Local Planning Authority upon reasonable request.

***Reason:** to clarify the extent of the consent, and in the interests of protecting residential amenity in line with Policies RL9 of the Chester-le-Street District Local Plan (saved Policies 2009).*

3. Operation of the site is restricted to between the hours of 0830 until 1730hrs, with game play between the hours of 1000 until 1600hrs only. The site shall be set out and operated wholly in accordance with the submitted Management Plan, dated July 2014.

***Reason:** to clarify the extent of the consent, and in the interests of protecting residential amenity in line with Policies RL9 of the Chester-le-Street District Local Plan (saved Policies 2009).*

4. The operation of the site must be carried out wholly in accordance with the mitigation measures set out at part 10 of the 'Blackdene Woods Paintball Site Noise Impact Assessment', ACCON UK, dated 04/03/2013.

Reason: to clarify the extent of the consent, and in the interests of protecting residential amenity in line with Policies RL9 of the Chester-le-Street District Local Plan (saved Policies 2009).

5. The Operator of the paintballing activity must give a minimum of seven days advance written notice of a proposed days use of the site to the Hall Manager at the Judge's Residence, Southill Hall.

Reason: In the interests of safeguarding the special amenity and use of the Judge's residence at Southill Hall in line with Policies RL9 of the Chester-le-Street District Local Plan (saved Policies 2009).

6. The development must be carried out wholly in accordance with the following approved specified plans:

C149/3	Site Plan West
C149/2R1	Site Plan East
C143/5	Mill Cottage Proposed
C143/10	Zone D, Zone F
C143/9	Zone E
C149/7	Base Camp
C149/6	Base Camp
C143/8	Zone A, Zone C

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy NE2, NE4, NE6, NE15, RL9, RL10, T8 and T15 of the Chester-le-Street District Local Plan (saved Policies 2009).

7. Notwithstanding any details of materials submitted with the application no development shall commence until details of the materials and finish of all structures shown on the approved plans have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details. Details should be included to show any equipment/ infrastructure located next to the river is secured in order to prevent them from washing away during flooding.

Reason: In the interests of the appearance of the area and to comply with Policy NE6, NE15, RL9 and, RL10 of the Chester-le-Street District Local Plan (saved Policies 2009).

8. Before the use hereby approved is brought into operation, a detailed scheme for the construction, surfacing, layout, drainage and landscaping screen hedge of the approved car park adjacent to Mill Cottage must be submitted to and approved in writing by the Local planning authority. Said scheme must include a detailed planting and maintenance schedule including details of species, plant sizes and timing of implementation. The proposed hedge should be detailed on plan as a curved feature, rather than rectilinear. The maintenance schedule must provide for replacing specimens that fail within a defined time period.

Reason: In the interests of the visual amenity of the area and to comply with Policy RL10, T8 and T15 of the Chester-le-Street District Local Plan (saved Policies 2009).

9. Prior to being discharged into any watercourse, surface water sewer, or soak-away system, all surface water drainage from the parking areas and hard-standings hereby approved shall be passed through trapped gullies and oil receptors installed and subsequently operated in accordance with a detailed scheme to submitted to and approved in writing by the Local planning authority before the use of the land hereby approved commences.

Reason: To prevent pollution of the water environment in accordance with Policy RL9 of the Chester-le-Street District Local Plan (saved Policies 2009).

10. The approved development and future maintenance of the site must be carried out in accordance with, the 'Blackdene Wood, Plawsworth – Woodland Management Plan (revised)', October 2013, by All About Trees. In addition, the extent of Himalayan Balsam scheduled for regular seasonal cutting and control should be indicated on plan, and along with replanting mixes, sizes, planting specifications and establishment management details should be submitted to the Local Planning and agreed in writing before the Use hereby approved is brought into operation.

Reason: In the interests of the visual amenity, ancient woodland and protected species of the area and to comply with Policy NE6, NE15, RL9 and, RL10 of the Chester-le-Street District Local Plan (saved Policies 2009).

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the decision to approve the application has actively engaged with the applicant to secure a positive outcome in accordance with the NPPF.

BACKGROUND PAPERS

- Submitted forms and Plans.
- Protected Species surveys, Barrett Environmental, Sept 2011
- Paintballing Management Plan, George F White, July 2014
- Noise Impact Assessment, Accon UK, 04 March 2013
- Planning Design & Access Statement, George F White, July 2014
- Woodland Management Plan, Oct. 2013 All About Trees Ltd.