

Application Ref: 15/02104/FUL

Proposal: Change of use for part of existing agricultural barn and paddock to Laser Tag activity area

Site: Battlefield Live, French Drove, Thorney, Peterborough

Applicant: Mr G Simons
Battlefield Live

Agent: Mr Steven Hall
Swann Edwards

Referred by: 1) Cllr David Sanders - Noise and the visual impact of the proposed 2 metre fence which is not in keeping with the local vicinity.
2) Cllr Richard Brown - Requests that Planning Committee considers the application
3) Thorney Parish Council - Requests the application is referred to Planning Committee so that a frank and open debate can take place

Site visit: 07.01.2016

Case officer: Mrs J MacLennan

Telephone No. 01733 454438

E-Mail: janet.maclennan@peterborough.gov.uk

Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

Site and surroundings:

The site area is approximately 1.139ha and includes a paddock area enclosed by a timber post and rail fence and part of an agricultural barn. The site is located within Old Hall Farm to the south of French Drove which is within the open countryside, predominantly characterised by a flat fenland landscape. The site is accessed via an existing private access road off French Drove. Directly to the west of the site are two barns which have been recently converted to dwellings; Oak Barn which is occupied by the applicant; the other adjoining property is Sparrow Barn. There is a large agricultural building to the rear of Oak Barn. The site is set back from French Drove by some 275m. Other than the adjoining properties at Sparrow Barn, the residential properties closest to the site fronting French Drove are Oak Lodge approximately 231m away and Old Hall Cottages some 575m away. On Bell Drove, the road to the east, Bluebell House and Bluebell Cottage lie 400m and 320m from the site.

Proposal:

The application seeks approval for a change of use agricultural land and part of an agricultural barn to a Laser Tag Activity use.

The proposal will include a gaming area approximately 0.75ha which would be enclosed at the northern and eastern boundaries by a 2m high acoustic fence. Double row planting in native trees and shrubs would be located to the outside of the fence to prevent views of the fence and the structures used as part of the laser tag game play.

Within the gaming area a number of low level structures are proposed. The structures are constructed from timber and painted in green/brown and covered with camouflage netting and include:

- Gated entrance: A recycled timber constructed gateway with sign above. Width of gate 2.4m. Side panels at side of gate 1.2m x 2.4m.
- Octagon Defensive pill box: Overall dimensions covering an area of 4m by 4m. Height from floor to roof 3m. Materials recycled timber posts with recycled timber slatted sides. Roof material camouflage netting. Timber painted in camouflage green and brown External walls covered by camouflage tarpaulin
- Timber shed structures x 8: Dimensions of each building 4m long by 2.4m wide. Height 1.8m. Materials recycled timber panels with openings depicting windows and doorways. Recycled timber painted in camouflage green and brown with camouflage netting to roofs
- Timber shed structure: Basic wooden shed style structure. Open at sides with top and front covered in camouflage tarpaulin. Dimensions 3m x 3m x 2m high.
- Wooden barricades x 20: constructed in simple reclaimed timber post and trunk construction in natural materials. Dimensions 2m wide by 1m high. Painted green/brown with grass allowed to grow around
- Compound: Consists of fenced area 1.8m in height timber painted green with camouflage netting above. Overall dimensions 15m x 15m.

The operating times would be between 09:30 and 17:00 daily although the activity would operate primarily on Saturday and Sundays and school holidays. The participant activity limited to two daily sessions running between 10:30 – 12:30 and 14:00 – 16:00 allowing for reception, safety briefing and refreshment intervals. The game play times average 90 minutes per session or a maximum of 3 hours per day. The operating times outside the sessions would allow for staff preparation and clearing down time.

Part of an existing agricultural barn would be used to provide a reception/briefing area and for toilet facilities and as a shelter for light refreshments.

Since the initial submission additional information relating to noise has been submitted by the applicant. All contributors and neighbours were re-consulted. The neighbours were given a further 21 days to response. The consultation period expires on the day this committee report is issued and therefore any representations made following the despatch of the report will be provided in the update report to committee.

The applicant had an appeal dismissed in relation to a very similar proposal on land adjacent to the site. See Appendix 1 for a copy of the Appeal Decision Letter.

2 Planning History

Reference	Proposal	Decision	Date
11/00950/FUL	Proposed change of use from agricultural to Battlefield Live Outdoor Activity	Permitted	28/10/2011
13/01585/WCPP	Removal of condition C1 (temporary permission for two years) of planning permission 11/00950/FUL - Proposed change of use from agricultural to Battlefield Live Outdoor Activity	Refused Appeal Dismissed	16/01/2014 24/03/2015

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (2012)

Section 3 - Rural Economic Growth

Should be encouraged through sustainable growth and the expansion of business/ enterprise including sustainable rural tourism/leisure developments which respect the character of the countryside, via the conversion of existing buildings and well designed new buildings. The retention and development of local services and community facilities should be promoted.

Section 8 - Social, Cultural and Recreational Facilities

Developments should plan for the provision and use of shared space, community services and other local services; guard against the unnecessary loss of valued services/facilities; allow established shops, facilities and services to develop/modernise; and ensure an integrated approach to the location of housing, economic uses and communities facilities and services.

Section 11 - Noise

New development giving rise to unacceptable adverse noise impacts should be resisted; development should mitigate and reduce to a minimum other adverse impacts on health and quality of life arising. Development often creates some noise and existing businesses wanting to expand should not be unreasonably restricted because of changes in nearby land uses.

Peterborough Core Strategy DPD (2011)

CS01 - Settlement Hierarchy and the Countryside

The location/ scale of new development should accord with the settlement hierarchy. Development in the countryside will be permitted only where key criteria are met.

CS14 - Transport

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

CS18 - Culture, Leisure and Tourism

Development of new cultural, leisure and tourism facilities will be encouraged particularly in the city centre.

Cambridgeshire & Peterborough Mineral and Waste Core Strategy DPD (2011)

CS26 - Mineral Safeguarding Areas

Development will only be permitted where it can be demonstrated that the mineral concerned is no longer of economic value, the mineral can be extracted prior to development taking place, the development will not inhibit extraction in the future, there is an overriding need for the development and prior extraction cannot be reasonably undertaken or the development is not incompatible.

Peterborough Planning Policies DPD (2012)

PP03 - Impacts of New Development

Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

PP08A - (a) Tourism, Leisure and Cultural Uses in Villages/the Open Countryside

Permission will be granted for development of an appropriate scale; which would support the local community; is compatible with the surrounding character / would not harm the open countryside; is easily accessible; and is supported by a robust business plan.

PP12 - The Transport Implications of Development

Permission will only be granted if appropriate provision has been made for safe access by all user groups and there would not be any unacceptable impact on the transportation network including highway safety.

PP13 - Parking Standards

Permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

PP16 - The Landscaping and Biodiversity Implications of Development

Permission will only be granted for development which makes provision for the retention of trees and natural features which contribute significantly to the local landscape or biodiversity.

PP19 - Habitats and Species of Principal Importance

Permission will not be granted for development which would cause demonstrable harm to a habitat or species unless the need for, and benefits of it, outweigh the harm. Development likely to have an impact should include measures to maintain and, if possible, enhance the status of the habitat or species.

4 Consultations/Representations

PCC Transport & Engineering Services – No objection - There has previously been a planning consent on the adjacent site for a similar activity to that proposed which was given temporary consent in 2011. The LHA originally requested details of the access however, these were not forthcoming and the application was approved. The submitted traffic data shows that the vehicle trips to the previous use were below the threshold with would require a Transport Assessment. An assessment of accident data within the vicinity of the site access has shown that there have been no highway safety issues associated with vehicles using the site previously. The LHA therefore raise no objection.

PCC Pollution Team - The Officer has reiterated the comments made under the former scheme. There is no specific guidance on assessing noise from such facilities unlike, for example, the comparison of the effect of industrial noise upon residential premises. The activity was subjectively viewed by acoustic consultant as similar in character to a football match. The gun noise was not considered to be an issue in that assessment. This is supported by objectors comments that the level of noise emanating from the site primarily due to voices shouting, screaming and laughing. Since there is no appropriate standard against which to assess such noise levels, a comparison with similar activities has been undertaken to attempt to describe the level of impact. The majority of noise from such activities emanates from shouting associated with general player and coach activity, spectators and the referee's whistle. The Officer has provided information on football pitches in Northborough and Glinton and the Thorney Rugby pitch which are located near to residential properties to demonstrate the level of noise. This will be discussed further within the report.

The Officer concludes that in the absence of a standard for such uses, different views on acceptability are possible, there not being a right or a wrong way to come to any conclusion in these respects. This response has therefore focused on a comparison of noise levels between this activity and similar (albeit not exactly equivalent) activities, to help those form their own view of the acceptability of the proposal. It is advised that further consideration be given to mitigation for Sparrow Barn, Old Hall Farm.

PCC Wildlife Officer – No objection - Evidence of water voles was found in the ditch along the eastern site boundary. However, provided that a minimum five metre undisturbed habitat buffer is maintained alongside this ditch, and that the proposed hedgerow and acoustic fencing is installed, I am satisfied that water voles are unlikely to be affected by the proposal. The barn proposed for development has been adequately surveyed for presence of protected species, and that no evidence of current use by bats, barn owls or other birds was found. Details of the hedgerow, as proposed on the Site Location Plan and species details described in section 2.4 of the Design & Access Statement, appears acceptable. I would request that this hedgerow be provided as per the above

specification, to help ensure that the eastern boundary ditch containing water voles is protected from disturbance, as well as providing wider wildlife habitat benefits. This may be secured via a suitably worded condition. Subject to my recommendations being fully incorporated into the approved scheme the development will in my opinion result in no net loss to biodiversity.

PCC Tree Officer – No objection - The site is not within a Conservation Area nor are there any Tree Preservation Orders. The site is typical fenland arable land with no hedgerow boundary trees on the application site. Although there are number on trees close to the access drive which are unlikely to be affected by the proposal. The landscape proposals indicate a new native hedge around the northern perimeter. In principle there are no objections to this screening feature as it comprises of appropriate species and would easily blend into the landscape. There is no objection to the proposal. To secure the landscaping mentioned in the design and access statement at section 2.4, it is recommended that a suitably worded condition is attached to the decision.

PCC Minerals And Waste Officer (Policy) - No objection - The proposal site lies within a Minerals Safeguarding Area (MSA), designated due to the presence of reserves of sand and gravel which are considered to be of current or future economic importance. As such, any application, which is not on land allocated for development in other adopted DPDs, would need to be considered against Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS26 – Mineral Safeguarding Areas. The proposals do not include the provision of permanent structures which would sterilise the underlying mineral and the development in its current form cannot be viewed as incompatible. Any future applications for the site, particularly those that may include permanent structures, will also need to be assessed against policy CS26.

Lead Local Drainage Authority – No objection - the application details a change of use which would not have any surface water drainage considerations as such we have no comments or observations for this application.

PCC Rights of Way Officer - No comments with regards to Rights of way

Police Architectural Liaison Officer (PALO) - No objections, recommendations, or further observations

Environment Agency – No objections - We have no objection to the proposal as submitted, as the proposal would not result in an increase to the flood risk vulnerability classification of the development (as per the planning practice guidance). We support the recommendation of the supporting Design and Access Statement that the site owners will register with the Environment Agency's free Floodline warnings direct service, to receive advance warning of flood alerts.

Thorney Parish Council Two letters have been received

Letter 1 from Parish Chairman received on 12.01.16 – The Chairman explained Thorney Parish Council's role in the planning process and urged people to go to the Peterborough City Council planning committee to voice their views. The Clerk had received 5 objections and 7 supporting the application. Objections to the proposal were voiced at the meeting and the Council were advised that this application would cause the same distress as the previous operation. The applicant spoke at the meeting and advised that the new application has had full consultation with Peterborough City Council, with acoustic and environmental studies completed. Trip Advisor has rated the facility highly with games being able to be enjoyed by full and disabled body persons. All Health and Safety conditions are met.

Noise – children playing. Mr Simons did not believe that children noise was a problem. Peterborough City Council had never been called because of a noise nuisance nor had any other reports proved noise to be a problem.

Councillor Bevington was in favour of this application being approved but only if Peterborough City Council and their experts satisfy themselves, beyond any reasonable doubt, that the acoustic barrier proposals within the application overcome the noise problems that were of concern to the inspector

and which, understandably, remain of major concern to local residents. This was seconded by Councillor Rands as a Council policy and a vote showed 4 for the proposal, 3 against the proposal and 1 abstention.

It was requested that the application be referred to planning committee where all will have the opportunity to raise their opinions on the proposal.

Letter 2 from Parish Clerk re Parish Council meeting outcome received on 15.01.2016 – The meeting was carried out in a dignified way. The concerns of the objectors were heard first by Thorney Parish Councillors and these were noted by the Clerk. The applicant then put his views on the Application and his views were also noted. The Council supported this Planning Application by a majority vote. For your information there were far more supporters for this application than objectors present.

Whatever decision you make on this Planning Application please refer it to the Planning and Environmental Committee so a frank and open debate can take place.

North Level District Internal Drainage Board - No objection in principle. The Board's Charter's Drain forms the southern boundary to the site, therefore no development is permitted within 9 metres of the drain without the prior Land Drainage Byelaw Consent.

Cllr David Sanders – Objects I request that this application goes to Committee on the grounds of noise and the visual impact of the proposed 2 metre fence which is not in keeping with the local vicinity. As a Ward Councillor I am concerned that this application has gone ahead in virtually the exact same place as applications that were previously rejected by the planning inspector for a number of reasons which has been well documented. It is my opinion as a local Councillor that this application is wasting everyone's time yet again.

Cllr Richard Brown - Initially objected to the application and agreed with the views of Cllr David Sanders. A subsequent email advised that the Councillor had changed his decision regarding the application. In light of new evidence and a site visit the Councillor now requests that the application is referred to Planning Committee to re-consider this application.

Local Residents/Interested Parties

Initial consultations: 11
Total number of responses: 94
Total number of objections: 20
Total number in support: 74

20 letters of objection have been received. Letters have been received from 6 neighbouring occupiers; some of which have written several letters/emails. The following issues have been raised:

Previous application

- The policy provisions and the matter/issues for consideration remain exactly as set out in the decision letter from April 2015.
- The conclusions reached by the Inspector in respect of the key issues remain fully valid and fully justified.
- The submitted Design and Assess Statement (DAS) does not demonstrably and objectively demonstrate how the previous concerns and objections have been overcome.
- Given the terms of the appeal decisions, the applicant has chosen not to submit a new, comprehensive noise assessment.
- A previous appeal for a very similar application was turned down because "reasonable and acceptable forms of mitigation would not adequately reduce adverse effects from noise."

- The Inspector makes it clear that the majority of the residents objected due to the noise disturbance.
- As the Inspector's report points out the experience and sensitivities in regard to their close environment are completely different for local residents
- The Inspector considered the noise and disturbance would be unacceptable.
- The Inspector stated that 'the likelihood is that new noise sources, which would not normally be expected to be heard in the countryside, would be very noticeable'.
- The Inspector's view was that such a type of boundary treatment an alien feature contrary to Policy PP2 and lead to a conflict with Policy CS20 in that the design would not be sensitive to its landscape setting."
- The Inspector visited the site on 2 occasions and gives detailed reasons in her report as to why she dismissed the appeal.
- I'm astounded this application has been re-submitted in the face of such strong objection previously.
- We believe this application is an attempt to get around a previous refusal both by Peterborough Council and then again refusal on appeal.
- This new application is not significantly different and is still around 400m from our property.
- With the last application the applicant took no notice of restrictions and it would be the same this time
- A previous, temporary planning approval caused us significant upset during the period it ran for and when it ran on illegally.
- The only differences in this latest proposal are the change of title for the activity to "Laser Tag Activity", and that the game area is slightly smaller but there will be no fewer players.
- There were fewer participants in the first year of operating and the noise did not cause a problem
- The numbers increased the following year but when we complained we were advised that nothing could be done
- A condition making it a need to remove structures was previously ignored
- The Council have already stated that they do not have the resource to check that conditions are being adhered to
- The LPA should consider the likely effectiveness of conditions and whether they would be complied with
- There is no Development Plan policy basis for approving this proposed development and there is no evidence that the adverse impacts could be properly and effectively mitigated and controlled.
- The new planning application submission has failed to address and resolve the conclusions of the Inspector
- The adverse effects of the proposed development have not changed and the recent appeal decision should be upheld.

Neighbouring Amenity

- The new proposal includes the Barn which is even closer to us
- The use of the barn for induction etc is very noisy even with our windows closed
- There are windows within the west elevation that overlooks our property
- This type of intrusion so close to residents is not acceptable and there are other more suitable locations
- No noise barrier is proposed to the west
- It is everyone's right to be able to relax in their own property
- It is like living next door to a noisy recreation ground.
- Should this be allowed it would affect my quality of life and health and I would have to look at options to move home
- The use significantly reduces the quality of life for local residents.
- Balanced against the positive recreational benefits is the unacceptable adverse impact on the occupiers of nearby residential properties.
- The area is exceptionally quiet which is the main reason we chose to live here.

- The area is highly valued by residents
- Visitors remark on how lovely and peaceful it is out here.
- We cannot enjoy our outside space because of disturbance.
- I regularly visited my family in Bell Drove. Since the activity has been operating we refrain from sitting out in the good weather as the noise from screaming kids is very annoying.
- Our home is our sanctuary and gave up the conveniences of living close to amenities
- We made the decision to live here because it is an area that is exceptionally quiet where we can enjoy our garden as a family especially during weekends and school holidays.
- When this site was previously operating we were unable to use our gardens at all at weekends and visitors found the noise intrusive
- I am aware that one of our neighbours did explain to PCC and the Parish Council that they went away at the weekends as the noise was intolerable and therefore could not complete the log but they did not say it was not noisy.

Inaccuracies with application

- The location plan showing the distant to residential properties does not include our property which is much closer
- The noise is longer than the 2 hour event
- It is stated that the playing area has been reduced by 49% but it has increased from 0.75ha to 0.86ha. The play area is confirmed in the Inspectors Report.
- In an effort to mislead the planning system the applicant has once again manipulated the facts to make it appear that he is downsizing.
- The operating times have increased. There is no requirement to open earlier unless he plans to operate 3 sessions per day.
- There is no limit on numbers – The applicant has advertised on the internet that he can accommodate 60 participants at any one session.
- The numbers will just escalate to fit in as many people as possible.
- With the perceived increase in the number of participants and the increase in the number of sessions the noise will be even more intrusive
- It would be impossible to restrict and enforce the number of participants or the number sessions.
- Any reference to the games popularity or that kids love it be deemed inadmissible and not passed onto the planning committee as these are not planning issues.
- The applicant claims to have taken advice from the relevant departments at the City Council to ensure the application would be acceptable.
- We feel the applicant is merely trying to wear us down in resubmitting the same application again.
- New information has been submitted. This is a repeat of what happened the last time. The information should be submitted with the original application. Will we have the opportunity to comment?
- Sound modelling has now been submitted. I do not understand why the applicants have been given another 6 weeks since the deadline for our objections to provide documents that they have had more than 9 months to collate. *Officer response: The applicant has not been given any additional time. The application was referred to planning committee and therefore the timescale for determining the application has been extended.*
- We have not received the same amount of time and unlike the applicant and if the Council approves this application do not even have the opportunity to appeal against the decision.
- I do not understand why this application is taking so long.
- The noise data and emails show that this was sent to the Council on the 8th February and it has only just been added and had it been provided earlier all local residents could have had the opportunity to comment especially on some of the inaccurate information provided.
- There is no limit on structure size – Any condition set by the Council to limit the size of structures would be ignored

Visual Amenity

- Section 2 address landscaping and the appearance of the various buildings. However, again the approach is one of descriptive narrative with no objective analysis in terms of the issues identified and listed by the Inspector especially under the “character and appearance” section of the decision letter (paragraphs 23 to 30).
- The fence is a unique landscape which is not appreciated by those who do not live here
- The fence will not enhance or blend in with the landscape as the Planning Inspector also highlighted in her report
- The fence will be totally alien to this landscape
- The impact both visually and with regard to noise is much greater than would be case in a different landscape
- This type of Activity should be sited away from residential areas and on a route for public transport, with less impact on the traffic and the environment.
- The area is not suited to having a commercial/industrial business
- I note that there is already a Laser Tag establishment available in a more accessible and non-residential location in Boongate Peterborough.
- The structures that were used on site were 2m in height – these will be seen above the 2m high fencing and could be much higher.
- I will have to spend many years looking out at this ugly fencing should this application be approved.
- The 3D images do not provide a realistic view of the fencing as hedges have been added and they will take many years to hide the fence.

Trees

- A 3 metre high, mixed native hedging would take years to grow to provide a screen
- Any mitigation using genuine noise-cancelling fencing would be cancelled out by the detrimental visual effect on the landscape.
- Despite the applicant having had several years to establish the promised hedging, to date there is still only a small amount of very immature hedging
- The hedging would fall victim to rabbit damage (an excuse previously used by the applicants for lack of screening).
- The hedging planted in 2014 has shown no signs of growing, so any future hedging would take 15 years to grow.

Noise

- It is expected that the DAS would have explicitly addressed paragraphs 3, 4, 38, 39 and 40 of the decision letter, but the contents simply do not do that.
- The DAS mentions various suggested mitigation measures but without any actual assessment of the impact of those mitigation measures on the identified and recognised significant environmental effects of the proposal.
- Section 2 of the DAS then addresses the detailed design of the proposal accompanied by generalised statements such as “the site boundaries have been designed to take into account the location of the existing neighbouring properties to create minimal visual and noise disturbance.” However, in the absence of evidence based assessments of significant effects in the light of the findings of the Inspector such generalised statements are meaningless.
- The location of the facility is in a generally very quiet rural area
- Due to the noise character it would be very noticeable in the countryside location.
- The type of noise from the site is not in keeping with that of an agricultural area
- The area has low background noise levels
- When the site was previously up and running we could hear screaming and shouting from the Outdoor Activity when we were in our garden
- If games were in progress the noise was impossible to ignore – the noise was more or less continuous.
- Reasonable and acceptable forms of mitigation would not adequately reduce the adverse effects.
- I do not believe that the proposed fence will reduce noise significantly

- Lack of control of numbers will only exacerbate the problem of noise
- The extended opening hours will exacerbate noise levels
- MAS Environmental state that there will be no further protection offered by the 2m high acoustic fence or by moving the game play area.
- Based on modelling using industrial standards it has been proved that that the noise levels will remain the same at current participation levels and session numbers
- I have a 2.5m mature hedge around my property and it does not filter or reduce this type of noise whatsoever.
- July would have been the ideal time to conduct more sounds tests to ratify the applicants claim that this operation produces no noise nuisance.
- The noise that this activity creates is totally unbearable, which will only get worse during summer months when all we want to do is relax and enjoy our garden instead of being imprisoned inside our house
- As my property is down wind of the prevailing wind I do not believe the slight change in location will make any difference to the noise disturbance we suffer.
- MAS (Environmental) our noise consultant also maintained that a barrier would have limited effectiveness due to the spatial relationship to the participants within the playing area.
- The MAS report also states the proposed changes and confirms that they are not
- I do not understand why the applicant didn't commission a sound report addressing the Inspectors comments.
- The applicant claims on average noise only occurs for 17 seconds a day - proper recordings can only be carried out when weather conditions permit.
- The attendance figures for 2014 are provided and a calculation of an average of 26 participants per day is included. The actual figures are much higher than this.
- The average of only 14 participants in January and February also provides evidence that the numbers are significantly lower at this time of year.
- When the planning officer undertook a site visit on a Saturday in December 2013 was in the winter then the noise was not a true reflection of the noise in the summer. The planning officer confirmed that she could hear voices.
- The age of the participants is also an important factor and if the participants on this day were older children or adults then the noise is lower
- Because of the flat landscape sound carries a very long way
- The noise from the gaming facility will be very loud given how close it is to my house
- There is noise every weekend and Bank Holidays; times when I should be enjoying the tranquillity
- The applicant continues to ignore the property adjoining his who are severely affected by the noise nuisance.
- Why this property has been ignored - it doesn't suit the applicant to acknowledge that someone who his acoustic engineers would identify as being likely to object/complain have indeed done so.
- We could not provide lots of sound testing information was because we had only a very short period of time from the previous application being refused to the Appeal being submitted.
- Are noise assessment was undertaken in Feb 2014 in bad weather condition and we were unable to make recordings in these conditions. We kept the sound equipment for 2 weeks making every effort to make what recordings we could but in addition to the bad weather there were fewer bookings and participants at events at this time of year and we were unable to provide much data as a result of these circumstances.
- However even in these conditions some shouting could be heard at our property and words could be understood.
- The applicants have constantly used our report out of context and tried to claim it proves it is not noisy although the Inspector did not concur with this in her report. As stated in the Inspectors Report the majority of the local residents have objected to the continuation of Battlefield Live.
- The applicant carried out a sound test for only one session, also in the winter and yet he had every opportunity to take numerous recordings last summer.
- We were informed at the January Parish Council meeting that hundreds of children had attended sessions celebrating the end of school year.

- The applicant had every opportunity to record these sessions and had we known he would be submitting another application we would have recorded them for him!
- Had I been asked to do it I could easily have provided this information although as Mr Simons does not believe the site is noisy he would have claimed as always that I am lying so it would in fact have been a pointless exercise.
- I do not believe any local resident who complained has said that there was insufficient noise to record.
- The Inspector's decision states "it has not been demonstrated that the harm to living conditions would be satisfactorily mitigated". This appeal included an acoustic fence as a form of mitigation and no significant change has been made.
- PCC's representative at the previous planning meeting informed the Committee that a fence would not provide a reduction in the noise due to the type of noise.
- Our acoustic engineer confirmed this and was of the same opinion.
- The applicant has stated that his acoustic engineer says the acoustic barrier will achieve a significant reduction in noise emissions.
- Our acoustic engineer says it will make no difference.
- The Applicants acoustic engineer provides an opinion only and more thorough testing could have been carried out last year.
- The average in the summer was 35 which means at times the numbers would be even greater than this – a sound test during these games would have provided far more accurate and realistic/believable data to model the proposed barriers on.
- Unlike the applicant, the objectors have commissioned an updated noise assessment by MAS Environmental.
- The assessment concludes that the new application proposes no change in the magnitude of the noise impact to which residents will be exposed
- The facility does not compare to a football/rugby match as these are played in winter

Parish Council

- I trust that, in the interests of local residents, The Parish Council will object to the resubmitted plans.
- I would like confirmation in whether the Parish Council will be supporting or objecting to the application.
- We and the other local residents living close to this site were not invited to the Parish Council meeting.
- We trust you can support us in objecting to this new application and assume there will be no preference shown to this application because Mr Nigel Symons is a member of the Parish Council.
- We can only assume that the applicant believes his association with local councils will bring about a different result
- I trust that, in the interests of local residents, will object to the resubmitted plans.
- I am still part of the Parish of Thorney and expect the Parish Council to act on the local residents' behalf.
- Yet again this Parish Council are evading the issues of local residents because one of the Parish councillors is influencing decisions that should be in the interests of those local residents affected.

Intensification

- If the activity area were to become fully operational, it would affect evenings and weekends resulting in a significant impact.
- The Inspector pointed out if the business is successful, to be sustainable, the applicant will wish to expand the activity/the hours of play, which would compound the problem

Conduct of applicant

- The applicant has not approached matters in a neighbourly or considerate fashion. He has reacted to frustration by antagonising most of the local residents.

- His promises to provide barriers or screening to mitigate the impact have not amounted to anything and are not to be trusted.
- The applicant does not appear to appreciate this quality of peace and tranquillity.
- He has never shown any understanding or acknowledgement of the disruption and distress he caused to the local residents quality of life, psychological and physical health.
- He has never made any effort to consult with us or try to anticipate problems that might arise.
- The applicant continued the activity after the notice time to quit apparently insisting he had permission.
He has been quoted in the Local Press saying the reason he was refused planning was because, we local residents who had objected had twisted the facts and falsified our complaints
- Conditions put in place by the Council to protect residents have already been ignored so we have no assurance that this will not happen again
- With the applicants previous track record he will more than likely do this to further maximize profits.
- What can be done therefore to stop the applicant building a 10m high lookout tower
- The applicant boasted about having over 300 children participating at their end of school year parties. This clearly shows that the applicant is more willing to make a profit rather than abide by the laws of this country
- At a recent PC meeting the applicant spoke of his family's dignity, integrity and honesty and reliability. This is a business that ignored the conditions made by the Planning Committee and who ignored the enforcement notice and continued to operate for a further 13 weeks.
- I won't highlight the social media campaign to portray us as pariahs of society where we don't want disabled children to play as it's not a planning matter
- He has also slated the Planning Inspectors professional integrity by stating that "It seems to me the inspector has used false statements from residents/neighbours. I was told the inspector would only use facts
- we are all NIMBYs who cannot bear to hear the sound of children having fun"
- We also provided copies of bookings for 30 and 40 participants despite the applicant claiming that the maximum was only 20
- The applicant has stated that the use is no worse than a children's football match."
- He also wrote "it's a shame that facts have been distorted. I guess people are just worried that the business will affect their house prices." As I do not want to move the value of my house is of no consideration to me or my family but the enjoyment of our garden is. Mr. Simons appears to agree that the site is noisy and visually intrusive when he makes this statement because if the site blends in and doesn't make a noise then his business couldn't possibly affect the value of our house.
- The applicant attempts to intimidate us, accusing us and other residents of lying on social media sites, at public meetings and even driving around sounding his horn early in the morning and taking photographs of residents, who had objected to this business, out walking in the local area including unaccompanied children.
- I kindly ask you to seriously consider the character of the applicant who, during the previous application displayed behaviour which was rude, inconsiderate, manipulative and, frankly, rather worrying.

Health implications

- The effect on me during the two plus years the Activity was running was a deep sense of unease and depression
- My walks and enjoyment of the surroundings were spoiled by the presence of the site - large posters of people dressed in battle gear brandishing large guns, which felt totally out of place and intrusive.
- On my walks I felt almost shrunk in on myself, on the defensive, rather than my previous sense of relaxation and enjoyment.

- The process of objecting to the previous applications and challenging the applicant's appeal was extremely stressful and anxiety provoking for us.
- I've had medical advice to avoid stress and spend spare time relaxing. Our garden was the environment in which we did this before Battlefield Live.
- My son is particularly affected by sudden, uncontrolled and unexpected noises. He enjoys being on his trampoline, he would not have this vital opportunity to relax and reduce stress and will have a detrimental impact on his health and well-being.
- We moved to a quiet area to try to reduce/avoid the impact of this and make our home a place where my son could relax and feel safe.
- I enjoy using my trampoline especially in the summer as it helps me relax
- I hate loud and unexpected noises and when Battlefield Live was open I stopped using it.
- The screaming and shouting was horrible and really annoying and I didn't go outside at all.
- It was great being able to use it again in the summer holidays last year
- I am suffering from acute depression and anxiety
- The constant, traffic and noise - the noise is my main concern - will push me over the edge of sanity
- If this application is granted, then for me, you will be making a life-changing decision and not for the best for my future health.

Traffic

- It was difficult to walk along the road with people arriving and departing from the site, with many cars passing at short intervals causing me to take to the verge every few minutes.
- I only saw a minibus arriving on one occasion. visitors to the Activity often arrived in clumps and also did not adhere to speed limit to respect the safety of residents
- If this application is approved and the numbers do increase this road will become a danger to local people.
- There are no pavements and if extra sessions are squeezed into the day there will be traffic moving in both directions on this road many times each day and verges and safe places for pedestrians to walk, cycle etc. is limited.
- Many people including young children walk dogs, ride bikes and horses on these roads. Are there a maximum number of vehicles or an increase in the number of vehicles in relation to the current users on this road that would make it dangerous?
- I do not believe adequate surveys have taken place or due consideration given in regard to the actual significant increase there would be on the number of users on this road should this application be approved.
- Concerns have been raised about the volume of traffic already using the Crowland Road (B1040) and surely a large increase in vehicles for this activity will impact on this road as well.
- I have little faith in the accuracy of the traffic survey
- Concern regarding increase in traffic and safety issues.
- Section 3, plus an appendix, address access and traffic aspects. Although these matters are a cause for concern as detailed in earlier objection submissions they were not aspects that gave rise to a significant objection in the view of the Inspector.

Wildlife

- We are concerned that this activity will disturb bats habitat.

Misc

- The proposal is to use the existing toilets in the grain store which drain into a shared treatment system. I have to unblock the system 2-3 times a week when the events are on.
- I have been advised that the system is being overloaded and discharging into the Dyke illegally.
- When we purchased the properties jointly it was done in mind that it would be somewhere peaceful to retire to.

- The Restrictive covenant gave me peace of mind that the site should only be used as 2 dwellings and no commercial activity - (check the planning consent for the barn conversions – does it include the Barn (restrictive covenants)
- Planning was granted for the barn conversion on the understanding there would be no further development if this development is approved, I would not be surprised to see more creeping development

The case officer is mindful that there is a lot of discontent between the applicant and neighbouring properties. Whilst all of the comments have been recorded for the purposes of transparency some of the issues raised are not material planning considerations.

74 representations have been received supporting the application. The comments made are summarised below:

- Fantastic place for children and adults
- Will be such a shame if it doesn't reopen
- I would very much like to see the laser tag return to Peterborough
- It's a great place to get the children out in fresh air
- I do not see any problem with the site
- The site was neat and clean and a lot of effort and care was put into constructing and maintaining the site
- The staff were all very professional and the business seemed well run and managed
- It seems unobtrusive and doesn't appear to impact on the surrounding area
- It provided an age appropriate military style experience for my son which he would have otherwise not been able to enjoy.
- I have used this venue numerous times and work within the children's residential care sector.
- This activity has provided many happy and fun days out for our children and it is a great way to have fun, socially interact and focus.
- I have visited on several occasions.
- My Children love it, it provides great team building experiences in a safe outdoor environment.
- Peterborough is lacking in facilities such as this
- It is very difficult to see the site from the road, it is not an eye-sore.
I think this is/was a great asset to the area as there is nothing else quite like it.
- The whole family aged 4 years to 76 years have enjoyed dashing round and having ridiculous amounts of fun!
- As the price is so reasonable
- Family friendly especially as our boys are just too young to do paint balling.
- A fantastic addition to the local community - can't wait to get it back!
- If a child went to a birthday party here you could guarantee every child there wanted their own party
- I beg you to allow this business to be allowed to reopen and to continue
- The actual facility was set back from the road (to the extent that on our first visit we missed the turning twice!).
- It is rare that in this day of computers and Gaming that a facility is provided for kids that offers them the gaming world but actually outside in the fresh air
- parents and children can interact in a gaming world
- Great trip for pupils
- I think Peterborough would be missing a trick getting rid of this draw to the area. It is rare that such a healthy outdoor sport / activity is so open to all
- We are looking to travel further afield, to another site in Bedford or possibly Leeds

- The positive factors completely outweighed the few negatives
- The facility is extremely popular, with some customers returning twice, sometimes three times a month.
- I used Battlefield live on a regular basis for customer events
- Great value for money
- The position of the site could not be more perfect, far away from its nearest neighbour.
- I can only presume that noise is in some sense a personal judgement about what is reasonable or unreasonable
- With all the new housing being built in Thorney I feel it is an added bonus for the village.
- I visited the Cambridgeshire Area with my family. We spent around a week in the area, on the last day we visited the Battlefield Live Site in Peterborough and had an absolutely fabulous time.
- Surely we should be supporting outdoor physical exercise?!
- Myself, kids and even my 70 year mother have played (she loved it)
- I live approximately 600m west of the site and have rarely heard any noise from the site
- We have quite intrusive traffic noise from the A16 which is over mile away
- As long as the Planning department is satisfied that noise has been addressed I see no reason to object
- Please let common sense prevail and avail people with a fun recreational activity that promotes team work and fitness

5 Assessment of the planning issues

Background

The Local Planning Authority (LPA) was initially approached by the applicant in 2011 when a pre-application enquiry was submitted for a change of use of part of an agricultural field to 'Battlefield Live' an outdoor gaming concept using infrared technology. An application was approved in 2011 (11/00950/FUL) for a temporary period of 2 years to enable the LPA to monitor the use and assess the impact on the amenity of neighbouring occupiers and the visual amenity of the open countryside.

In 2013 an application was submitted to remove condition 1 of planning consent 11/00950/FUL which granted a temporary consent for a 2 year period, to allow for a permanent change of use (13/01585/WCPP). The proposal included the permanent positioning of low level structures constructed from timber and painted in green/brown and covered with camouflage netting. The use would operate 2 sessions per day each session lasts approximately 90 minutes. It was proposed that there would be a maximum number of 30 participants for each session. The application was refused by Members of the Planning and Environmental Protection Committee on 17th December 2013 for the following reasons:

R 1 'The site is located in a flat, open and sparsely vegetated open countryside location where background noise levels are low. The proposal has during its temporary period of operation resulted in noise levels that have caused unacceptable disturbance to nearby residents and which are of a nature which is not compatible with the open countryside character of the area. No reasonable way of mitigating the noise has been identified. The proposal is therefore contrary to the provisions of: Paras 122 and 123 of the NPPF, Policy CS18 of the Peterborough City Council Core Strategy 2011 and Policy PP3 and PP8 of the Peterborough City Council Planning Policies DPD 2012'.

R 2 'The site is located in a flat, open and sparsely vegetated open countryside location. The game play structures are in place and are unsightly and can be clearly seen from a wide area to the detriment of the visual amenity of the area. Whilst landscaping could be provided in mitigation, this would take many years to become established and it could not be guaranteed to be maintained at a height where the game play buildings are suitably hidden from view. The proposal is therefore contrary to the provisions of: para 109 of the NPPF, Policy CS20 of the

In March 2014 the applicant appealed the decision of the LPA. The application was subsequently dismissed by the Planning Inspectorate on 1st April 2015 (See Appendix 1).

The Inspector concluded that whilst the activity centre was a small scale development that improved the range of recreational facilities *'Balanced against this positive factor is the unacceptable adverse impact on the occupiers of nearby residential properties. It has not been demonstrated that the impact is able to be overcome satisfactorily by the use of planning conditions'*.

In addition the Inspector considered that an important constraint was the quiet rural location and *'the use significantly reduces the quality of life for local residents. Reasonable and acceptable forms of mitigation would not adequately reduce the adverse effects'*.

It should also be noted that whilst the effect of the acoustic fence did not form part of the Inspector's conclusion the decision letter does state that *'Such a type of boundary treatment would be an alien feature within the open landscape and be visually intrusive. The inclusion of the barrier would result in the proposal being contrary to Policy PP2 and lead to a conflict with Policy CS20 in that the design would not be sensitive to its landscape setting'*

The former site used for the laser tag activity under the temporary approval 11/00950/FUL has been reinstated to its former use as paddock land.

This application attempts to address the reasons for refusal and to overcome the planning constraints and views of the Planning Inspector which is a material planning consideration. Reference will be made to the Inspector's decision throughout this report.

a) The principle of the change of use

The Laser Tag Activity Centre – 'Battlefield Live' is an outdoor competitive team-oriented combat game using custom built guns that emit and detect infra-red beam. It involves two competing teams. The game takes places within an enclosed area and with low level structures of a temporary nature. The area proposed under this application is approximately 0.75ha. The scale of the proposal is considered to be relatively modest.

The site is located within the open countryside where development is restricted under Policy CS1 of the Adopted Peterborough Core Strategy to that which is demonstrably essential to the effective operation of outdoor recreation. It is considered that the activity requires a large area of land which would be difficult to find within the urban area.

Policy CS18 of the Adopted Peterborough Core Strategy and policy PP8 of the Adopted Peterborough Planning Policies encourage the development of new cultural, leisure and tourism facilities that will improve the facilities that the city and surrounding areas have to offer subject to the proposal meeting other planning considerations.

In addition, the NPPF supports the attraction of tourists to the rural areas however, the main benefit from the proposal is that such uses encourage outdoor exercise and activity with the subsequent health benefits. Section 8 of the NPPF states that the Planning System can play an important role in facilitating healthy communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

There is also a presumption in favour of the principle for the change of use of agricultural buildings and land within its curtilage to commercial uses which is supported under Class R – *agricultural buildings to a flexible commercial use* of the Town and Country Planning Permitted Development Order (2015) subject to the Local Planning Authority assessing the impact of the development on inter alia 'noise impacts of the development'.

The site is outside the village settlement boundary of Thorney and Eye, however both villages are designated as 'Key Service Centre' with anticipated growth and it is therefore considered that the venue would serve a local population area.

It is apparent by the number of supporting representations that the facility has been very popular and has provided a high level of enjoyment for both children and adults with all abilities in a safe location where participants can benefit by the outdoor activity in the fresh air. The facility has provided an alternative experience for birthday parties. It is stated that there is not another site like this one nearby and people have to travel significant distances to experience the activity.

However as noted in the Inspector's decision 'balanced against the positive factors is 'the unacceptable adverse impact on the occupiers of nearby residential properties'. The location is in a generally quiet rural area and the Inspector considered this as 'an important constraint and the use significantly reduces the quality of life for local residents'. Under the former scheme the Inspector contended that 'reasonable and acceptable forms of mitigation would not adequately reduce the adverse effects'.

b) Neighbouring Amenity

The main consideration in terms of neighbouring amenity is the noise implications resulting from the activity. The background noise of the area is considered to be particularly low given the rural location and the open character of the area. The main noise arises from the shouting and voices of the participants.

The applicant submitted a noise assessment (dated February 2014) in support of the appeal. A noise assessment was also undertaken by noise consultants acting on behalf of a neighbouring occupier (dated April 2014). Both reports were considered by the Inspector.

In the Inspector's assessment of the acoustic reports reference was made to the NPPF and in particular the Noise Policy Statement for England (the NPSE) and the Planning Practice Guidance. The Inspector considered that *'using this criteria the applicant's acoustic report concluded 'that the impact is at either the No Observed Effect Level or Lowest Observed Adverse Effect Level (LOAEL) in the noise exposure hierarchy. With mitigation in place in the form of an acoustic fence the impact was considered to be more likely the former. However, these conclusions were derived from a comparison of the predicted noise levels at residential properties against the chosen BS and WHO guidance, rather than a consideration of the perceived change in the quality of life and the degree of change in the behaviour and/or attitude of residents'*.

The Inspector was mindful of the level of objection from nearby residents. *'Neighbours have stated that they have been unable to enjoy the peace and quiet when in their gardens because of the annoying and intrusive noise, which was likened to a football game or playground noise with screaming and shouting. More specifically, one resident stated they tended to go away at weekends to avoid the noise. Another family described how on warm days when windows are open the noise interferes with concentration and so windows have been closed. Valued rest and relaxation when at home from work has been affected. Visitors have preferred to sit inside with windows closed. The occupiers of the nearest house said they couldn't sit outside and relax due to the noise from the battlefield and that they still were able to hear the noise with windows shut. The noise from the guns was audible. Another resident stated that the home was chosen for the quiet and isolation. Having been ill, the home was a sanctuary and the resident was concerned that hearing the sounds of warfare would impact on their mental health'*.

The main issue was whether the impact would be unacceptable and would significantly affect health and the quality of life of residents. The Inspector identified that *'the likelihood is that new noise sources, which would not normally be expected to be heard in the countryside, would be very noticeable'*.

The applicant recommended an acoustic fence as an effective mitigation measure. The barrier was estimated to reduce noise levels by between 4dB and 7dB. However, this proposal was at the time

contradicted by the resident's noise consultant who stated that this would have limited effectiveness due to the spatial relationship to the participants within the playing area. The Inspector considered the evidence to be 'inconclusive'.

Furthermore, on the former scheme the acoustic barrier was indicated to be erected along the boundaries to the gaming areas rather than the boundaries to the site. As a result the north eastern part of the site would be outside the acoustic barrier. The Inspector cited in her decision that there was some ambiguity as to the site area and no control on restricting the gaming area should the use become more popular in the future.

The scheme as now proposed has relocated the gaming area an additional 110m further within the site. It is proposed to erect a 2m high acoustic fence along the northern and eastern boundaries of the play area. In this current scheme the acoustic fence is positioned around the gaming area which is consistent with the site plan and there is no additional area into which the gaming area can extend. The erection of the permanent acoustic fence would provide control over the expansion of the game play area. It is considered therefore that there is more certainty with the current scheme as the potential expansion of the facility. The proposal also includes the planting of a mature native hedge comprising of double staggered rows maintained to a height of 3 metres to screen the timber structures/fence. It is considered that this would be difficult to condition.

Further update letters from the acoustic consultants acting for both the applicant and a neighbour have been submitted.

The update letter from the from Noise consultant [Acoustic Associates] dated February 2016 acting on behalf of the applicant has stated that the relocation of the gaming area is not significant in terms of acoustics for the principal receptors shown in the report. MAS consulting, who are working for one of the complainants, also do not regard the relocation as significant in terms of acoustics.

The letter goes on to advise that there are no criteria for this type of event so both assessments referenced the following, British Standard BS 4142:1998, World Health Organization Guidance and British Standard BS 8233. British Standard BS 4142:1998 is now withdrawn and its replacement (British Standard BS 4142:2014) states that sporting noise is no longer covered by this standard. British Standard BS 4142 was the most onerous standard used in the assessment and the only one which considered noise emissions may be at a level likely to attract complaints at the nearest of the neighbour properties identified (Oak Lodge, French Drive).

The letter confirms that the new barrier in the new location is predicted to perform as well as the previously proposed barrier around the old game location and is likely to achieve a significant reduction in noise emissions to the nearest residents. (It is assumed that the reduction would be between 4dB and 7dB).

The letter refers to the latest MAS report (reference BL160111). It states 'like their previous report it makes no reference to any established criteria or other published works in forming its conclusions and is reliant on the opinion of Engineers who have listened to audio recordings of, but never witnessed, an event at the site.

An update letter from the noise consultant (MAS) acting on behalf of a resident has been received. The letter states that modelling has been undertaken on the distance from the source to Bluebell House for the original location and the new location and found no change in the magnitude of predicted maximum noise levels. The letter states that the shout and voices are modelled in the region of 9-14dB above the background noise level. The noise will occur primarily during periods when residents expect to use their property for rest and relaxation. It is considered that the new application proposes no change in magnitude of noise impact to which residents will be exposed.

All the reports and update letters have been considered by the Noise Pollution Control Officer. The case officer also requested the 'predictive model' used in the assessment by Acoustic Associates be provided as this may have been useful for the Noise Pollution Officer in his consideration of the information. The Officer has reiterated that there are no accepted standards for comparing any predicted levels against in these instances (unlike, for example, the comparison of the effect of industrial noise upon residential premises [BS4142:2014]). Subjective assessments are the most suitable way of judging the likely acceptability. It is for this reason that a recommendation was previously made by Pollution Control for a temporary permission to establish the likely acceptability of the proposal.

During the period of the temporary permission this Section received one complaint, via Planning Enforcement, in May 2013 regarding this activity. Since the permission [ref 11/00950/FUL] was to expire imminently at that time, and the nuisance investigation procedure involving the completion of log sheets, would not be completed within an appropriate timescale, the complaint was referred to Planning Enforcement for consideration as part of the decision on whether or not the activity be allowed to continue.

The EHO Officer advises that the activity has been subjectively viewed by an acoustic consultant [Acoustic Associates Feb 2014] as "akin to a distant football or rugby match". The gun noise was not considered to be an issue in that assessment. This is supported by objector's comments that the level of noise emanating from the site is primarily due to vocals from participants during the game and cheering at the end of the game when results are read out.

Since there is no appropriate standard against which to assess such noise levels, a comparison with similar activities has been undertaken to attempt to describe the level of impact. A comparison is made with football/rugby noise. There are also no noise limits/standards for such activities in any approved guidance documents. The majority of noise from such activities emanates from shouting associated with general player and coach activity, spectators and the referee's whistle.

The Officer provides an example for noise levels for a boys football match at 10 metres from a single pitch boundary are quoted as:

Ambient noise level LAeqT = 54 dB

Peak noise level LAMAX = 76 dB

For comparison purposes Glinton football pitch is 30 metres from residents and Northborough football pitch is 20 metres from residents. Thorney Rugby Pitch is 70 metres from residential premises.

Using the data from the above, and assuming player noise, supporter noise and referee whistle blows are of a similar amplitude for football and rugby, this would equate to noise levels from games in residential gardens at these locations as indicated in Table 1.

	LAeq	LAmx
Glinton Football	49dB	66dB
Northborough Football	51 dB	70dB
Thorney Rugby	37dB	49dB

Table 1: Predicted Noise Levels Associated with Sports Activities in Residential Gardens

The separation distances for the Battlefields site to the nearest residential properties are indicated as being at a much greater distance than any of the above activities [Figure 1]: 231m, 320m and 400m.

The benefit of the acoustic fence was considered at the appeal stage resulting in a 4dB to 7dB reduction of noise. Both the acoustic reports agree that the greater separation distance to residential properties would not result in a material change to the former siting of the gaming area.

Noise levels (LAeq) predicted for the Battlefields games for the previous application site were indicated as between 34-46dB(A) (without the indicated fence) [Acoustic Associates Feb 2014].

With an acoustic fence, those values were anticipated to be reduced by an additional 4-7dB [Acoustic Associates Feb 2014]. The level of barrier reduction that would be achieved in reality has been questioned [MAS Environmental April 2014].

The separation distances for the currently proposed site [15/02104/FUL] are greater than those for the previous application site [13/01585/WCPP] for most neighbouring properties, therefore there will be a small reduction in the predicted noise levels.

The applicant's consultants have provided noise contours indicating predicted noise levels for the currently proposed application site. From the noise contour map it is predicted that residential locations will have noise levels (LAeq) similar to, or less than, that projected for Thorney Rugby Club. However, the property indicated as most impacted from the above contour map is Sparrow Barn, Old Hall Farm. It can be seen from the contour map that although there are a number of buildings affording protection to this property, the gaps in those buildings allows noise to "leak" through to the garden area of the premises. It is recommended that further steps be taken to consider the opportunity to mitigate this noise impact from the development.

From observations of the noise character indicated above, it is however the maximum noise levels that require particular consideration. "Max" noise levels associated with the facility were measured as in the order of 70dBA at approximately 80 metres [Acoustic Associates Feb 2014]. (These levels are considerably greater than other author's measurements for other sporting leisure activities). Bluebell House is approximately 400 metres from the proposed site. Therefore "max" noise levels at Bluebell House may be predicted to be approximately 56dBA. "Max" noise levels measured by an objector's consultant [MAS Environmental April 2014] at this location appear to be of a similar order of magnitude [Figures 3 and 4]. These "max" levels can be compared to the predicted "max" levels in Table 1.

The Officer considers that the noise levels associated with the proposed activity are therefore indicated as likely to be of a similar magnitude for other leisure activities which have not given rise to complaint. Each person is entitled to a view as to whether these activities are comparable because of their location, nature of use, frequency of use, etc. In the absence of a Standard for such uses, different views on acceptability are possible, there not being a right or a wrong way to come to any conclusion in these respects. This response has therefore focused on a comparison of noise levels between this activity and similar (albeit not exactly equivalent) activities, to help those form their own view of the acceptability of the proposal.

The comparison to the site to a football/rugby pitch has been refuted by neighbouring occupiers as they are played in winter and last for shorter period. The Officer was merely trying to place the facility within a similar noise category, the similarity has been explained and they are both competitive sports. This was to help those form their own view of the acceptability of the proposal. In the absence of a Standard for such uses, different views on acceptability are possible, there not being a right or a wrong way to come to any conclusion in these respects. There is no particular issue with either of the consultant's acoustic reports. Each comes to a different conclusion, which is not unexpected for the reasons detailed above. The same would apply to any recreational activity located close to residential properties.

The applicant has responded to the appeal decision regarding the living conditions of neighbouring occupiers. The applicant states that residents were asked to record logs for consideration, comment

made and that logs were not kept because of insufficient noise to record. - Complaint levels were very low during operation so no Council investigation deemed appropriate. There is was no evidence of noise nuisance produced. One resident commissioned report shows very limited noise generation (75 seconds over 12 days). Of 11 residents, only 3 complaints received. The most popular months are June, July, Oct & Nov. August is less busy because families are on holiday and furthermore the site was not open on public holidays. The site has been reduced by almost 50% and moved to the furthest point away from residents. The acoustic barrier siting has moved and will be shorter in length than the original suggestion. Less intrusive. - The playing area will be enclosed to the north and east, therefore the new plan allows control over the area used. Our acoustic engineer confirms the acoustic barrier will achieve a significant reduction in noise emissions.

The application currently under consideration has again resulted in a number of objections from neighbouring occupiers regarding the noise implications of the facility. The neighbouring occupiers do not consider that the proposed mitigation measures would adequately reduce the noise levels with resultant impact on quality of life and health implications.

By virtue of the current application compared to the refused scheme it is considered that the applicant has attempted to address the noise implications of the facility by the relocation of the gaming area and the erection of the acoustic fence. However, as with the former scheme it is not the noise level of the activity but the noise character, sudden, 'can be intrusive and annoying. The distance the noise carries is affected by the weather especially the prevailing wind.' The Inspector contended that 'subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected'. She stated that due to the low background noise level 'the likelihood is that new noise sources, which would not normally be expected to be heard in the countryside, would be very noticeable'.

Part of the existing barn is proposed to be used for a reception/briefing area. The adjoining neighbouring property, who has objected to the proposal due to the impact of noise is located approximately 80m from the site. The Noise Pollution Officer has advised that noise mitigation measures would be required to address the impact of noise on the occupiers of this property. The applicant has suggested that the fence to the north is extended to connect to the barn thus avoidance and noise leakage, however no detailed proposal for this has been submitted.

The neighbour has also raised concerns regarding the windows within the west elevation of the barn and the potential for overlooking. The applicant has advised that the windows are high level and there is no public access to this area of the barn which is not included within the application.

Comments have been made regarding the absence of a new, comprehensive noise assessment providing support for the proposed noise mitigation measures. This would be difficult as the facility is not currently operating. However, given the information provided above, the officer does not consider that any further noise assessment would add any additional information. As stated above it is not the level of noise that is the constraint but the noise character given the location.

The application has attempted to address the noise implications of the proposal. The benefit of the acoustic fence was considered at the appeal stage resulting in a 4dB to 7dB reduction of noise. Both the acoustic reports agree that whilst a greater separation distance between the site and some residential properties has been delivered by the new application this would not result in a material change to the former siting of the gaming area. On balance the proposal does not materially change or address the concerns raised by the Inspector regarding the adverse impacts on the health and quality of life of the neighbouring residents. The proposal therefore would not comply with policy CS18 of the Adopted Peterborough Core Strategy DPD, policies PP3 and PP8 of the Adopted Peterborough Planning Policies DPD and para 123 of the NPPF.

c) Visual Amenity

The gaming area has been repositioned and would be located 275m from French Drove and 305m

from Bell Drove. An acoustic fence is proposed along the northern and eastern boundaries. It is proposed to plant a double row of native trees/shrubs along these boundaries which would be maintained at a height of 3m.

As with the previous scheme the layout of the site includes a number of wooden structures which are painted green/brown and some are covered by a green netting. It is considered that the structures required for the gaming are temporary by nature and the area is seen against the backdrop of the farm buildings and converted barns. The Inspector considered that the loss of openness was limited to a small area and *'a perceived sense of remoteness has not been significantly eroded due to the small scale of the facility'*. Any identified harm was considered to be limited to a small area.

The Inspector considered facility and structures required for the use would detract from the appearance of the open countryside to a limited degree. However concern was raised regarding the provision of the acoustic fence. The Inspector noted that the proposed acoustic fence would comprise a dense, solid construction that would be particularly visible from views along French Drove to the east. The Inspector describes such a type of treatment *'would be an alien feature within the open landscape and be visually intrusive'*.

The applicant considers that the revisions address the concerns raised by the Inspector. The applicant argues that the site area has been reduced by almost 50%, the site covers only 2 acres of land, the proposed acoustic fence runs directly from an existing fence adjoining the grain store, which will now be shorter in length and cover a smaller area than the original. It will appear as a natural extension of the existing fenced yard in front of the grain store and will incorporate mature hedging to further minimise the impact and aid in the screening of the proposed site. From a distance of 400 plus metres the visual impact of the screening will be minimal as seen from the 3D images. The planting will also improve the habitat for wildlife surrounding the application site.

The acoustic fence now proposed would be positioned further into the site and would extend approximately 90m along the eastern boundary. The site would be positioned 275m from French Drove. Many of the views into the site from French Drove are restricted by hedgerow. However the fence would be positioned approximately 290m from Bell Drove to the east which is the same distance as the former proposal. It is therefore not considered that this would be materially different to that considered at appeal. The applicant has proposed a double planted native hedge, however, this would take a significant amount of time to establish and to serve its function as an effective screen. The proposal therefore is not materially different to the proposed mitigation measures considered by the Planning Inspector.

Therefore the inclusion of the acoustic fence would be visually intrusive and would be contrary to policy PP2 of the Adopted Peterborough Planning Policies DPD and Policy CS20 of the Adopted Peterborough Core Strategy DPD.

d) Highway implications

There is an existing access to the site from French Drove which is considered to be appropriate for the proposed use. Car parking is provided within the site for up to 20 cars and 1 coach space with 5 designated disabled spaces.

The submitted traffic data shows that vehicle trips associated with the former use were below the threshold which would require a transport assessment. An assessment of the accident data within the vicinity of the site access has shown that there have been no highway safety issues associated with vehicles using the site previously. The Local Highways Authority raises no objections to the proposal.

The Inspector agreed with the LPA that there are no objections on grounds of highway safety or traffic generation.

There have been a number of concerns raised regarding the likely increase in road traffic and subsequent highway safety issues however, there is no evidence to substantiate this concern.

The Inspector acknowledged that due to the site's location approximately 2.5m from the villages of Thorney and Crowland it was highly likely that most people would travel to the site by car. The Inspector did however, acknowledge that there is the potential for car sharing and use of minibuses for groups.

The proposal would therefore accord with policies PP12 and PP13 of the Adopted Peterborough Planning Policies DPD and policy CS14 of the Adopted Peterborough Core Strategy DPD.

e) Landscaping

The site currently contains no trees or landscaping and is open in nature. The site is not within a Conservation Area nor are there any Tree Preservation Orders. The site is typical fenland arable land with no hedgerow boundary trees on the application site. Although there are number on trees close to the access drive which are unlikely to be affected by the proposal.

The gaming area would be enclosed with an acoustic fence to the northern and eastern boundaries with screening provided by mature natural hedge comprising of double staggered rows, consisting of 40% Hawthorn, 30% Hazel, 10% Blackthorn, 10% Field maple and 10% Holly.

The Tree Officer raises no objections to the proposed screening feature as it comprises of appropriate species and would easily blend into the landscape and recommends a condition regarding the details of the species to be agreed in writing by the Local Planning Authority.

The proposal would provide benefits to the biodiversity of the site and accords with policy PP16 of the Adopted Peterborough Planning Policies DPD.

f) Biodiversity

An ecology survey has been submitted in support of the application. Evidence of water voles was found in the ditch along the eastern site boundary. However, provided that a minimum five metre undisturbed habitat buffer is maintained alongside this ditch, and that the proposed hedgerow and acoustic fencing is installed, the Officer is satisfied that water voles are unlikely to be affected by the proposal.

The barn proposed for development has been adequately surveyed for the presence of protected species, and that no evidence of current use by bats, barn owls or other birds was found.

The proposed hedgerow is acceptable and provided as per the above specification, would help ensure that the eastern boundary ditch containing water voles is protected from disturbance, as well as providing wider wildlife habitat benefits. This could be secured by a condition. It is considered that the proposal would result in no net loss to biodiversity.

The proposal would provide an enhancement to biodiversity within the site through the provision of native trees and shrubs in accordance with policy PP16 of the Adopted Peterborough Planning Policies DPD.

g) Mineral Safeguarding

The site lies within a Minerals Safeguarding Area (MSA), designated due to the presence of reserves of sand and gravel which are considered to be of current or future economic importance. As such, any application, which is not on land allocated for development in other adopted DPDs, would need to be considered against Cambridgeshire and Peterborough Minerals and Waste Core Strategy policy CS26 – Mineral Safeguarding Areas. Although not creating a presumption that resources will be worked, MSAs are defined in order that proven resources are not needlessly sterilised by non-mineral development; this policy is in accordance with the National Planning Policy Framework, Chapter 13.

The proposals do not include the provision of permanent structures which would sterilise the underlying mineral and the development in its current form cannot be viewed as incompatible. Any future applications for the site, particularly those that may include permanent structures, will also need to be assessed against policy CS26.

h) Archaeology

The applicant has advised that all the structures are free standing supported by their own weight. There are no foundations and they are not secured to the ground. There are also no trenches. Fences are secured by posts, 18ins below ground and smaller barricades are secured by posts 12ins below ground. The Archaeological Officer considers that it is unlikely that there would be an adverse impact on buried remains and/or deposits and no archaeological conditions are required. The proposal therefore accords with section 12 of the National Planning Policy Framework.

i) Flood risk

The site sits within Flood Zone 3 of the Environment Agencies flood map and the client will sign up to Flood Line and will provide 24 hour activity cancelling if required. The Environment Agency raises no objection to the proposal as submitted, as the proposal would not result in an increase to the flood risk vulnerability classification of the development. The recommendation that owners will register with the Environment Agency's free Floodline warnings direct service, to receive advance warning of flood alerts is supported. The proposal is therefore in accordance with policy CS22 of the Adopted Peterborough Core Strategy DPD.

j) Misc

Comments have been raised by a neighbouring occupier regarding the provision of toilet facilities for the participants of the facility, which are located within the existing barn. The toilets are linked to a shared treatment system. The neighbour has advised that the system has to be unblocked 2-3 times a week when the events are on. The neighbour states that the system is being overloaded and discharging into the Dyke illegally. The applicant has disputed this and has agreed that should planning permission be granted a separate unit would be installed. It is considered that these details could be secured by condition.

A neighbour has advised that there is a restrictive covenant on the site that prevents additional dwellings and any commercial activity. However this is a civil matter between the land owners.

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The Director of Growth and Regeneration recommends that Planning Permission is **REFUSED**

R1 The site is located in a flat, open and sparsely vegetated open countryside location where background noise levels are low. The proposal will result in noise of a nature which is not compatible with the open countryside character of the area. The proposed noise mitigation measures do not address the concerns raised by the Planning Inspector with regard to noise implications for neighbouring occupiers and the subsequent impact on quality of life. The proposal is therefore contrary to the provisions of: Paras 122 and 123 of the NPPF, Policy CS18 of the Peterborough City Council Core Strategy 2011 and Policy PP3 and PP8 of the Peterborough City Council Planning Policies DPD 2012

R2 The proposed 2m high acoustic fence would be located within an area comprising an open flat landscape and would be clearly visible from the wider area and in particular, from French Drove to the east. The fence would be an alien feature within the open landscape and be visually intrusive. Whilst landscaping could be provided in mitigation, this would take many years to become established and it could not be guaranteed to be maintained at a height where the fence would be suitably hidden from view. The proposal is therefore contrary to the provisions of: para 109 of the NPPF, Policy CS20 of the Peterborough City Council Core Strategy 2011 Policy PP2, Policy PP8 of the Peterborough City Council Planning Policies DPD 2012.

Copy to Councillors Brown and Sanders

This page is intentionally left blank