

**Application Ref:** 13/01585/WCPP

**Proposal:** 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

**Site:** Battlefield Live, French Drove, Thorney, Peterborough

**Applicant:** Mr Nigel Simons

**Agent:** None

**Referred by:** Cllr David Sanders

**Reason:** Breach of conditions of temporary consent, neighbouring amenity, visual amenity, lack of consultation with nearby neighbours

**Site visit:** 09.11.2013

**Case officer:** Mrs J MacLennan

**Telephone No.:** 01733 454438

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**Recommendation:** **GRANT** subject to relevant conditions

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

### **Site and surroundings**

The site area is approximately 1.68 ha and is a paddock area enclosed by a timber post and rail fence. The site is located within Old Hall Farm to the south of French Drove. 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; one is occupied by the applicant and there is a large agricultural building to the rear of these dwellings. There are neighbouring residential properties to the north approximately 130m from the site (Oak Lodge) and to the west approximately 520m from the site (Old Hall Farm Cottages) which front French Drove; and to the east on Bell Drove approximately 300m from the site (Bluebell Farm House and Bluebell Cottage), otherwise the site is surrounded by flat, open agricultural land.

### **Proposal**

The application seeks permission to remove condition 1 of planning consent ref. 11/00950/FUL for a change of to an outdoor activity use for simulated warfare games, referred to as 'Battlefield Live'.

Condition 1 granted a temporary consent for a 2 year period and the application now seeks a permanent consent.

The proposal would include the permanent positioning of low level structures constructed from timber and painted in green/brown and covered with camouflage netting including:

- 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 2.4m. 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
- Spectator viewing area: Next to car park. Consists of fenced area covered in green netting with one side timber panels depicting windows and doors. Timber painted green with camouflage netting above. Overall dimensions 15m x 15m.

The activity operates primarily on Saturdays and Sundays and school holidays between 10.00 am and 5.00 pm. There are 2 sessions per day, one session starting at 10am and then another at 1.30pm. Each session lasts approximately 90 minutes. The maximum number of participants for each session would be 30.

Since the submission of the application a revised traffic assessment and noise statement have been submitted by the applicant along with details of the structures used in the gaming (as described above). All neighbouring properties and objectors have been re-consulted on the updated information.

## **2 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
11/00950/FUL	Proposed change of use from agricultural to Battlefield Live Outdoor Activity	Application Permitted	28/10/2011

## **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.

## **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.

## **Cambridgeshire and Peterborough Minerals and Waste Core Strategy (2011)**

### **CS26 – Mineral Safeguarding Areas**

## **4 Consultations/Representations**

**Transport & Engineering Services** – No objection - The LHA would raise no objections to this proposal.

**Pollution Officer** - No objection - This Section has 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.

This Section has made no observations of the activities, to be able to confirm the acceptability, or otherwise, of the activity. Should the activity be deemed acceptable this Section would advise that noise limits would not be an acceptable control, since noise will be short-term high energy in character, for which time averaged noise limits are inappropriate. Suitable restriction upon operating hours to prevent disturbance during unsociable hours would therefore be the only appropriate mechanism for noise control.

**Landscape Officer** – No objections - There are no trees implicated by the proposal. I would request that any consent given have the standard landscape condition attached in order to secure

some new planting in this location.

**Minerals And Waste Officer (Policy)** – No objection - Although the site lies within a Minerals Safeguarding Area for sand and gravel I have assessed the application against policy CS26 (Mineral Safeguarding Areas), of the Cambridgeshire and Peterborough Minerals and Waste Core Strategy and found the development not to be incompatible. Any future applications for this site will have to be assessed against this policy.

**Archaeological Officer** – No objection - According to the details provided, the proposed groundwork is relatively superficial and limited in extent. Therefore, the proposed development is unlikely to have a major adverse impact on potential buried remains and/or deposits. There is no need to attach an archaeological condition.

**Wildlife Officer** – No objection - I would welcome the opportunity for additional landscape planting and would recommend the use of a range of native tree and shrub species wherever possible. With regard to barn owls, a survey was carried out for the proposed barn conversion which was refused (08/00655/FUL). This found some evidence that the barn was previously used by barn owls but not recently. So for the current application, provided it doesn't affect the barn then there shouldn't be any issues with barn owls. However if they are planning to use the barn regularly then I would request that an updated barn owl survey is carried out to check they haven't moved back in.

**Planning Compliance Team** – 4 complaints have been received within the two years the activity has been operating as follows:

- Thorney Parish Council received 25.05.2012. Unauthorised signage on the highway. Sign referred to Highways Dept. as not a planning matter.
- Neighbour complaint received 25.05.2012 Breach of conditions C2 & C5, i.e. not putting away equipment and opening after 5:00pm. Applicant stated that he had a private party which went on into the evening whilst some equipment is left out overnight however it would be unrealistic to clear everything due to the scale and nature of the apparatus plus equipment not visible from the highway. Case closed 3.10.2012.
- Neighbour complaint received 12.11.2012. Operating after 5:00pm. Complainant reported that the breach had ceased although problems tend to arise mainly during the summer months. Case closed 12.12.2012.
- Neighbour complaint received 28.10.2013. Children screaming at weekends and pyrotechnics now being used.

**Thorney Parish Council** – Objection - The noise is affecting quality of life for neighbours, concerns about traffic and use of smoke flares. Existing conditions of application have been contravened.

Further correspondence has been received from the Parish Council stating that the Parish Council objections were based on the views of a few local residents who attended the meeting and that Thorney Parish Council has had no further objections from the wider community or any other adverse comments from villagers.

**Councillor David Sanders – Objects** - I have received numerous representations from nearby constituents, who have during recent months complained to PCC about the breaches of Planning conditions on the site that they wish to bring to the attention of planning committee members, such issues as noise, wildlife, visual amenity, lack of consultation with nearby residents about this application and to challenge that planning condition C2 (putting away structures and objects) has not been adhered to by the applicant in the last 2 years.

**Councillor Sue Day - Support** - This a fantastic facility providing a team building experience for all ages whilst enjoying country air; in my opinion anyone using this facility would positively benefit from the experience therefore I am in full support and would ask that planning permission is approved.

## Local Residents/Interested Parties

Initial consultations: 25

Total number of responses: 117

Total number of objections: 25

Total number in support: 90

25 Neighbouring properties have been consulted on the application. Further information was submitted by the applicant and re-consultation was undertaken.

In total 25 representations of objection to the proposal have been received; 11 of these are from neighbouring occupiers the remainder are from visitors to these properties who live out of the area. The following issues were raised:

### Residential amenity

- Screaming and shouting impacts on our amenity as background noise levels are very low
- The enjoyment of our home and garden is compromised
- Noise comes from the site even within and outside hours of use
- The silent nature of the weapons is far outweighed by the screaming and shouting
- I chose to live here because it is quiet and I have suffered with depressive periods
- There has been no attempt to erect fencing or noise barriers – these should be provided
- Noise has increased over past year due to number of participants increasing
- Noise should be restricted on Sundays
- Excessive noise impacts on quality of life
- Restrictions should be put on regarding restriction of days, number of sessions, number of participants, house of use
- The building used for initial induction is only 40m from the rear of our property
- The Battlefield area is only 80m from the front of our property and we have to endure hours of screaming and shouting
- Children's parties are being held in the barn to the rear of our property
- Two large windows have been inserted into the barn at the rear of our property resulting in overlooking to our kitchen, lounge and garden
- I cannot ride my horse when events are being held

### Visual amenity

- Clutter and numerous road signs spoil the open farmland
- Sheds and broken vehicles make the area look like a war zone
- The green netting around the spectator area is a really bright distinctive colour, white cars are also clearly visible – they are not included in the original or new site layout.
- The development is not compatible with the character of the rural landscape
- It does impair local neighbour's view of the open fen countryside
- The structures are unsightly and inappropriate for the open, flat countryside
- These developments are not usually in tree-less open countryside next to houses
- We chose to live in an area of outstanding beauty however Battlefield Live has slowly eroded that environment
- The use should be situated in an area of the city designated for industrial/commercial use
- This area should be protected as it has been undisturbed by noise and is prized by the local residents and visitors to the area.
- The photos submitted were taken in the summer when trees and maize field restricts views.
- If planning permission is granted a more substantial sound and visual barrier should be provided
- The activity does not promote the tourism of the Fens

### Noise

- The noise survey is not a true assessment
- It is not known who undertook the noise assessment
- The noise assessment lacks details of wind speed/sound, background noise tested over a period of time, no information as to where the assessor was stood, etc.

### Current Activity

- Bookings are being made for up to 40 people despite application stating a maximum of 20.
- Condition 2 of the temporary consent required the equipment be kept in storage area – this has not happened
- Condition 3 has been breached as coloured smoke flares are regularly used pyrotechnics used
- Illegal signage has been erected but no action has been taken
- Condition 5 of temporary consent restricted play to between 10am and 5pm – one evening game playing continued until 8pm
- The applicant will continue to ignore conditions
- Although the application states the hours are between 9.30-4.30pm the Battlefield Live website advertises 7 days a week 10am to dusk
- Subsequent applications will be made to increase operating hours
- The documents submitted fall short on the facts
- The original site plan bears no resemblance to reality
- Concern regarding future expansion of the business
- Why was the updated information not submitted with the application
- This is not a new application and the details should not include changes
- The additional information verifies that the structures are over 2m in height
- The new plan shows a spectator area however the noise statement says “Battlefield Live is not a spectator activity
- There are no restrictions on number of participants or spectators

### Wildlife

- Aquatic birds (moorhens, coots, mallards, etc) who sometimes venture out of the dyke on to the road are being killed by careless drivers
- There are Barn Owls and Bats in nearby properties, likely to be affected by noise

### Traffic

- Increase in traffic will make the road less safe, cars do not stick to 40mph speed limit
- The road is used for walking, cycling, dog walking, etc – there is no footpath or lighting which will make it very unsafe
- Drivers who are not familiar with the area will be impatient with other road users which will increase risk of accidents
- There are no taxi firms in Thorney or Crowland so access by public transport and taxi is not feasible
- The July 2011 and the Sept 2013 surveys are almost identical – I do not believe a new survey has been undertaken
- A 40 mph speed limit sign should be erected at the entrance to ensure patrons of Battlefield Live are respectful of the restrictions
- There are now many lorries using this route yet none were recorded on Monday 9<sup>th</sup> September.
- Since the opening of the A16 the traffic using French Drove has increase - HGV's use as a short cut from the A16 to the A47.

### Consultation

- We are an adjoining neighbour and were not notified of the application
- A number of properties close to this proposal did not receive any notification of the original application 11/00950/FUL and were not aware of it until it opened

Thorney Landscape Protection Group: Objects to proposal for the following reasons:

- A number of properties not notified; applicant in breach of all conditions on previous consent; too close to residential properties; adverse impact on amenity - overbearing impact, visual intrusion and excessive noise from the game participants; noise survey does not take account of wind speed, weather conditions, background levels; other Battlefield Live sites are located at Forestry commission centres so comparisons cannot be made with the site; number of participants regularly exceeds 20; complaints made to the City Council however response was 'little could be done until the application expired'; the high pitched shouting and screaming does not compare to playground noise; we cannot use our garden to relax in, even visitors complain; Noise Pollution Officer recommended on previous application that the site be monitored, this hasn't happened; excessive noise can impact on health; this noise from this application combined with French Farm wind turbines will make a number of properties in the vicinity uninhabitable; the traffic survey is not a true representation, a large number of HGVs use French Drove and it is no longer a quiet country road, there are no taxi firms in Thorney or Crowland so access by public transport and taxi, as proposed in the application, is not feasible, the figures in the statement regarding use of minibus and car sharing is false; noise impact on protected species including barn owl and bats; concern over possible expansion of the facility; the structures do not blend with the landscape; should the application be approved a sound and visual barrier should be provided; the use does not promote the Fens or increase tourism to the area; conditions on the original application have been breached: temporary consent expired and no application submitted, structures are not moved after play, pyrotechnics are used, permitted hours have been ignored; two road signs have been put up without permission; the original site plan bears no resemblance to reality. If the planning application is approved there should be restrictions to the days, number of sessions, hours of opening and maximum number of participants, however, conditions likely to be ignored.

90 representations in support of the proposal have been received. These representations are primarily from users of the activity. The comments are summarised below:

- This well used outdoor activity is something different for the area
- Encourages exercise and fresh air in a controlled environment
- Peterborough should encourage any exercise like this
- Gets children outdoors
- It would be a shame to see this go
- I have used the facility as a Father, an Adult birthday organiser and Youth behaviour consultant.
- The activity is well organised and very professional
- There is good parking
- The activity area and facilities are well maintained, there is a good briefing area.
- This activity is audibly low other than the sound of laughter
- The equipment battery electronic/operated with extremely low environmental impact.
- No food and drink is allowed in and around the area other than the briefing area.
- Battlefields as a business should be able to expand accept larger corporate groups, children's birthday party's stag and hen parties.
- If the area was larger this would encourage more schools and youth groups and employ more local people bringing more trade to the local community.
- Excellent team building experience
- The kids had a brilliant time.
- A great way of keeping fit
- Peterborough needs more family activities like this

- Good location
- A great outdoor activity
- Peterborough needs more family activities like this one
- Fun, affordable and safe
- It would be a real shame to lose such a fun local day out.
- I believe this is an asset to the community
- Avoids travelling further afield and contributing to another community rather than my own local one
- Keeps children away from TV and video games.
- Encourages interaction, social skills, being part of a team, and thinking out and enacting a plan - important lessons for life
- It is attended by children that have learning and behavioural difficulties.
- It's about time Peterborough council backed more people with an open minded attitude to what could be a great adventure
- With all the Change 4 Life programmes being run by Peterborough City Council the Council should encourage
- The equipment is quite unique and provides a great outlet for young teens
- The games produce very little associated noise

## **5 Assessment of the planning issues**

### **a) Background**

Battlefield Live is an established outdoor gaming concept using infra red technology. There is little sound from the guns and no projectiles are used. The Local Planning Authority (LPA) was 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 accommodate the use. This is an outdoor activity requiring a large area of land which could not reasonably be provided within the urban area. There are no similar uses within the Peterborough area. The LPA considered the principle of the change of use was acceptable subject to the proposal meeting other planning considerations.

A planning application was submitted (ref. 11/00950/FUL) and was generally supported by the LPA however as the type of facility represented an unknown to the LPA it was considered appropriate to allow a 2 year temporary consent to assess the impact the facility would have on the amenity of neighbouring properties and the visual amenity of the open countryside. It was considered that over this period of time the LPA could monitor any complaints which arose following the implementation of the facility.

### **b) The principle of the change of use**

The scale of the proposal is considered to be relatively modest, with the average number of participants taking part on each session being between 15-20. The land used for the activity is situated well within the site and the structures used for the gaming are of a temporary nature.

The NPPF encourages both farm diversification and 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.

### **c) Neighbouring Amenity**

There have been a number of objections to the proposal particularly from nearby residents

primarily due to the noise. It is argued that the level of noise emanating from the site primarily due to voices shouting, screaming and laughing is such that the use impacts on amenity making it impossible to sit outside when the activity is running.

A noise statement has been submitted with the application. Noise readings at the site were taken on 1<sup>st</sup> September and 8<sup>th</sup> September whilst gaming sessions were in progress. The noise survey states that the wind was moderate and readings were taken down wind at a distance of 75m from the activity. It is not known who carried out the assessments. The type of guns used are 'Scorpion' model and it is stated that they have a reading of 51dB at 50m. The maximum number of guns in use at any one time has been 30. It is stated that the WHO recommends the outdoor time average noise level should not exceed 50dB. Readings from the site taken at 75m along the private driveway to the site when no activity was taking place and whilst the game was in play. The background noise levels for each session varied between 43dB and 51.2dB. The maximum continuous noise level reached 54.1dB with the highest peak level of noise recorded at 79.9dB (this is highest level of noise over a given period) however, a peak level of 68.4dB was recorded with no game taking place which is likely to be due to passing cars, etc. Noise levels measured at 300m from the site i.e. properties along Bell Drove, would be typically 12dB lower than those measured at 75m.

The details contained within the noise survey are refuted by objectors to the proposal. They argue that the survey does not take into account background levels and that in these cases noise levels as low as 40 dB may still cause serious annoyance.

The pollution control officer has advised that noise limits would not be an acceptable control, since the noise will be short-term high energy in character, for which time averaged noise limits are inappropriate. The Officer suggests that suitable restriction upon operating hours to prevent disturbance during unsociable hours would therefore be the only appropriate mechanism for noise control.

Noise levels are also not a suitable mechanism for establishing the likely acceptability for such proposals (as with many other sports and leisure activities), since 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 [BS4142:1997]). It is for this reason that a recommendation was previously made by the Pollution Control Officer for a temporary permission to establish the likely acceptability of the proposal.

The background noise of the area is considered to be particularly low given the rural location and the open character of the area. It is not the weapons that would result in significant noise rather the intermittent nature of noise from shouting etc. It is the impact of the increased noise events which need to be considered. There have been requests by objectors to reduce the number of participants to reduce the level of noise, however, reducing the number of participants would only reduce the frequency of the increased noise events. If the number of participants was doubled this would be unlikely to result in an increase in noise levels for individual events, but there would be an increase in the frequency of those events occurring. Once again, the consequential effect of this situation poses difficulties in judgement since there are no standards to assess the likely impact against. The only reliable method for such assessments is therefore of a subjective, rather than objective, nature. This was the purpose of the previous granting of the temporary permission.

It is considered that limiting the hours of use to between 10.00 am and 5.00 pm and the number of participants to 30 at any one time (to reduce the frequency of the increased noise events) would retain the noise to reasonable levels. Conditions would be appended to secure these requirements.

The site currently contains no trees or landscaping and is open in nature. The applicant had suggested the planting of trees and shrubs of a native variety which would help screen the site at the time of the original application; however as the application was only granted for a temporary

two year period requiring additional planting would have been unreasonable. It is considered that tree and shrub planting around the perimeter of the site would provide a buffer and absorb noise from the site and a condition would be appended requiring details of hedgerow to be submitted for approval.

The planning officer undertook a site visit on a Saturday to assess the level of noise from all directions from the site. The officer walked along Bell Drove and acknowledged that voices could undoubtedly be heard from this position. However, the noise was not unduly loud and the level of noise heard by occupiers of properties along Bell Drove whilst in their rear gardens would to some degree be screened by the dwelling. The houses in Bell Drove are at least 300m from the site. The planning officer did not know how many children were taking part on that particular occasion, however has since been advised by the applicant that there were 24 participants at that session.

A temporary consent was originally granted to enable the LPA to monitor any impact arising from the activity. This is usually monitored by the number of complaints received. It should be noted that there have been few complaints to the planning enforcement team over the two years the activity has been operating. A complaint has been raised by Thorney Parish Council regarding unauthorised signage on the highway. This complaint was referred to the Highways Section and was not a planning matter. A complaint was made by a neighbouring occupier in May 2012 regarding breach of condition 2 – putting away equipment after play and condition 5 - opening after 5.00 pm. The applicant had stated that this has been a private party. It was also considered by the officer of the compliance team that due to the scale and nature of the equipment used it would be unrealistic and that the equipment was not visible from the highway. A further complaint was received in November 2012 reporting that the activity was again operating after 5:00pm. The latest complaint was received in October 2013 reporting the noise of children screaming and that pyrotechnics were now being used.

There are concerns regarding the number of participants and reference has been made to bookings of more than 40 people and that when the original application was submitted it was stated that there would be a maximum of 20 participants at any one time. The number of participants was not conditioned under the original permission.

In addition comparisons have been made to other Battlefield Live sites. Many are located in wooded areas. The opening times indicate the potential for numerous sessions during the day and late night gaming which is raising concern with neighbouring properties. However, this application is considered on its own merits and it is acknowledged that the characteristics of this site varies significantly to other Battlefield Live sites. As such it is appropriate that reasonable measures are put in place to tightly restrict the scale and nature of the use. Should the facility wish to expand in the future this would require permission and an assessment of impact would be made at that time.

The new plan shows a spectator area and questions have been raised by objectors as the noise statement says "Battlefield Live is not a spectator activity". It is likely, however that this area would be used by parents who have accompanied young children. It is unlikely that there would be substantial spectators where noise would be significant.

The adjoining neighbouring property, who has objected to the proposal due to the impact of noise is located approximately 80m from the site. Again it is considered that with appropriate screening and limiting the number of participants would address the impact of noise. The neighbour has also advised that Children's parties are being held in the barn to the rear of their property and two large windows have been inserted into the barn which lead to overlooking. The use of the barn does not form part of this application and planning permission would be required for a change of use of the barn.

It is considered that with the appending of conditions regarding hours, number of participants and landscaping the proposal would not unduly impact upon the amenity of neighbouring occupiers in accordance with Policy CS16 of the Adopted Peterborough Core Strategy DPD and policy PP3 of the Adopted Peterborough Planning Policies DPD.

#### **d) Visual Amenity**

The layout of the site includes a number of wooden structures which are painted green/brown and some are covered by a green netting. Under the previous proposal a condition was appended requiring all of the structure to be put away when not in play however, it would appear that the applicant has been in breach of this condition, which is unfortunate.

It was evident from the site visit that the nature of the structures present difficulty in moving them every time the activity was not operating. Comments have been made regarding the green netting around the spectator area having a bright distinctive colour and white cars being located on site which were not included on the original layout and are not included on the new layout. The applicant will be asked for clarification on this matter and this will be provided in an update report to Members.

The structures are positioned within the site at least 170m from French Drove and 280m from Bell Drove and are not directly visible from the public highway. The structures are seen against the backdrop of the farm buildings and converted barns and do not detract from the character and appearance of the rural setting. Any changes to these structures or any additional structures would require approval from the Local Planning Authority.

It is considered that the proposal does not detract from the visual amenity of the open countryside, however with the planting of trees and shrubs along the boundaries of the site the use would be entirely enclosed. Hence the proposal accords with policy CS16 of the Adopted Peterborough Core Strategy DPD and Policy PP2 of the Adopted Peterborough Planning Policies DPD.

#### **e) Highway implications**

The application is supported with a traffic survey and given the scale of the use it is considered that the use would not generate unacceptable levels of vehicular movements to and from the site. Objections have been received arguing that the road leading to the site is unsuitable for the level of traffic accessing the site and that there would be safety issues for users of the road, for example, dog walkers, horse riders and so on. The Local Highways Authority raises no objections to the proposal as the use would not generate levels of traffic which would impact on the users of the highway. It is the view of the LHA that it is likely that there would be a high level of car sharing due to the likely participants. In addition, the LHA would have no control over who uses the public highway.

There is an existing access to the site which is considered to be appropriate for the proposed use. Car parking is provided within the site for up to 10 cars, 1 mini bus and 1 disabled parking space. The proposal would not result in any unacceptable impact on the adjacent highway network and accords with policies PP12 and PP13 of the Adopted Peterborough Local Plan (First Replacement) and policy CS14 of the Adopted Peterborough Core Strategy DPD.

#### **f) Landscaping**

The site currently contains no trees or landscaping and is open in nature. The applicant had suggested the planting of trees and shrubs at the time of the initial application however, a temporary consent was issued and therefore planting was not appropriate at the time. The Landscape officer and Wildlife Officer suggest the planting of native trees and shrubs. A condition would be appended should a permanent consent be given to ensure the correct species of an appropriate size are planted and maintained.

#### **g) Wildlife**

Comments have been made on the impact on wildlife resulting from the noise of the activity. Neighbours have stated that a nearby barn houses a nesting barn owl and bats are present in

nearby properties. A survey was carried out on the barn within the site during the assessment of a previous application. At the time there was some evidence that the barn was previously used by barn owls. It is the Wildlife Officer's view that as the application does not include the barn and therefore if the barn is being used by barn owls they would not be affected. The Wildlife Officer has also advised that whilst neighbours have raised concerns regarding the use of nearby barns by barn owls these would not be affected by the proposal.

With regard to the increase in vehicles using the highway as a result of the proposal and the subsequent impact on Aquatic birds from the dyke, this is not a material planning consideration and the LPA has no control over how many vehicles use the public highway.

The proposal would not result in any adverse impact on protected species and the proposal accords with policy PP19 of the Adopted Peterborough Planning Policies DPD.

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.

#### **h) 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.

#### **i) 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.

#### **j) Consultation**

Comments have been made regarding lack of consultation with neighbouring occupiers under original application (11/00950/FUL). It is confirmed that the LPA did notify all neighbouring properties which share a boundary with the site and a site notice had also been erected. The applicant is also the owner of a semi-detached property adjacent to the site which is a converted barn. The adjoining neighbour has advised that they were not consulted on this application and this was an oversight by the LPA which has now been addressed and the neighbour has been given the opportunity to comment on the application. The LPA can therefore confirm that it has complied with statutory requirements in respect of consultation.

#### k) Miscellaneous comment not covered

- The proposal states that it is the 5th best tourist attraction in Peterborough on the Tripadvisor web site – this is untrue: *This is not a planning matter*
- I cannot ride my horse when events are being held: *It was noted at the site visit that horses were grazing in the adjacent field and appeared to be unaffected by the activity taking place.*
- Why was the updated information not submitted with the application: *The LPA is obliged to accept additional information and neighbouring occupiers have been re-consulted.*
- This is not a new application and the details should not include changes: *Additional information can be considered by the LPA.*
- Noise should be restricted on Sundays: *This is considered unreasonable*

## 6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- the site is considered suitable for the proposed small scale nature of the outdoor activity;
- the facility has been operating for two years and given the low level of complaints received and with restrictions on the number of sessions and hours of use, the proposal would not unduly impact upon the amenity of neighbouring occupiers;
- the structures required for the activity do not detract from the character and appearance of the rural area;
- the proposal would not result in a substantial increase in traffic which would impact on highway safety.

Hence the proposal accords with policies CS1 and CS16 of the Adopted Peterborough Core Strategy DPD 2011, policies PP2, PP3, PP12, PP13, PP16 and PP19 of the Adopted Peterborough Planning Policies DPD 2012 and the NPPF.

## 7 Recommendation

The Director of Growth and Regeneration recommends that planning permission is **GRANTED** subject to the following conditions:

- C1 The development hereby approved shall be carried out in total accordance with the approved details regarding layout and structures received by the Local Planning Authority on 28<sup>th</sup> November 2013. Any changes to the size, scale, design and colour of the structures hereby approved or any additional structures shall require approved by the Local Planning Authority.

Reason: For the avoidance of doubt and to specify the details to which the permission relates.

- C2 The number of games shall be restricted to a maximum of two per day between the hours of 10am to 5pm.

Reason: In order to minimise the risk of noise disturbance to neighbouring properties and in accordance with policy PP2 of the Adopted Peterborough Planning Policies DPD 2012 and the NPPF.

- C3 The number of participants at any one time shall be limited to 30.

Reason: In order to minimise the risk of noise disturbance to neighbouring properties and in accordance with policy PP2 of the Adopted Peterborough Planning Policies DPD 2012 and the NPPF.

- C4 The game play weapons shall be electronic in nature and shall not fire physical objects and no pyrotechnics shall be used on the site.

Reason: To minimise the risk of noise disturbance to neighbouring properties and in the interests of visual amenity in accordance with policies PP2 and PP3 of the Adopted Peterborough Planning Policies DPD 2012 and the NPPF.

- C5 No lighting shall be provided on the site unless approved by the Local Planning Authority.

Reason: In order to protect the character and appearance of the open countryside and in accordance with policy CS16 of the Adopted Peterborough Core Strategy DPD and policy PP2 of the Adopted Peterborough Planning Policies DPD.

- C6 Within one month of the date of planning permission a scheme for tree and shrub planting along the eastern and northern boundaries to the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out as approved no later than the first planting season following the date of this permission.

The scheme shall include:

- a double staggered row, 450mm apart with 7 plants per linear metre with stakes and rabbit guards with the following species mix: 40% Hawthorn, 30% Hazel, 10% Blackthorn, 10% Field Maple and 10% Holly.

Reason: In the interests of the visual appearance of the development and the enhancement of biodiversity in accordance with Policy CS21 of the Peterborough Core Strategy DPD (2011) and Policy PP16 of the Peterborough Planning Policies DPD (2012).

- C7 Any trees, shrubs or hedges forming part of the approved scheme that die, are removed or become diseased within five years of the implementation of the scheme shall be replaced during the next available planting season by the developers, or their successors in title with an equivalent size, number and species to those being replaced. Any replacement trees, shrubs or hedgerows dying within five years of planting shall themselves be replaced with an equivalent size, number and species.

Reason: In the interests of the visual appearance of the development and the enhancement of biodiversity in accordance with Policy CS21 of the Peterborough Core Strategy DPD (2011) and Policy PP16 of the Peterborough Planning Policies DPD (2012).

- C8 No adverts shall be erected at the site which would otherwise be permitted under the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended) unless otherwise agreed in writing by the Local Planning Authority.

Reason:- In the interests of the visual amenity and in accordance with policy CS16 of the Adopted Peterborough Core Strategy DPD and policy PP2 of the Adopted Peterborough Planning Policies DPD.

Copies to Cllrs Sanders, McKean