

Parish: WENHAM MAGNA

Location: Unit 52, Notley Enterprise Park, Raydon Road

Proposal: Change of use of land and buildings to form paintball activity centre (retention of)

Applicant: World at War Paintball

Case Officer: Stuart McAdam

Date for Determination: 09.02.10

A Panel of Members visited the site on 27 January 2010 to assess the impact of the proposal on neighbours.

THE SITE

1. The application site is located to the north west corner of Notley Enterprise Park (NEP) close to Entrance Gate B. NEP occupies a small part of the former wartime Raydon Airfield which has acquired a lawful use for storage and distribution (Class B8). The site extends to 1.41 ha and comprises three nissen huts and two grassed areas to the north and south of the huts which are currently being used for paintballing activities.
2. The area is bounded to the north by a former airfield taxi-way. An unclassified road leading from Woodlands Road to Coopers Corner runs along the eastern boundary separating the site from open fields.
3. A public footpath runs through the enterprise park and runs through the nissen huts (although walkers use the track to the south of the building) and alongside the northernmost paintball arena. A two metre fence runs along the site boundary with the footpath.

THE PROPOSAL

4. The proposal seeks planning permission for the continued use of land for paintballing, which has operated at the site since June 2009.
5. The site comprises three conjoined nissen huts and two main areas to the north and south of the huts which are used for the paintballing activities. The Huts are used principally as an indoor paintball arena but also include areas for target practice, secure paintball/paintball marker storage and a reception/safety briefing area.
6. Outdoor arena 1 has been subject of minor landscaping and the excavation of earth to form "trenches". Arenas 2 and 3 to the south of the nissen huts are for multi-themed activities using inflatable and other removable structures which are erected and dismantled on a need basis. Both the arenas are enclosed by paintball resistant safety netting secured over steel posts and secured by wire. These structures require no foundations and are completely removable.
7. A Design and Access and Supporting Statement accompanies the application.

RELEVANT HISTORY

8. There is no history which is directly relevant to the site although Members will note that the Enterprise Park has acquired a lawful use for B8 storage.

NATIONAL GUIDANCE

9. **PPS1** (Delivering Sustainable Development)
10. **PPG17** (Planning for Open Space, Sport and Recreation)
11. **PPG24** (Planning and Noise)

PLANNING POLICIES

12. The Development Plan comprises the East of England Plan, adopted 2008, saved policies in the Suffolk Structure Plan, adopted 2001, and the Babergh Local Plan (Alteration No. 2) adopted 2006. The following policies are relevant to this proposal:

East of England Plan - 2008

- **SS1** (Achieving Sustainable Development)
- **ENV7** (Quality in the Built Environment)

Babergh Local Plan (Alteration No.2) 2006

- **CR01** (Countryside)
- **EM11** (Notley Enterprise Park Raydon/Great Wenham)
- **RE06** (Recreation in the Countryside)

The relevant documents can be viewed via the internet. Please see Page 4 for details.

CONSULTATIONS

The application site falls within two parish council areas, Raydon and Wenham Magna.

13. Raydon PC recommends refusal for the following reasons:-
 - the existing nets are in poor condition and are unsightly from the main road and the surrounding areas
 - Increased noise nuisance and the possibility of cars being hit by paintballs
14. Wenham Magna PC recommends refusal on two grounds:-
 - it would interfere with the free use of Footpath 7; and
 - the site is too close to a public road with the potential to be a hazard to passing pedestrians, cyclists and motor vehicles
15. Adjoining Parish (Little Wenham) requests that the application be refused and comments as follows:-
 - the proposal is contrary to Policy RE06
 - noise and disruption which will be detrimental to local residents
 - increased traffic in contravention to policy requirements
 - unsightly netting

- landscaping might help to conceal the netting but this will not reduce the noise and general disruption caused by the enterprise. Landscaping has been promised previously but to date there is no evidence of any
 - safety issues as the paintballing is right next to a footpath and road
 - the footpath through the site has been blocked for a number of years and the Council is requested to consult with the appropriate department to check history of correspondence from the Parish Council to re-open it
 - Any employees would be likely to be casual and not local to the area
 - distasteful and offensive to promote war games when our thoughts are focussed on the safety and well being of our troops abroad
 - previous Council advice was that the Council would not deal with any more applications at the Enterprise Park until the owners had come up with an overall plan for the site. No plan has been submitted. The original planning application included a condition for landscaping. Nothing has been done in that regard.
16. Adjoining Parish (Holton St Mary) – any comments will be reported at development committee
17. LHA – “I note that this part of Notley Business Park has been highlighted within the Babergh Local Plan as an area for employment. The local roads surrounding Notley Enterprise Park are not suitable for heavy traffic and given the alternative uses that could be proposed on this part of Notley Enterprise Park I do not consider that the proposed paintball use to be detrimental to road safety. Given the proposed use, I feel it is unreasonable to expect the applicant to provide a green travel plan, however due to the nature of the sport I would expect that some attendees would travel to the site together.”
18. SCC Rights of Way - Notes that the right of way is obstructed in this location, and are aware of incidents of paintballs found in the vicinity of where the public are walking and that walkers are concerned for the safety of their dogs. It is suggested that the LPA liaises with the footpath officer and the agent for the enterprise park about repositioning the footpath.
19. BDC Environmental Protection – The nearest noise sensitive property is approximately 180 metres away from the proposed development and the rural location means that background noise levels will be low. Given the proposed hours of use and that up to 50 people could participate in games at any one time, there is potential for a significant loss of amenity to nearby residences due to noise from shouting. However the degree of disturbance will vary according to the group playing, the number of events, duration of games, hours of operation and any ‘management controls’.
20. It would be extremely difficult to accurately predict noise levels generated by this type of activity and therefore any assessment would essentially have to be subjective in nature.
21. Environmental Protection is unable to give a definite recommendation due to the number of variables that could influence noise levels. As a guide, the noise created by 50 participants might be seen as comparable to several sports matches being played at the same time in an area with very low background noise level. The Environmental Protection Team considers that regular operation of the proposed activity at such numbers on a daily basis (as proposed) would be likely to lead to complaints. If permission is granted, it is recommended that activities be restricted solely to the outdoor /indoor arenas defined in the application.

22. BDC Footpath Officer – Confirms that the application site is crossed by Wenham Magna Footpath No. 7 and that an application has been made to divert a section of the footpath. Reference is made to correspondence from Suffolk County Council to the applicant's agent dated 22 October 2009 highlighting that the landowner has a 'duty of care' to any visitor on their land and could be liable should any injury occur as a result of the paintballing activities.
23. BDC Contaminated Land Officer - No comments to make from a contaminated land perspective.

REPRESENTATIONS

24. Five letters of objection have been received which make the following comments;
- out of keeping with other activities on the site and is therefore an unsuitable location
 - noise from banging, shouting and screaming and constant quick fire rat-a-tat particularly noticeable given the rural setting. This continues from 9.30 until 4.30 and is worse than that from the industrial estate which is not continuous or as loud
 - there is no screening to buffer the noise. If it were placed behind a building there might be some improvement
 - hours of operation - other activities occur during the working day and occasionally until mid-day on Saturday. The paintball operation does not keep normal working hours. The proposal seeks to extend the hours which means that there will be no respite from the noise and intrusion. The usual time to enjoy a home and its garden is weekends and evenings and the proposal would coincide and conflict with these and may lead to further increase of hours if approved
 - increase in traffic, particularly at weekends, which will have adverse impacts in conflict with policy
 - safety issues to walkers, pedestrians, cars, cyclists and horses as a result of the proximity of the activities to footpaths and the road (paintballs have been found there)
 - previous Council advice was that the Council would not deal with any more applications at the Enterprise Park until the owners had come up with an overall plan for the site. No plan has been submitted. The original planning application included a condition for landscaping. Nothing has been done in that regard.
 - the site has been in breach of planning for more than 6 months
 - contrary to policy RE06 which encourages recreation which has no adverse impact on local landscape character, road safety, biodiversity or residential amenity
 - there is no comparison to the local flying club which causes no disruption and is well away from roads, footpaths and houses
 - there will be no new employment opportunities and the site will be operated by existing staff
25. One letter of support has been received from the operator of Unit 70 Notley Enterprise Park. The noise and traffic caused by the paintball is very small and causes no problems to me and I am based less than 100 meters away.

PLANNING CONSIDERATIONS

26. The key policy considerations are contained in Policies CR01, RE06 and EM11 of the adopted local plan.

27. The site is covered by policy EM11 of the Local Plan. This policy provides, inter alia, that further employment related uses will be strictly limited to the area shown on the Proposals Map, that development proposals will be considered in relation to the landscape impacts and the need for improved perimeter landscaping, and that proposals that have adverse traffic impacts will be refused unless they offer suitable mitigation measures.
28. While the paintball activities are a Class D2 Assembly and Leisure Use, the centre will provide employment for five staff. Members will note that concerns have been raised by objectors that there will be no opportunities for local people. This is outside the scope of planning.
29. Policy CR01 seeks to protect the landscape quality and character of the countryside to that which is essential for the efficient operation of agriculture, forestry and horticulture and for appropriate outdoor recreation subject to specific criteria which is elaborated upon and dealt with by Policy RE06 which specifically deals with proposals for recreational facilities and change of use to recreation in the countryside.
30. Policy RE06 states that small or medium scale recreation facilities in the countryside may be acceptable, subject to no adverse impact on inter alia:
 - the character of the locality
 - road safety
 - landscape character
 - residential amenity
31. Recreational uses and facilities will not be permitted if they introduce or are likely to lead to the introduction of:
 - new buildings, structures or landscape features which would detract from the character of that particular tract of countryside;
 - noise, light emissions or other intrusive characteristics which would detract from residential amenity and the quiet enjoyment of other users of the countryside
32. Policies RE06 reflects national guidance in the shape of PPG17, which provides the Governments position on open space, recreation and sport and includes consideration of activities in rural areas and which involve noise.

Paragraph 26 of PPG17 states that:

"In rural areas those sports and recreational facilities which are likely to attract significant numbers of participants or spectators should be located in, or on the edge of, country towns. Smaller scale facilities will be acceptable where they are located in, or adjacent to villages to meet the needs of the local community. Developments will require special justification if they are to be located in open countryside All development in rural areas should be designed and sited with great care and sensitivity to its rural location".

33. Clearly the operations are remote from any town or village which means that participants are likely to travel to the facility by private car. Policy EM11 states that proposals that have adverse traffic impacts will be refused unless they offer suitable mitigation measures, such as highways improvements. The supporting statement confirms that the maximum capacity is 50 people and that many car trips are combined which rarely results in more than 20 vehicles at any one time.

34. Members will note that the Local Highway Authority has not objected to the proposed development and highlight that given the alternative uses that could be proposed on this part of Notley Enterprise Park that the proposed paintball use would not be detrimental to road safety. Furthermore it is envisaged that due to the nature of the sport, some attendees would travel to the site together.”

Noise Impact

35. Local residents have made representations regarding the noise and vehicle movements associated with the use. The nearest residential property is approximately 308 metres from the nissen hut in the centre of the site. It is clear that the operations will give rise to an increase in noise, as the activities will, take place in the open air.
36. The Council’s Environmental Protection Officer has confirmed that complaints have already been received about the facility. Activities are likened to several sports matches being played simultaneously. Due to the nature of the activities it is difficult to predict noise levels which are dependant on a number of factors including background noise, wind speed and direction. However, it is considered that noise levels will be exacerbated, particularly at weekends and in the evenings when operations at the Enterprise Park have ceased (although there are no restrictions on the hours of operation of the established use). It is possible that this will be compounded because of the low ambient background noise, at times when people expect to be able to relax at their homes and gardens. Consequently there is potential for a significant loss of amenity to nearby residents from shouting and the proposed operating hours are.
37. The applicant has proposed the use of silencers on the guns in order to help mitigate the impact. However, most of the noise concerns raised relate to voices emanating from the site rather than the guns themselves although the “popping” of the guns has been raised as an issue.
38. In the absence of a noise assessment, it is not possible to say that there will be no harm to residential amenity. A balanced judgement based upon the information available must be made.

Impact on Landscape

39. The site is screened from the road by 5m high, green paintball safety nets. This is particularly noticeable from the highway and from the public footpaths. The safety nets around arenas 2 and 3 are in a poor state and are visually harmful to the area on accessing the enterprise park. The applicant has offered to provide landscaping and a different colour of paintball net if required, to mitigate the impact of the proposed development. However, it is your officer’s view that even by replacing the nets with those of a better quality would still cause visual harm and detriment to the landscape in a prominent location, which is clearly visible in the countryside, and is therefore contrary to policy RE06.

Safety

40. Concerns have been raised about the safety of walkers, cyclists, motorists etc. as a result of the operations, specifically the footpath. While the concerns of objectors are noted, the paintball area in itself is not preventing use of the footpath. The footpath appears to run through numerous buildings in the enterprise site including the nissen huts which form part of this application site. Members will note from the observations by the footpath officer that the landowner has a ‘duty of care’ to visitors on their land. As an aside, and not part of this proposal, an application has been made to divert a section of the footpath which will locate it further away from the paintballing site. Neither Environmental Protection nor the Local Highway Authority have raised any

- adverse comments in this regard.
41. Comments have been received in relation to further development of the Enterprise Park in the absence of an overall plan for the site. While officers have been involved in discussions to seek to achieve an overall masterplan for the site, no plan has been forthcoming and, therefore, the application must be dealt with on its own merits and on the basis of the information submitted.
 42. In conclusion, it is acknowledged that the use needs to be in an area where a significant amount of outside space is available. It is further acknowledged that the generation of traffic movements to the site has not raised any objections from the Local Highway Authority and in this respect, the development is not in conflict with Policy EM11 and a refusal on highway grounds would be unwarranted. The main issues of concern are the impact of the development on the landscape characteristics and the impact on residential amenity. In this respect, it is your officer's opinion that the development fails to comply with the requirements of policies CR01 and RE06 and causes detrimental impacts and cannot be supported.
 43. Finally, should this application be refused (as recommended below) the next steps following the issue of the decision would be the service of an Enforcement Notice to secure the cessation of the use, and the removal of all the associated structures/fences which are unauthorised.

RECOMMENDATION

Refuse planning permission on the following grounds;

- visual harm and detriment to the landscape character; detrimental impact on residential amenities by virtue of noise contrary to the provisions of policies CR01 and RE06 of the adopted local plan