

Parish: HADLEIGH

Location: Benton End Farm, Benton End, Benton Street

Proposal: Change of use of agricultural land for the use of paintballing

Applicant: Mr John Wright

Case Officer: Ben Elvin

Date for Determination: 20 May 2009

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The consideration of this application was deferred by the Development Committee on 8<sup>th</sup> April 2009 for a site inspection. A panel of Members visited the site on 15<sup>th</sup> April 2009. The application was subsequently deferred by the Development Committee on 29<sup>th</sup> July 2009 to a future meeting to enable the receipt of information from the Local Highway Authority.

### **BACKGROUND**

1. As detailed above, this application has been brought before the Development Committee on two previous occasions.
2. At the meeting of 8<sup>th</sup> April 2009, Members deferred the application to enable a site visit to take place, and this was carried out on 15<sup>th</sup> April 2009.
3. The matter was returned to the Development Committee on 29<sup>th</sup> July 2009. At this meeting, the applicant brought forward information that identified that the local highway authority (LHA) had not been in receipt of some of the facts pertinent to the case, with particular regard to the ownership of the verge running along the eastern side of Benton Street.
4. Since this time, further meetings have been held on the site with the local highway authority and the applicant and, separately, with the local highway authority and the owner of Benton End House, which adjoins the site. These meetings have resulted in the consultations with the local highway authority being protracted and the application is now returned to Development Committee having concluded these discussions.

### **THE SITE**

5. The site forms a parcel of land accessed off Benton Street and which accommodates a number of farm buildings and the associated dwelling. The land partly consists of a small woodland and abuts a public footpath.
6. It falls within a designated Special Landscape Area and hosts a livery on the adjacent land (within the site) which is also run by the applicant's family.

### **THE PROPOSAL**

7. The proposal puts forward the continued use of land for a paintballing operation, which has operated at the site for varying degrees over the last few years.

## RELEVANT HISTORY

8. B/95/00809 (1995) – Continued use of land and buildings as riding centre and the renovation and rebuilding of redundant building to form a menage – Granted.

## NATIONAL GUIDANCE

9. **PPS1** – Delivering Sustainable Development
10. **PPS7** – Sustainable Development in Rural Areas.
11. **PPG17** – Planning for Open Space, Sport and Recreation.
12. **PPG24** – Planning and Noise.

## PLANNING POLICIES

13. 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)

### **Babergh Local Plan (Alteration No.2) 2006**

- **CR01** (Countryside)
- **CR04** (Special Landscape Areas)
- **RE06** (Recreation in the Countryside)

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

## CONSULTATIONS

14. PC – recommend refusal on the following grounds;
  - Overbearing/nature of proposal
  - Inappropriate Development
  - Noise and Disturbance from the Scheme
  - Traffic Generation
  - Loss of Trees and Ecological Habitat
  - Concern over the area shown on the plans being incorrect.
  - Impact on character of the listed building.
15. LHA – supports the proposal, subject to conditions relating to visibility improvements, controls over the livery use, and prior booking arrangements.
16. Natural England – no comments.
17. SWT – Site lies adjacent the Hadleigh Railway Walk County Wildlife Site and Local Nature Reserve. Should permission be granted a significant buffer zone should be incorporated to ensure that paintballing activities, including stray projectiles and noise, do not intrude into the projected area.
18. SCC Archaeological Service - no objection.

19. HoNABE – Environmental Health –

- We were advised that the site has been used commercially for this purpose for approximately 3 years. I re-confirm that at no time has Environmental Health received any complaints regarding paintballing on this land.
- The demonstration indicated that use of paintball guns is inaudible at the nearest residential properties, and would not give rise to any loss of residential amenity. The remaining noise concerns therefore relate to participants shouting and noise from vehicle movements.
- From discussions with the applicant, I consider that adequate controls are in place to minimise and prevent shouting. All shooting is supervised by staff in the firing area at the ratio of one member of staff to ten customers. The maximum number of customers is limited to 65 on any occasion. In view of the distance to residential properties I consider that any loss of residential amenity due to customers shouting is likely to be minimal. Extreme shouting or swearing by participants is prohibited by staff.
- Car parking is now being established in the centre of the site and I consider that loss of residential amenity from car arrivals/departures and parking will be minimal.
- The applicant is a member of the UK Paintball Sport Federation (UKPSF) and all members are required to follow strict guidelines in respect of the management of paintball shooting.
- Having regard to the above comments, I recommend that the following conditions should be attached to any consent:
  - a) The maximum number of participants on any occasion shall be limited to 65 persons. The numbers of participants attending the venue shall be recorded and the records shall be available for inspection at all times by officers of the Council.
  - b) The hours of operation of the site shall be restricted to 8.30am- 6.00pm on any day of the year.

20. English Heritage – The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation guidance.

## **REPRESENTATIONS**

21. Four letters of objection have been received which make the following comments:

- Noise from shouting and guns being fired at the same time.
- Numerous noisy businesses in the area are ruining the character of the area.
- This would render houses in the area unsaleable.
- Intensification of vehicles using Hook Lane.
- Impact on the railway walk.
- Impact on wildlife.
- The incorrect certificate has been completed on the application.

22. Since the previous referral of this matter to Development Committee, further representations have been received which can be summarised as follows;

- Benton End House is a Grade II\* listed building, and it is incongruous for the setting of this building to be blighted by troops of noisy, belligerent people arriving and engaging in paintballing. The activities are visible from the gardens in winter, and the noise can be heard all year round.
- They are regular users of the Railway Walk and the fighting takes place within 5 metres of this walk. The noise is terrible and paintballs regularly come over the fence and onto the path. Over the years, a collection of rusting old military aircraft has built-up, turning the area into an eyesore.
- The drive belongs to the owner of Benton End House and the access is onto the B1070, not onto Benton Street, which is an unrestricted road. The drive has restricted sight lines and is the only access for three dwellings and visitors to the riding stables which is as much as it can safely handle. On the paintballing days there is chaos and we frequently have to direct cars who are blocking the highway and restricting sightlines as people come and go with horses and vehicles. Allowing this change of use will create an accident “black spot” on a 60mph section of road.
- The access is not owned by Benton End Farm, there is an easement over the property allowing passage for the use of land as a farm. They have recently spent thousands of pounds maintaining the drive, and it is unreasonable they should have to maintain this drive at their cost given the increased traffic this use would bring.
- The objector provides a number of examples of people being dropped off at the site making noise, dropping litter and approaching their property to ask for directions. Paintballers have parked on their land and blocked their property, including casual callers to the site. They have suffered damage to their property due to paintballers accessing Benton End House and then having to reverse out. Gunsmoke Paintball have refused to carry out work to the drive to protect it.
- A letter previously sent detailing the above points was not referred to in the previous presentations to Committee.
- Gunsmoke Paintball continue to give assurances that they will post marshalls to control the arrival and departure of paintballers, but they have continued to be a nuisance. Photographs have been submitted which illustrate the problems of people parking on their land, blocking the B1070 due to not being able to access the site, and one of the paintballers verbally abusing him because he was being photographed.
- Gunsmoke Paintball have no intention of controlling the arrival of paintballers over our land using marshalls. Requires explanation of how a condition to provide marshalls would be monitored by Suffolk and Babergh Councils.
- Suffolk County Council recommended the application be refused because the access did not meet the requirements of the Suffolk Design Guide. Visibility 2.4metres back from the highway is only 15 metres and at the entrance is less than 4.5 metres wide. Suffolk CC have been pressured by Gunsmoke to decide that these criteria do not matter. Because the riding centre no longer offers lessons Suffolk County Council have accepted that the traffic movements are no more than when lessons were offered. There is no evidence for this at all, and Suffolk County Council refuse to reveal how many movements would be needed for the Suffolk Design Guide to apply.
- They believe there are actually more movements since the riding lessons ceased because a) the horses used to be looked after by helpers who stayed there most of the day whereas now owners visit up to three times a day; b) Most of the helpers walked to site or cycled; c) many of those helpers owned or now own the horses in livery but are older and the owners now have cars; d) Class members were often the helpers themselves and created no additional traffic; e) Classes were rarely as large as 10 and members often walked to the stables, including our own family and; f) we have converted our derelict Coach House into a dwelling and double garage which also adds to the traffic.

- The application is clearly a change of use from agricultural use not from a riding school, so the application should be refused until such time as an application is made. The original application for the riding centre made no mention of lessons so it could be argued that this was not an authorised use anyway.
- Suffolk County Council even agrees that the pattern of paintball causes a problem and recommended modification to the gates to Benton End Farm. The applicants have replied that this cannot be done on safety and security grounds so the Council have simply withdrawn the condition. A similar situation arose when the application was made retrospectively for the riding centre some years ago. It is time for both Councils to do their job and prevent the creeping development of this site.
- The lack of control of paintballers is not limited to their arrival and departure. Apart from the noise, there is evidence that the fighting strays off Benton End Farm. A photograph taken on the railway walk last year clearly shows a skirmish between paintballers.

## PLANNING CONSIDERATIONS

### Principle of development

23. The use is one that is fairly unique in terms of the issues that it raises and needs to be considered on its merits. Saved policies CR01 and RE06 of the Local Plan form the basis for the consideration of this case, as does the advice contained within PPG17.
24. 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
25. 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.
26. This policy reflects national guidance contained within PPG17, which provides the Governments position on open space, recreation and sport and includes consideration of activities in rural areas and which involve noise. The relevant parts of PPG17 are outlined below:

### **"Rural Areas**

*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, although proposals for farm diversification involving sports and recreational activities should be given favourable consideration. All development in rural areas should be designed and sited with great care and sensitivity to its rural location".*

And

### **"Sports and Recreation Provision in Designated Areas**

*Designation of areas as National Parks or Areas of Outstanding Natural Beauty does not preclude the use of land for sporting and recreational activities, but noisy or other intrusive activities should be restricted to locations where they will have minimal or no impact on residents or other recreational users. National Park Authorities should work with other local authorities and with sports and recreational bodies with a view to securing new sports and recreational facilities in appropriate locations within National Parks".*

27. The two paragraphs highlighted above do cause some conflict in respect of this proposal. The use does generate the need for people to travel to the facility and it is a use that needs to be located in a countryside location. The site is close to the edge of the town (as required by the first element of PPG17 stated above) though it is apparent that in being so related, this brings the use within the proximity of residential properties. This use will generate a certain amount of noise and vehicular movements, and these issues are addressed below.
28. The report prepared for Development Committee in April 2009 included an assessment of policy EN25 of the Local Plan. This policy was not saved during the Go-East review of the Local Plan, which excluded certain policies, and therefore no longer exists as a material planning consideration. The previous assessment in respect of that policy has therefore been removed from this report.

#### **Noise**

29. Local residents have made representations regarding the noise associated with the use. It is clear that the operations will give rise to some noise, as the activities are set out to be carried out in the open air and for a number of people to participate at any given time. However, the owner is associated to the UK Paintball Sport Federation (UKPSF) and members are required to follow the strict guidelines that this brings with it. The membership certificate has been submitted in support of the application and the details of the operation can be found on the UKPSF website. The membership process requires consideration of a number of elements, including Site Suitability, Sanitary and Hygiene Facilities, Site Staff and Administration, Equipment, Legislative Requirements and Health and Safety Information. This includes ensuring a marshalling ration of 1 marshall to every 10 participants and the owner has also chosen to restrict bookings of parties of people to a maximum of 65 people in total. The documentation detailing the site requirements is available to view prior to the meeting by arrangement with the Case Officer.
30. Following receipt of the representations, and at the request of the Ward Member, the Case Officer and the Council's Environmental Health Officer visited the site to meet with the operator of the paintballing business. A demonstration of both of the guns that are used at the site was given, and they were able to assess the noise generated by the firing of the guns from various positions around the site. The operator arranged for a number of guns to be fired at once, including firing at differing items such as trees and metal barrels. It was apparent that due to the land levels and the noise from traffic using Benton Street the gun fire was virtually inaudible at a point taken adjacent to the nearest residential property, and that the noise was not such that would constitute a statutory nuisance. The comments of the Environmental Health Officer can be found at paragraph 18 above.
31. The paintballing activities have been carried out in varying parts of the site to varying degrees of intensity for a period of years. The Council has no record of complaints made in respect of noise associated with this use over this time.

32. However, since the application has been submitted, we have received a video clip taken from one of the gardens during the operation of the paintballing activities. This does not, provide sufficient justification that the proposal provides an unacceptable impact on amenity. The video clip demonstrates that there is shouting and noise associated with the use, but also picks up other noise that is not associated with the use, such as bird-song. Further, objections have also been received from a property sited over 500 metres away from the nearest point of the site.
33. The proposal is not supported by a noise assessment. However, given the view of the Environmental Health Officer and the background noise levels which exist, a balanced judgement has been formed. The Council's Environmental Health Officer does not consider that the numbers of vehicles using the site, and the noise levels that result from the activities, are such that they would result in a significant impact. The operator is aware of the issues and is seeking to control the activities as far as is practicable to minimise any impact that arises, through the provision of marshalling to the agreed levels, clear guidance and advice to marshalls and participants about their expected behaviour and limited number of participants per party etc, (as required by the membership of the federation).

### **Landscape Impact**

34. The site is within a Special Landscape Area (SLA). Whilst PPG17 does not refer specifically to SLA's, it does draw attention to the need to consider landscape designations in respect of outdoor recreation uses.
35. The land used for the paintballing activities consists of 2 main areas, the wooded area immediately to the rear of the eastern most building on the site, and part of the open paddock area beyond. The land benefits from a steep incline upto the paddock area, so that the activities carried on in the wooded area are largely encompassed by the embankments. The aforementioned building is used for the registration area and the preparation of participants and is strictly controlled in terms of signage and marshalling when participants are on-site.
36. The applicant has added a number of army aeroplanes, helicopters and obstacles which sit on the paddock area. These are used to form the basis for some of the paintballing games carried out on the site. Whilst these are visible from the railway walk and Hook Lane, they are contained some distance away and are largely screened by the mature tree boundary that lines the paddock boundary. The owner is aware of the footpath and has restricted use to only the western most part of the paddock at this time to ensure good separation from the path itself.
37. Consultations have been carried out with Suffolk Wildlife Trust and Natural England to establish whether the use would conflict with the adjoining County Wildlife Site and Local Nature Reserve. Suffolk Wildlife Trust have asked if a buffer zone could be incorporated to ensure that stray projectiles and noise do not affect these areas. They have not given a guide as to what a suitable buffer is, though it is noted that the paraphernalia referred to in paragraph 36 above is sited some distance from the boundary of the paddock and that there is a significant screen of trees between the paddock and the footpath. It is considered that there is sufficient separation and screening on the site to ensure that these matters do not affect the wildlife areas identified. The operator is aware of the need to ensure that the activities do not affect these areas, and is managing the site so as to ensure that the existing areas used do not conflict with these aims. It is considered that a scheme of site management and the formation of the buffer zone could be required by condition to ensure that these matters are adequately controlled.

38. Consideration has also been given to whether a fenced enclosure could be provided to ensure that there is containment of the activities to the areas of land currently used. However, this would provide a more permanent addition to the land, and would add to the impact that the activities have on the Special Landscape Area. In this respect, it is felt to be neither necessary or of benefit.
39. Policies CR01 and CR04 seek to ensure that the countryside is protected for its own sake and that the character of the Special Landscape Area is not eroded. The containment of the use within the areas identified and currently used (as proposed by the requirement for a site management plan and buffer zone) would ensure that no further erosion of the landscape character would arise. The existing impact is not considered to be such that causes particular harm or injury to the landscape character due to the existing land levels and the screening that exists. The proposal does not therefore conflict with the aims of these policies.

### **Vehicle movements and parking**

40. The highway issues relative to this scheme can be split into two main components; Firstly, the parking and numbers of movements and secondly, the access arrangements.
41. Many of the users travel in groups, thereby reducing the vehicle movements that the site is subjected to. The maximum number of people at the site is restricted to 65 at any one time by the owner, and this is recommended as a condition by the Environmental Health Officer.
42. There is sufficient area for parking adjacent to the buildings and away from the residential properties. Members will recall that this area lies to the west of the buildings and has sufficient area for turning and manoeuvring.
43. The site is well related to Hadleigh, with reasonable links to the A12 and A14 beyond. This is a use that will require people to travel to reach it, and therefore raises issues of sustainability and economy. In this respect, the lead must be taken from the advice contained within PPG17 (see para 25 above) and PPS7 relative to Sustainable Development in Rural Areas. The first part of this document sets out the Government's objectives, and identifies one such objective as the promotion of more sustainable patterns of development. The key criteria that it sets out to achieve this objective are:
- focusing most development in, or next to, existing towns and villages;
  - preventing urban sprawl;
  - discouraging the development of 'greenfield' land, and, where such land must be used, ensuring it is not used wastefully;
  - promoting a range of uses to maximise the potential benefits of the countryside
  - fringing urban areas; and
  - providing appropriate leisure opportunities to enable urban and rural dwellers to enjoy the wider countryside.
44. It is considered that the location of this site on the edge of the town meets a number of the criteria above, and provides a sustainable location for such a use.
45. Consideration also needs to be given to the existing land uses, and those which could be carried out without the benefit of planning permission. The site has permission for a riding centre, which was previously operated from the site. The site also contains stables for a livery use, and was originally a working farm. Each of these uses would have a certain level of activity attached to it, and the riding centre is noted as having numerous classes when it was operating at its peak that would have attracted visitors to the site (diary sheet information has been provided by the applicant in support of the lessons carried out and the number of people attending).

## Access Considerations

46. The local highway authority has made a number of representations relative to this application. At the Development Committee meeting on 29<sup>th</sup> July 2009, it was reported, "The issues that the use raises with regards to access can be summarised as follows;
- a. The access lies between the property known as Benton End House and the Coach House. This is owned by Benton End House and a right of access exists for the users of the farm.
  - b. Access to the farmyard is restricted via a pair of gates that lie immediately adjacent the stables at the west end of the farmyard. These gates open outwards (towards the road).
  - c. At the point where the access meets Benton Street, this is an unrestricted speed-limit (60mph).
  - d. Visibility is limited to some degree by the banking and hedging."
47. Following the previous deferral of the application by the Development Committee, the LHA met with the case officer and the applicant at the site on 5<sup>th</sup> November 2009. This meeting allowed the Highway officer to view the visibility following works that had been carried out by the applicant to cut back some of the roadside vegetation. A letter was subsequently received from the LHA on 20<sup>th</sup> November 2009 which identified that;
- 1) It is now confirmed that the proposal is put forward as a change of/replacement use from the previously approved riding school centre, with also liveries on site reduced from 20 to 10.
  - 2) The riding school operated throughout the day with three separate sessions/lessons at which up to 10 riders could attend each lesson.
  - 3) The paintball business operates on one booking per day, where the time of entry and exit is known, and can be assisted by stewards. It would not attract 65 vehicles per day, as may have previously been stated, this figure is a maximum of persons who could attend. With groups usually travelling together, such as in mini-buses, the typical number of vehicles is between 10-15.
  - 4) A check over the last five years shows no injury accidents recorded for the section of Benton Street to which the site abuts, nor any accident associated with the use of the site access, and it is noted the paintball business has operated over this period.

In view of the foregoing, the change of use proposal would be likely to reduce and regulate traffic movements from those of previous uses, and notwithstanding this the applicant is prepared to improve visibility to the north, the approach of nearside traffic by removing vegetation from the bank for a distance of 70 metres.

It identifies that highway support can now be given, and conditions were recommended as follows;

1. The hedging along the highway frontage to the north of the site shall be lowered to 0.6 metres above the level of the carriageway for a distance of 70 metres before the development continues. Thereafter it shall be retained at, or below, that height.
  2. The livery use on site shall be restricted to 10.
48. Following receipt of this letter, the local highway authority again attended site with the case officer and met with the resident at Benton End House on 5<sup>th</sup> December 2009.

49. At this meeting, the resident identified their concerns with the access arrangements, including the visibility being unsuitable and the backing-up of traffic accessing the site when the gate was not opened. The resident also gave a number of examples of nuisance caused to him by people attending the site parking in his driveway in error.
50. A further submission was made by the local highway authority in January 2010, which recommended a further condition requiring the existing access gates to be moved back into the site by 20 metres and there reversal to open into the site. The applicant is not able to comply with such a condition, as the gate is positioned across the access to the farmyard for the security of the horses that are kept at the stables to avoid them escaping onto the road.
51. The matter was therefore returned to the LHA. They responded and recommended two further conditions, 1) that the existing gates be redesigned to open inwards and 2) that all use of the business shall be by prior booking only. The second condition here is intended to ensure that the operators of the site will be able to ensure they are present at the site when anyone arrives and make sure the gates are opened and manned.
52. The first condition identified in para 50 above was the subject of further discussion between the applicant and the LHA. A further response was provided which acknowledges that due to the gradient of the land, it is not possible to arrange for the gates to open inwards. A proposal was tabled by the applicant that the gate would be manned at all events, and the LHA responded to state that this has appeared to have been the procedure previously, and that there had been no highway problems over the 7/8 years that the use has been operating. Therefore, they recommended that the first condition be revised to require the gate to be manned at all events.
53. The situation that currently exists, therefore, is that the local highway support the proposal, subject to the conditions recommended.

#### **Other Land Uses**

54. The riding centre that was previously carried out on the site has ceased. A livery business continues to be operated here, which is within the same family ownership. The horses are contained within separate paddocks and do not conflict with the areas used for paintballing. The paintball areas are clearly defined and marshalled, and there is no apparent conflict between the two uses that causes concern. The paint pellets themselves begin to breakdown within a matter of hours and disintegrate completely within days. They would not cause harm to the horses if consumed and there have been no identified issues with participants causing harm to or scaring the horses. There is no intention by the applicant or his family to re-introduce the riding school activities at the site and no objection to the reduction in number of livery to 10 horses.

#### **The Proposal**

55. In respect of the use proposed it is apparent that paintballing activities are something that are becoming increasingly popular throughout the country, as emphasised by the number of sites that are coming forward for such uses. There will, therefore, be a demand for sites to be provided that seek to meet the basic principles of PPG17 and PPS7, as previously set-out.

56. There have been a number of cases of paintball uses that have been considered on appeal and in the Courts. Each case is, however, unique but Members may wish to note that there are examples of these operations in areas such as Ancient Woodlands and on Green Belt land, and that the National Trust have their own policy for dealing with such uses on their land. Case Law can be found to both support and reject these uses, confirming that each site should be taken on its own merits on the basis of the particular issues that are raised. Further to this, a recent case was refused by Development Committee within the Notley Business Park. Whilst there are clearly similarities in terms of the activities carried out on both sites, the site that is the subject of this application is of a different character and in close proximity to a town. The operation at Notley was taking place in a countryside location. Other differences include the fact that there is an A-classified road that runs adjacent to this site, providing a particular level of background noise, as well as the screening offered to the private amenity areas of local properties by the trees/hedges and buildings that form a barrier. This site lies close to the edge of the town, as required by PPG17 which provides specific advice on recreational uses in the countryside. All of these factors determine that this application should be taken on its own merits.

### **Other Matters**

57. The site accommodates a number of local community users, including local high schools, the police force, local youngsters, Ambulance Crew, other local councils, local businesses and the RAF amongst others. The application is supported by some letters from these user groups detailing the benefit to them from using the site. The site is clearly well used in this respect and receives good local support. Any inventory is kept of all groups that use the site, as well as a photographic record of the groups in order that numbers of users (per group and in total) can be recorded and checked.
58. Consultation has been carried out with English Heritage due to the proximity of the Grade II\* listed building (Benton End House). They have responded to advise that this should be determined in accordance with national and local policy guidance. In this regard, the listed building sits some distance from the area of land used for paintballing and is separated by the existing dwelling within the farm. The impact on the building is not a physical one, and can be considered as an amenity issue.

### **Conclusion**

59. In conclusion, this operation is one that raises a number of issues that require a balanced consideration on the basis of the merits of the individual characteristics of the use. The use needs to be in an area where a significant amount of outside space is available, and it is considered that the proposal is located in an area where it gives access to a number of users (including local community facilities) and does not give rise to such detriment to amenity of local residents so as to warrant refusal. The landscape impact of the use and the resultant impact on wildlife habitats is not such that would cause significant injury or harm to these important matters. The access arrangements are acceptable subject to the imposition of the conditions requested by the Local Highway Authority.

### **RECOMMENDATION**

- (1) That the Solicitor to the Council be authorised to secure a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 to secure:
  - A planning obligation restricting the number of horses in livery to 10.
- (2) That, subject to the completion of the Planning Obligation referred to in Resolution (1) above to the satisfaction of the Solicitor to the Council, the Chief Planning Control Officer be authorised to grant planning permission subject to the following conditions:

- Scheme of management for the site
  - No more than 65 people per party, and these details to be recorded and made available on request.
  - Hours of operation as per EHO's recommendation.
  - Details of parking areas.
  - Buffer Zone to Railway Walk.
  - Conditions as recommended by LHA.
- (3) That in the event of the Planning Obligation referred to in Resolution (1) above not being secured, the Chief Planning Control Officer be authorised to refuse planning permission for the following reason:
- An existing livery use exists on the land that is the subject of this application. The use as a paintballing operation would be contrary to saved policy RE06 of the Babergh Local Plan Alteration No.2 (2006) which provides that changes of use to recreation in the countryside will be acceptable subject to no adverse impact on, inter alia, road safety. Without the completion of a Section 106 Agreement to restrict equestrian operations the existing livery use is not restricted in terms of the number of horses which could be kept at the site and the proposed use would provide a significant increase in traffic movements to and from the site. The proposed use would therefore result in an unacceptable impact on highway safety due to the uncontrolled number of vehicles accessing the site and the likely conflict that would result with the vehicles of users of the livery due to the single-width access leading to the site. The proposal is therefore contrary to the aforementioned policy.