

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

17 September 2020

Application No:	SMD/2020/0402	
Location	Broad Oak Farm, Leek Road, Kingsley Moor	
Proposal	5 holiday cabins to replace existing paintball complex	
Applicant	Mr Harrison	
Agent	JM Planning	
Parish/ward	Kingsley	Date registered 24/07/20
If you have a question about this report please contact: Jane Curley tel: 01538 395400 ex 4124 Jane.curley@staffsmoorlands.gov.uk		

REFERRAL

This application has been referred to Committee by Councillor Worthington to assess the impact on the surrounding area, the comparison with the existing use, vehicle movements and economic benefits of tourism.

1. SUMMARY OF RECOMMENDATION

REFUSE

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The application site lies in open countryside which is designated as Green Belt. It lies on the edge of Ancient woodland known as Broadoak Wood. It has, according to the application operated as a paintball activity by Quest Paintball Stoke Ltd since 1995. However it goes on to state that the applicant is considering winding down the paintball operations at the site

2.2 The site includes a collection of structures. There are three buildings, a concrete panel shelter and seating area, a shop and a toilet block with washing facility. In addition there are two storage containers and on a separate part of the land a structure known as 'the fort'. The Planning Statement refers to the existing buildings within the main compound, together with the wooden fort (all of which are covered by the certificate of lawfulness) having a cumulative volume of 954.6m³. The cabins have been reduced from the previous application so that they now have a cumulative volume of 946.7m³.

2.3 A Certificate of Lawful Development was granted in 2018 under reference SMD/2018/0638. This confirmed that the structures on the land used for the purposes associated with the paintball activity were lawful operational development. However the Council was not able to confirm that any use of the land or structures was lawful because of the intermittent use of 'the land' for clay pigeon shooting.

2.4 The application refers to the land being used along with wider areas of the applicant's farm land for clay pigeon shooting known as Kingsley Moor Shooting Ground. Kingsley Moor Shooting Ground relies on the temporary use rights of 28 days per calendar year provided

by Part 4 of the GPDO 2015. A planning permission was granted in 1988 to permit up to 78 shoots per year for a temporary period, but that permission expired and was not renewed.

3. PROPOSAL

3.1 The application seeks permission to remove all existing structures on the site and erect five holiday lodges. The lodges have dimensions of 9.95m by 7m and contain 4 bedrooms with bathroom and open plan kitchen, dining and sitting area.

3.2 The applicant's Agent says that guests would park in the existing car park. He says that on arrival, they would be met at the car park and taken to their cabin together with their luggage.

4. RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Core Strategy Development Plan Document (Adopted 2014)

S01	Spatial Objectives
SS1	Development Principles
SS1a	Presumption in Favour of Sustainable Development
SS6C	Rural Area Strategy
SS 7	Churnet Valley strategy
DC3	Landscape character
E 3	Tourism and cultural development
DC1	Design Considerations
T1	Development and Sustainable Transport
NE 1	Natural environment

Emerging Staffordshire Moorlands Local Plan

On July 20th 2020, the Council published the Inspector's final report thereby drawing a close to the examination in public. The report concludes that with the recommended main modifications, the plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework (NPPF). As such, the main modifications which accompany the Inspector's report provide a clear indication of the final policy wording when read in conjunction with the Local Plan Submission Version (2018). In this context, the Council's position on the weight to be given to the policies (as modified) in terms of the three criteria set out in Paragraph 48 of the NPPF is considered below:

- The stage of preparation – the Local Plan is now at the most advanced stage of preparation prior to adoption as the Inspector has concluded that the Local Plan is sound subject to the recommended modifications being made.
- The extent to which there are unresolved objections to relevant policies – the Inspector has now drawn his final conclusions and there are no further matters to resolve
- The degree of consistency of the relevant policies in the emerging plan to this Framework – the policies (as modified) have been found by the Inspector to be sound in the context of the 2012 NPPF under which the Local Plan has been examined. One of the “tests of soundness” that the Local Plan has successfully been measured against is whether it is “consistent with national policy”. Because the Local Plan has been prepared and examined under the 2012 NPPF, it should be noted that in some limited cases, its policies do not directly reflect current national policy. However, planning law requires that applications be

determined in accordance with the development plan, unless material considerations indicate otherwise. Current national policy is a material consideration and should be given weight accordingly.

Given the above, all policies (as modified) should be given substantial weight.

The following policies are considered to be relevant to this application:

DC1 Design
E4 Tourism and cultural development
SS10 Other Rural Area Strategy
SS11 Churnet Valley Strategy
DC3 Landscape impact
T1 Sustainable access and travel
NE2 Trees, woodland and hedges

National Planning Policy Framework

5. SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2019/0287 Five holiday cabins to replace existing paintball complex. Withdrawn

SMD/2018/0638 Certificate of Existing Lawful use/development – granted albeit that this confirmed that the structures on the land used for the purposes associated with the paintball activity were lawful operational development. However the Council was not able to confirm that any use of the land or structures was lawful as a result of the intermittent use of 'the land' for clay pigeon shooting.

6. CONSULTATIONS

Publicity

Site Notice expiry date: 20th August 2020
Press Advert: 2nd September 2020
Neighbour letters: 19th August 2020

No letter of representation received

Cllr Aberley comments

As the District Councillor for the ward, I would like to request that this application is recommended for approval due to another similar application being approved locally recently. Taking into account the current economic situation as a result of the Covid-19 pandemic, any boost to local economic activity should be welcomed. I would just reiterate the comments of Kingsley Parish Council previously that they also had no objection as long as access isn't a problem and it doesn't cause a problem on the lane down to the site.

Footpath Co-ordinator for the Staffordshire Moorlands

expresses concerns that there are three right of way footpaths running through the farm. He wishes it to be noted that these paths must remain open

Kingsley Parish Council

Conditionally support the application. There are road safety concerns regarding the long narrow lane providing access to the site and would recommend additional passing places be provided as a condition

Natural England

No objection. Advise that the proposed development will not have significant adverse impacts on designated sites.

Peak and Northern Footpath Society

Whilst the site of the development does not have any effect on the local PROWs, we note that the PROWs Kingsley 25, 26, & 27 might be affected during access to the site, both during construction and afterwards when in use. Use of the PROWs, and the safety of users should not be affected by the development, or the work taking place

Environmental Health

Previously raised no objection subject to conditions

Regeneration Officer

Previously expressed concern that the existing paint ball business will be displaced as a result of the application without any evidence of lack of demand for this business/use.

Staffordshire County Council Highways

No objection. Advise that the site already has a commercial and leisure use and that there are no recorded injury accidents on Broad Oak Lane and no recorded injury accidents within the last 5 years in the vicinity of the Broad Oak Lane/A52 junction.

SCC Public rights of way

Staffordshire County Council's Definitive Map of Public Rights of Way does not show any rights of way crossing the proposed development site (specifically the proposed group of cabins rather than the larger location site) .

It should be noted and brought to the attention of the developer that - public rights on foot (Footpath 26, Kingsley Parish) exist on the access road near Little Broadoak Farm and unless the applicant has a private right to use the track with vehicles it is a criminal offence to drive a mechanically propelled vehicle on a public footpath or bridleway without lawful consent. Nor should the public rights be obstructed during or after development work by the parking of a vehicle or vehicles thereon.

It is important that users of the path are still able to exercise their public rights safely and that the path is reinstated if any damage to the surface occurs as a result of the proposed development. The surface of the footpath must be kept in a state of repair such that the public right to use it can be exercised safely and at all times. Heavy vehicular use can cause the way to become unsuitable for use and in some instances dangerous. Some attention needs to be drawn to this and that surface works may be required.

If there is a private right to use with vehicles then the fact that the route is a public highway (i.e. footpath 26) takes precedence and needs to be stressed in any planning permission. The use by private vehicles is subject to, and subordinate to, the public's right. In other words pedestrians have a public right and vehicles need to give way to them not the other way around.

The applicants should also be reminded that the granting of planning permission does not constitute authority for interference with the right of way or its closure or diversion. For

further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09).

Trees and Woodland Officer

Raised no objection to the previous/identical application and advised that there would be no significant loss of, or impact on, the on-site trees. The site is adjacent to a registered Ancient Semi-Natural Woodland (Broadoak Wood); Ancient Woodlands are regarded as important and irreplaceable habitat, with local and national planning policies in place to protect them against loss, damage and disturbance. In the case of this application, the proposed cabins would be on previously/currently developed areas close to but outside the Ancient Woodland boundary, and would not have direct adverse impact on the

Ancient Woodland. It is not considered that the proposed holiday cabins would create any additional or intensified disturbance to the Ancient Woodland beyond that which it would replace. The site is screened around its north and east sides by existing mature woodland. The site is sufficiently far from public footpaths to the south and west (c.350m away) with intervening hedgerows and trees, such that the proposed cabins would not have significant adverse visual impact as experienced from these publicly accessible viewpoints. The cabins would anyway replace existing dilapidated paintballing structures.

Staffordshire Wildlife Trust

Previously raised no objection subject to conditions. Commented as follows:-

Habitats

The PEA reports an area of poor semi improved grassland that has potential for protected species. This area should be included within an ecological design strategy as an area to be managed and improved, to enhance biodiversity.

Species

Bats

A number of trees on site have been found to contain potential roosting features but these are to be retained. Should this change further surveys would be required. Precautionary measures will be needed for any external lighting so an approved lighting mitigation plan will be required.

Birds

Habitats on site have the potential to support nesting birds. Mitigation measures should be in place to avoid harm to birds during works. Works should be carried out avoiding the bird breeding season which runs March-September inclusive; Where this is not possible and works are to be scheduled during the bird breeding season, a nesting bird check should be carried out by a competent surveyor. If an active nest is found, the protection of this nest will be required, with an exclusion zone around the nest and access points being used by the birds. This is required to remain in situ until the chicks have fledged and the nest becomes inactive.

Mammal, Amphibians, Reptiles

The PEA identifies some habitats could support mammals, amphibians and reptile species therefore precautionary measures should be adopted during works to avoid any detrimental impacts. The recommendations outlined in the PEA report should be included in a construction environmental management plan (CEMP) to be secured via condition as part of any approval.

The PEA provides a number of enhancement recommendations to achieve a biodiversity net gain. An ecological design strategy (EDS) should be produced that includes the recommendations as far as possible and should be secured via condition as part of any approval.

Recommended conditions

- Artificial lighting plan approved by a suitably qualified ecologist to be submitted
- Bird mitigation measures to protect birds during nesting season
- Provision of construction environmental management plan (CEMP) prior to the commencement of works, to capture the working method recommendations detailed in the PEA, to protect wildlife during construction works.
- Provision of environmental design strategy (EDS) to detail the recommended enhancements recommended in the ecology report are included as far as possible.

Severn Trent Water

No objection

SMDC Waste

No provision for bin storage

7. OFFICER COMMENTS

7.1 This site lies within the open countryside which is designated Green Belt. Policy SS6C of the adopted Core Strategy sets out the spatial strategy for the rural areas of the District such as this. It confirms that strict control will be exercised over inappropriate development in the Green Belt allowing only for exceptions as defined by Government policy. It says that tourist opportunities will be enhanced in this area by supporting sustainable tourist development in the Churnet Valley in accordance with Policy SS 7. Policies SS10 of the emerging Local Plan does not change this position. The site lies within the Churnet Valley.

The first issue to assess therefore is whether or not the proposal is appropriate development in the Green Belt.

Green Belt

7.2 New buildings are generally inappropriate development in the Green Belt. However paragraph 145 of the NPPF sets out a number of exceptions. It provides at g) for the:

'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority'.

7.3 The applicant seeks to rely on this in deeming the development to be appropriate in the Green Belt. He says that the existing volume of the buildings is 954.6 m³ and that the cabins would have a total volume of 946.7 m³ resulting in a reduction in built form amounting to approx. 7.9 m³. He says that the development would result in an increase in Green Belt openness.

7.4 However this is not entirely accepted. The majority of the existing structures are rather makeshift in nature, suiting the purpose for which they were presumably constructed. In

comparison, the proposed cabins would have a more permanent feel and appearance. Furthermore the proposal is for holiday accommodation. Whilst customers using the existing paint ball activity use the existing car park some distance from the application site, it is considered unrealistic to suggest, as the applicant now does, that guests of the holiday accommodation would do the same. He says on arrival guests would be met at the car park and taken to their cabin together with their luggage. He does not say what would happen at other times when guests wished to leave the site for trips, food etc. Presumably they would have to walk. This arrangement is not considered to be either realistic or enforceable. Naturally guests would want their car close to their lodge rather than having to walk to the car park which is some distance away (see aerial photo in Presentation). Putting parking of vehicles to one side there is also the matter of the increased intensity arising from the proposal and its impact on Green Belt openness; provision of external lighting required for safety and security including along the access track, provision of sitting out areas/BBQ's, internal lighting from the more permanent and substantial nature of the cabins themselves, the general external activity and paraphernalia connected with permanent holiday use. All of these matters contribute to a more intensive development which would, in Officers view have a greater impact on openness than the current loose collection of buildings which have a very informal temporary appearance with in fact no lawful permanent use, relying on the 28 days per annum under the GPDO (see History above). For these reasons the conclusion is that the proposal is inappropriate development and therefore should not be permitted unless there are other considerations which amount to the very special circumstances needed to outweigh the harm and justify inappropriate development in the Green Belt in accordance with Policy SS6C, emerging Policy SS10 and advice in the NPPF. This matter is returned to in the planning balance below.

7.5 In addition to the Green Belt assessment, it is also necessary to consider whether the proposal for holiday accommodation on the site accords with the spatial policies in the Core Strategy and the Churnet Valley Masterplan (CVMP) which generally support sustainable tourism. The site does lie within the Churnet Valley and therefore Policy SS7 and emerging Policy SS11 are relevant. These policies refer to the Churnet Valley being an area of sustainable development and of support for short stay and long stay visitor accommodation. The CVMP supplements Policy SS7 (and emerging SS11). It provides the framework for achieving sensitive development to ensure that the potential of the Churnet Valley is realised but not at the expense of what makes it special. Policy E3 (emerging Policy E4) refers more generally to tourism and cultural development.

7.6 Assessing these policies together the only conclusion to reach is that the proposal is in conflict with them because:-

- a) The site does not have good connectivity with other tourist destinations and amenities, particularly by public transport, walking and cycling. Apart from walking activities in the Churnet Valley including to the Consall Gardens any links with Alton Towers, the Peak District, Kingsley Bird and Falconry Centre would be by car. There are no sustainable linkages to any of these attractions.
- b) The site is not within or close to settlements where local services, facilities and public transport are available
- c) The site is not within an area specifically identified for tourism development in the Churnet Valley Masterplan. Indeed the lies within/closely associated with the Central Character Area where only minimal development is envisaged which is defined as that which is limited to the conversion of existing buildings, development within settlements in line with the Core Strategy and sensitive development to support/maintain existing facilities
- d) There is no evidence to suggest that the proposal would support existing facilities at the site
- e) The proposal does not involve the conversion of existing buildings but is new build. It is not of non-permanent nature

- f) The economic benefit to the local economy is unquantified but in any event could only be described as modest from 5 cabins
- g) There is no evidence that the need for holiday accommodation can not be met in other ways

7.7 The applicant draws parallels with a recent decision of the Council to grant permission for holiday accommodation at The Raddle. However there are clear differences between the two. First and foremost The Raddle is not within the Green Belt. Secondly Members gave weight to the fact that the lodges in that case were supporting an existing and adjacent pub business. That is not the case here. Members will be aware that more recently a proposal for camping pods in Longsdon was refused by the Council. This site was in the Green Belt site and as such arguably a more comparative application. Members are aware in any event that each application must be judged on its merits.

7.8 The applicant also points to the growth in UK holidays as a result of the Covid pandemic and Brexit. It is not clear at the moment if this is a short term shift in behaviour or longer term trend but this application must, by law, be judged on planning policies contained in the Development Plan unless material considerations indicate otherwise. These do not support inappropriate development in the Green Belt nor do they support sporadic new tourist development in unsustainable locations such as this. The applicant also points to the fact the proposal will generate less traffic movements than the paint ball use and that the buildings can lawfully remain on the site. Whilst both these points may be true, they do not justify unsustainable tourism development in the Green Belt.

7.9 Overall the conclusion in this case is that the proposal would not deliver sustainable tourism. There is conflict with the NPPF and Policies E3, SS7 and the Churnet Valley Masterplan because the proposal would result in isolated new tourism development which is not related to or necessary to support an existing tourist facility. It is remote from public transport and services and facilities. Furthermore it is contrary to the spatial strategy of the CVMP which seeks to encourage sustainable tourism in the Churnet Valley but to sensitively manage this so that development is focused on a number of key locations with minimal development elsewhere in order to protect the natural beauty of the Churnet Valley – the very essence which draws visitors to it in the first place. Emerging policies SS11 and E4 do not change this position.

Landscape Impact/ Impact on Ancient Woodland

7.10 As described above the proposed lodges would replace existing structures with five holiday cabins within existing woodland clearing. The Trees and Woodland Officer advises that there would be no significant loss of, or impact on, the on-site trees. He further advises that the site is adjacent to a registered Ancient Semi-Natural Woodland (Broadoak Wood). Ancient Woodlands are regarded as important and irreplaceable habitat, with local and national planning policies in place to protect them against loss, damage and disturbance. In this case the proposed cabins are close to but outside the Ancient Woodland boundary and the Trees and Woodland Officer advises would not have direct adverse impact on the Ancient Woodland. He says that the proposed holiday cabins would not create any additional or intensified disturbance to the Ancient Woodland beyond that which it would replace.

7.11 The site is screened around its north and east sides by existing mature woodland. The site is sufficiently far from public footpaths to the south and west (c.350m away) with intervening hedgerows and trees, such that the proposed cabins would not have significant adverse visual impact as experienced from these publicly accessible viewpoints.

7.12 For these reasons the proposal is considered to have an acceptable impact on the character and appearance of the area and no harm to the Ancient woodland. As such the proposal is in accordance with Policy DC3 and NE1 and emerging policies DC3 and NE2.

Design

7.13 The cabins are simple structures of typical chalet style under a pitched roof. They have dimensions of 9.95m by 7m with a height of just over 3 m. Materials are indicated to be timber cladding under a felt roof. There is no objection to the design or materials proposed. The design is considered to accord with Policy DC1. The plans and supporting Planning Statement are silent as to the provision of any car parking adjacent to the lodges. As discussed above it is considered unrealistic to expect guests to walk from the car park with luggage. It is not therefore possible to assess this aspect of the proposal

Amenity

7.14 The proposed lodges are some distance from residential properties and the traffic from 5 lodges is unlikely to give rise to any undue increase in noise and disturbance from comings and goings along Broad Oak Lane which also serves other properties. As noted in the application the paint ball use has operated for some time and the Council has no record of any complaints. The Environmental Health Officer has raised no objection to the application subject to conditions. With these in place there would be compliance with relevant parts of DC1 and SD4 and the NPPF.

Biodiversity

7.15 The application is accompanied by a Preliminary Ecological Assessment which has been assessed by Staffordshire Wildlife Trust. The PEA reports an area of poor semi improved grassland that has potential for protected species. The PEA provides a number of enhancement recommendations to achieve a biodiversity net gain. SWT raise no objection to the application. They advise that an Ecological Design Strategy (EDS) could be conditioned to secure the recommendations of the PEA as far as possible and achieve a net gain in biodiversity. Other conditions could be imposed to mitigate any adverse impact on protected species during and post construction. With these in place there would be compliance with Policy NE1 and the NPPF.

Highway Safety

7.16 The applicant says that the use of the paintball centre is well established and that it generates significant more traffic movements to and from the site than the five cabins would. The Local Highway Authority raises no objection to the application. They advise that they have taken into consideration existing/previous uses at the site and the fact that there are no recorded injury accidents on Broad Oak Lane and no recorded injury accidents within the last 5 years in the vicinity of the Broad Oak Lane/A52 junction. The application is considered to comply with relevant parts of DC1 and T1 and the NPPF.

Drainage

7.17 The applicant confirms that a new package treatment plan will be required although details of this and its precise position are unknown and therefore it is not possible to comment on the suitability/impact of this aspect of the proposal.

CONCLUSION / PLANNING BALANCE

For the reasons above there is conflict with the Development plan; the development will not deliver sustainable tourism. The proposal is considered to be inappropriate development in the Green Belt and therefore harmful by definition. It is also considered that there would be some harm to openness. There are no other considerations that amount to the very special circumstances necessary to outweigh this Green Belt harm. Furthermore the provision of new tourism accommodation in this location is not in accordance with spatial Policy SS7 or E3 or the adopted Churnet Valley Masterplan. Policies in the emerging Local Plan do not change the position. A recommendation of refusal is therefore made

RECOMMENDATIONS

A) That planning permission be refused for the following reasons:-

1. The proposal is considered to amount to inappropriate development in the Green Belt. The applicant relies on paragraph 145 of the NPPF to argue that the proposal amounts to appropriate development in the Green Belt. However whilst a comparison of the existing and proposed buildings footprint and volume suggests that there would be no increase, it is considered that the combination of parked vehicles, provision of formal tracks and parking spaces, provision of external and internal lighting and the general external activity and paraphernalia associated with permanent holiday use will result in a development which is considerably more intensive than the existing loose collection of temporary buildings/structures which in fact have no lawful use and because of this the proposal would have a greater impact on the openness of the Green Belt. It is thus inappropriate development and harmful. There are no other considerations which amount to very special circumstances to outweigh this harm. As such the proposal is contrary to Policy SS6C of the Staffordshire Moorlands Core Strategy DPD, Policy SS10 of the emerging Staffordshire Moorlands Local Plan and the NPPF.
2. The site lies within the Churnet Valley. Policy SS7 and emerging Policy SS11 refer to the Churnet Valley being a location for sustainable tourism and of the support for short stay and long stay visitor accommodation. The adopted Churnet Valley Master Plan supplements these policies. It provides the framework for achieving sensitive development in the Churnet Valley to ensure that tourism development is not at the expense of the special qualities of the Churnet Valley. The site lies within/closely associated with the Central Character Area where only minimal development is envisaged which is defined as that which is limited to the conversion of existing buildings, development within settlements in line with the Core Strategy and sensitive development to support/maintain existing facilities. The proposal does not accord with these criteria. Policy E3 and emerging Policy E4 also provide support for sustainable tourism where the site has good connectivity with other tourist destinations and amenities particularly by public transport, walking and cycling; where the site is in or close to settlements where local services, facilities and public transport are available or where the site is within an area specifically identified for tourism development in the Churnet Valley Masterplan. None of these criteria are satisfied and there is no evidence to suggest that the proposal is related to or necessary to support an existing tourist facility or that the need cannot be met in other ways. The proposal would result in sporadic tourism development. It would not deliver sustainable tourism. There is as such conflict with the NPPF; Policies E3, SS7 of the Staffordshire Moorlands Core Strategy DPD; Policies E4 and SS11 of the emerging Local Plan and the Churnet Valley Masterplan.

Informatives

It is considered that the proposals are unsustainable and do not conform with the provisions of the NPPF. It is considered that the applicant is unable to overcome the principle concerns and thus no amendments to the application were requested

B) In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the

Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

