

Planning Committee 5 June 2018
Report of the Interim Head of Planning

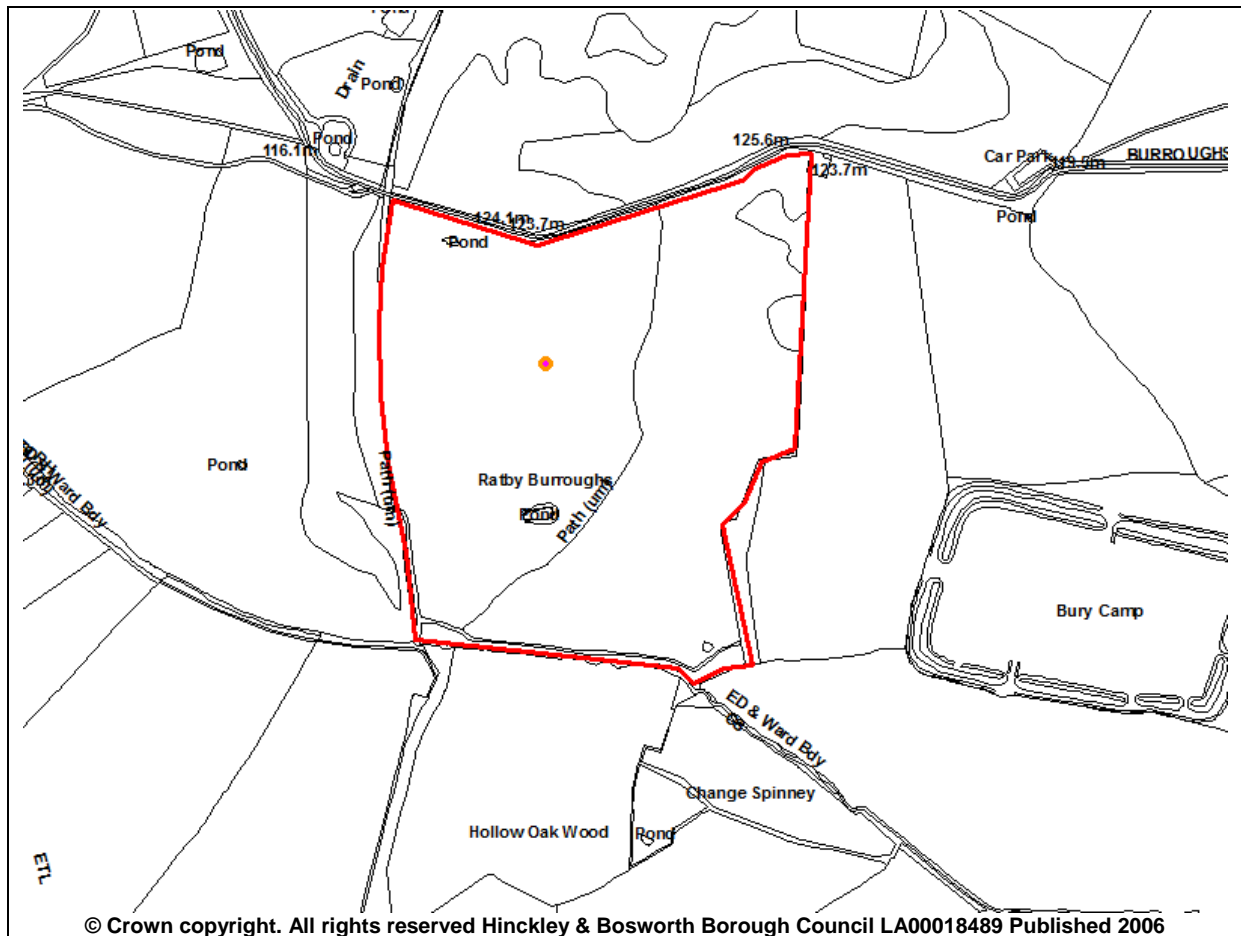


Hinckley & Bosworth
Borough Council

Planning Ref: 17/00872/FUL
Applicant: Mr Duncan Gass
Ward: Ratby Bagworth And Thornton

Site: Ratby Burroughs South Burroughs Road Ratby

Proposal: Change of use for Paintballing with ancillary buildings and structures
(Retrospective)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.

2. Planning Application Description

2.1. This application was deferred from the 8 May 2018 planning committee to allow a committee site visit to be carried out. There have been no further amendments or additional information received since the 8 May 2018 committee.

2.2. This application seeks full planning permission for the change of use of an area of woodland for paintballing activities and includes the construction of a number of

structures within the site. The site is divided into seven different areas, including the entrance/base camp.

- 2.3. The development would utilise the existing access along Burroughs Road Ratby, which borders the site to the north, with a parking area provided within the site amongst the trees, in close proximity to 'base camp' which provides the entrance into the game, as well as toilet and refreshment facilities.
- 2.4. The application is retrospective; permission for the use as a paintballing site was granted temporary permission in 2000, for 42 days a year. The permission expired in 2003, and no further applications were submitted. All structures that form part of this application are present on site, and the applicant has stated that the area is used for paintballing most weekends.

3. Description of the Site and Surrounding Area

- 3.1. The application site is located to the west of Ratby in the countryside, approximately 1.1 miles to the east of Ratby, and comprises an area of unmanaged woodland measuring approximately 12 hectares. The site is situated within the National Forest, and part of Burroughs Road forms part of a National Cycle route, Route 63, which extends south from Markfield Road. The north the site is bounded by an existing road, which serves the site, to the east, south and west and to the north, the site is bounded by woodland and agricultural fields. Public right of ways and Bridal paths are situated along the western and southern boundaries of the site. The application site, generally falls to the south, the topography of the wider area is varied in terms of levels.
- 3.2. The nearest residential dwellings, are located approximately 300 metres to the north west of the application site, and comprises a former farm complex (Old Hayes Farm), which is a 17th Century farmstead and Grade II Listed Building. Within the ground of the former farmstead there is also Scheduled Ancient Monument (old Hayes Moated Site and Associated Memorial Earthworks) that lies to the north west of this farm complex.

4. Relevant Planning History

95/00622/COU	Use of woodland for paintball action games	Refused	15.11.1995
99/00964/COU	Use of woodland for up to 42 days in any one calendar year for paintball games leisure activity	Approved	21.06.2000

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and 13 letters has been received raising the following objections:-
- 1) The site is in an area renowned as a peaceful setting for its wildlife
 - 2) The site and its buildings dominate an area along Burroughs Road, which is a quiet no through road, only giving access to a small group of dwellings and public car park for Burroughs Wood
 - 3) The application site along with Pear Tree Wood and Martin Shaw Wood, form the largest continuous woodland areas within the National Forest and is a valuable part of local Heritage

- 4) The increase in paintballing activities at weekends, has resulted in more traffic along Burroughs Road, causing a danger for walkers
- 5) Noise and coloured smoke can be heard and seen drifting across the land and choking unsuspecting walkers
- 6) The use plays loud music which can be heard from the far side of the woodland
- 7) There are warning signs stating "Shooting in Progress", a sign which should be unnecessary if they are taking place within the boundary. Guns should not be allowed close to public
- 8) The construction on site, has had an adverse impact upon the flora and fauna
- 9) The woodland is splattered with paint; this could cause potential harm to wildlife
- 10) Cars leaving the site, often drive at dangerous speeds
- 11) Improved signs when entering and leaving the site is necessary
- 12) The use, results in a lot of rubbish being discarded
- 13) Regularly over 40 vehicles parked up to use the site
- 14) There is a constant stream of loud bangs heard from neighbouring amenity spaces all day when on site. Music is played as early as 0745 on a Sunday
- 15) The woodland is an ancient English Bluebell wood which has been destroyed by vehicles
- 16) The wood has an active badger set, in addition to newts and bird species present on site, which are being adversely affected
- 17) The road has been blocked up the past due to lorries and coaches trying to access the site
- 18) The original permission for use of the site for 42 days per year has been flaunted
- 19) There is an alternative paintball site, which afford easier access
- 20) The paintballing site should not be allowed to operate for more than the previously approved 42 days per year
- 21) Delta force should pay a reasonable contribution towards the upkeep of the private element of Burroughs Road

5.2 One letter has been received which neither objects to or supports the planning application and raises the following points:-

- 1) The level of traffic prior to and at the end of the activity is relatively high for Burroughs Road which is a single track road.
- 2) Driver using the road, are not aware that the road is used by many walkers, and drive at levels which are too fast. Consideration should be had for additional signage.
- 3) Entrance to the facility is not obvious, which causes people reversing up Burroughs Road, Improved signage for the entrance should be considered.
- 4) Signs should be erected upon leaving the site warning driver to restrict speed and be aware of other users.
- 5) General noise levels at weekends have increase. A condition seeking to reduce/cease the playing loud music

6. Consultation

6.1. No objections, some subject to conditions, have been received from:-

Environmental Health (Pollution)
 Environmental Health (Drainage)
 Leicestershire County Council (Ecology)
 National Forest
 Leicestershire County Council (Highways)
 Leicestershire County Council (Archaeology)

- 6.2. Ratby Parish Council have objected on the following grounds:-
- 1) Complaints have been received in respect of extremely loud music being played which disturbs wildlife in the area
 - 2) The amount of traffic visiting the site travels too fast on what is virtually a bridal path
 - 3) Concerned that unauthorised development has occurred in the open countryside. Erection of structure without prior consent
 - 4) Overuse of the current site against 26 days previously allowed
 - 5) Regular school trips attend the facility
 - 6) Unlawful shooting of bird and other wildlife
 - 7) Parish Council are concerned that Enforcement officers have failed to note that the original approval for this paintballing site expired in 2002
- 6.3. Councillor O'Shea, has requested that the application is called before committee for consideration, on the grounds has an impact the use has upon the woodland and highway

7. Policy

- 7.1. Core Strategy (2009)
- Policy 21: National Forest
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. Key Issues
- Assessment against strategic planning policies
 - Impact upon heritage assets
 - Layout, Design, Impact upon the Character and Appearance of the Landscape and the National Forest
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Ecology
 - Other Matters.

Assessment against strategic planning policies

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that the development plan is the starting point for decision making and that proposed development that accords with an up-to-date Local Plan

should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Paragraph 13 confirms that the NPPF constitutes guidance and is a material consideration in determining planning applications.

- 8.3. The development plan in this instance consists of the adopted Core Strategy (2009), and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP).
- 8.4. The application site is located within the countryside and within the area of the National Forest. Policy DM4 of the SADMP seeks to safeguard the countryside from unsustainable development. Policy DM4 identifies several criteria outlining where development in the countryside will be considered sustainable. Criterion A, of Policy DM4 of the SADMP identifies that development in the countryside will be considered sustainable where proposed development is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; subject to meeting further detailed criteria. The use of an area for paintballing requires a site of substantial size and of natural interest to create game scenarios.
- 8.5. Policy 21 of the Core Strategy supports proposals which contribute to the delivery of the National Forest Strategy, and supports outdoor recreational and sports provision within the Forest, subject to the development respecting its setting within the Forest, there being no adverse impact on the character or appearance of the landscape.
- 8.6. The application site is located within the countryside where development for outdoor sport or recreation purposes is considered an acceptable use and would accord with Policies DM1 and DM4 of the SADMP and Policy 21 of the Core Strategy. Therefore the principle of a Paintballing site is considered acceptable subject to all other planning matters being appropriately addressed.

Impact upon heritage assets

- 8.7. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses. The local planning authority has complied with this statutory duty and had such special regard in reaching the decision on this re-determined application.
- 8.8. Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Policies DM10, DM11, DM12 and DM13 of the SADMP seek to protect and enhance the historic environment, heritage assets and the Borough's archaeology.
- 8.9. Given the location of the proposed development, and its relationship to the Listed building and Ancient Schedules Monument, and the fact the proposed development would maintain the current woodland coverage, there would be no impact upon the setting of the Listed Building or Ancient Scheduled? Monument and would preserve the setting. Therefore the proposal complies with Policies DM11 and DM12 of the SADMP, section 12 of the NPPF and the statutory duties of Sections 66 and 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Layout, Design, Impact upon the Character and Appearance of the Landscape and the National Forest

- 8.10. The site lies outside of any defined settlement boundaries and therefore within an area designated as countryside. Paragraph 17 of the NPPF states that the planning system should recognise the intrinsic character and beauty of the countryside. Paragraph 109 states that the planning system should protect and enhance valued landscapes.
- 8.11. Policy DM4 of the SADMP seeks to resist unsustainable development within countryside locations and seeks to ensure proposals reflect the surrounding character of the countryside, and protect its intrinsic value, beauty and open character.
- 8.12. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.13. Policy 21 of the adopted Core Strategy requires that the siting and scale of development within the National Forest is appropriately related to its setting and respects the character and appearance of the wider countryside.
- 8.14. The car parking and reception area 'Base Camp' is situated to the south of Burroughs Road, and the site is separated from the road by post and rail fencing, allowing views into the site and 'Base Camp', with parking provided within the trees of the site. 'Base Camp' comprises a number of wooden structures and adapted shipping containers, to provide toilet, store and shop function. Beyond 'Base Camp' the woodland is divided up into 6 areas of games zones. Each game zone seeks to provide a variety of environments and context for play. The games zones, comprise a mix of timber structures, small huts, vehicles and features, such as placement of rockets and disused oil drums along with areas of wooden walls. All features within the woodland, are finished in green paint, wood or camouflage in colour, and positioned amongst the canopy of the woodland.
- 8.15. The proposed ancillary structures which provide base camp and game play, are of a scale and design and built from materials that would be considered to respect the rural setting of the site within National Forest. Whilst it is accepted that steel portacabins, oil drums and vehicles, are not characteristic in appearance, they are required to form part of context of each area of game play, and for storage purposes. The use of green paint and the dull camouflage colours in line with the military theme of the activity provide mitigation measures to help assimilate them into the woodland setting and help minimise any impact upon the landscape. The proposed structures, are varied in terms of their heights, however the water tower is the tallest of the structures with an overall height of approximately 6 metres, and is located to the south of 'Base Camp'. The proposed structure although tall in scale is positioned well below the tree canopy, and is constructed of compatible timber materials and as a result will not be prominent. Views into the site are currently available from public areas and the segregation fencing can be seen. However, this is in part due to the time of year and with additional infill landscaping in the form of boundary hedgerows, the structures will be screened more effectively.
- 8.16. Overall, the layout of the proposed development and the design of the proposed structures is considered to be acceptable and as a result of the proposed materials and mitigation measures and subject to additional landscaping (which can be controlled by condition) the development will not have an adverse impact on the character or appearance of the landscape. The proposals are therefore considered to accord with Policy 21 of the Core Strategy, and Policies DM4 and DM10 of the SADMP.

Noise and Impact upon Residential Amenity

- 8.17. Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties and that the amenity of occupiers of the proposed development would not be adversely affected by the activities in the vicinity of the site.
- 8.18. The nearest residential dwellings are situated approximately 300 metres to the north west of the application site, and comprise of Old Hayes Farmstead, which has been subsequently converted into individual residential dwellings. The use of the site, has the potential to impact upon residential amenity as a result of sudden impulse noise from the paintballing guns, participants shouting and general comings and goings to the site. Environmental Health have been consulted during the course of the application and provide no objection to the proposed use, given the distance of the use to the nearest residential dwellings.
- 8.19. However during the course of the application objections have been received in respect of noise and disturbance the use causes to neighbouring properties. As a consequence the applicant has agreed a condition could be imposed which restricts the use of the site for a maximum of 150 days a year, which would ensure that the site is not in continued use 7 days of the week, removing a potential source of continued noise and disturbance to these dwellings. The restriction on the number of days would also protect the wider countryside, from an intensive use within this rural location.
- 8.20. It should also be noted, that the use has been present on site and in operation for a period of time, Since 1998 Environmental Health have received 3 complaints relating to noise from the proposed use. One in 1998 and two received in 2017, however no further action was required or taken by Environmental Health.
- 8.21. As a result in the proposed development is considered to accord with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.22. Policies DM17 and DM18 of the emerging SADMP require adequate access and off-street vehicle parking facilities to be provided to serve developments.
- 8.23. The application site is accessed via Burroughs Road, which is a single track road, which extends west from the village centre of Ratby. The application site is situated approximately a mile west of Ratby village centre. No formally marked out parking spaces are provided within the site, however an area large enough to accommodate 40 cars is provided adjacent to 'Base Camp', an element of car sharing is also assumed with the use. Given the width of the carriage way, car speeds along this road are generally slow and controlled. Leicestershire County Council (Highways) has been consulted and raised no objections to the proposed use and refer to standing advice.
- 8.24. The proposed scheme would not result in any adverse impacts on highway safety and would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

Ecology

- 8.25. Policy DM6 of the SADMP states that major developments must include measures to deliver biodiversity gains through opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. On-site features

should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term.

- 8.26. The application has been accompanied by an Ecology Report. The paintballing activities are confined to the game zones, to contain the active playing area, which ensures the majority of the 12 hectare woodland is not impacted by the use of the paintballing activity. Leicestershire County Council (Ecology) has raised no objection to the proposed use, subject to conditions. The site provides for areas of foraging for local wildlife, and as such a condition is necessary to ensure that the use is only present during daylight hours. As the application site proposes no external lighting, games are generally limited to daylight hours, however a condition will be imposed to ensure during summer months the use is restricted to allow evening foraging. Due to the activity being confined to specific areas, there is an opportunity for the remaining woodland to be actively managed, which would enhance the on site habitats and seek to ensure the proposed development is carried out in accordance with the recommendations contained within the submitted Ecology report. Accordingly, subject to conditions the development would be in accordance with Policy DM6 of the adopted SADMP by securing biodiversity enhancements.

Other matters

- 8.27. Objections which have been raised on the grounds that the application is retrospective, does not prejudice the consideration of this application.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The use of the site for a recreational uses, such as Paintballing, in the countryside and within the National Forest, is considered acceptable subject to all other planning matters being addressed. As a result of the nature of the development, the layout, design, material and mitigation measures proposed, including a woodland management plan, the proposed development would not have any significant adverse impact on the character or appearance of the National Forest, the surrounding landscape, residential amenity, highway safety or biodiversity. Given the use and the distance from any Listed Building or Scheduled Ancient Monument the proposed development would have no impact upon their setting. The proposal is therefore considered to be in accordance with Policy 21 of the adopted Core Strategy, Policies, DM1, DM4, DM6, DM10, DM11, DM12, DM13, DM17 and DM18

of the adopted SADMP and is therefore recommended for approval subject to conditions.

11. Recommendation

11.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

11.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.

11.3. Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan Dwg No. C387-1, Site Plan C387-2, floorplan and elevation base camp Dwg No. C387-BC/A, Convoy floor plan and elevations Dwg No.C387-9, Floorplan and elevations speedball zone Dwg C387-10, Wall Zone Plan Dwg No.C387-11, Viet Cong Zone Plan Dwg No.C387-12, Rocket Zone Plan Dwg nO.C387-13, Base Camp Plan Dwg C387-3, Base Camp Dwg No.C387-B3, Base Camp Buildings Plan Dwg NoC387-C3, Base Camp Buildings Dwg No.C387-D6, Base Camp buildings Dwg No.C387-E7, Dawn of Dead Dwg No C387-8 received by the Local Planning Authority on the 29 August 2017.

Reason: To ensure a satisfactory impact of the development to accord with Policy DM1 of the adopted Site Allocations and Development Management Policies DPD.

2. The application site shall not be used for paintballing activities outside of the hours of 08:30 to 17.00pm Mondays to Fridays or outside the hours of 08.30am to 16:00pm on Saturdays and Sundays.

Reason: To ensure that the use is restricted to daylight hours, to safeguard valuable habitats and night time foraging in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document.

3. The number of days that paintballing or associated activities at the site shall not exceed 150 days in anyone calendar year.

Reason: To ensure that the use does not become a source of nuisance, to protect the amenities of the neighbouring properties and the countryside in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Documents.

4. The occupiers/operators shall maintain an up-to-date register of all activities which are carried out on the site, this shall include dates, times and numbers of participants. The register shall be made available to the Local Planning Authority within one week of a written request.

Reason: To ensure that the operators of the site can be monitored and verified, in the interests of neighbouring amenity to accord with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Documents.

5. Notwithstanding the submitted details, within 2 months of the date of this permission, full details of a soft landscaping scheme shall be submitted to and approved in writing by the local planning authority and the development shall

be implemented in accordance with the approved details. These details shall include:

- i) planting plans
- ii) schedules of plants, noting species, plant sizes and proposed numbers where appropriate
- iii) an implementation programme.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The approved soft landscaping scheme shall be carried out in accordance with the approved details, in the next available planting period following its approval, and shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

Reason: To ensure that the works are carried out within a reasonable time period and thereafter maintained to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The development shall be carried out in accordance with the recommendations found within Ecological Assessment December 2017 received by the Local Planning Authority 29 December 2017.

Reason: To ensure that satisfactory measures are in place to safeguard protected species in accordance with Policy DM6 of the adopted Hinckley and Bosworth Site Allocations and Development Management Policies DPD.

8. Within 3 months of the date of this permission, a management strategy which seeks to maintain and improve the existing biodiversity within the application site and its implementation, shall be submitted to and agreed in writing. The proposed strategy shall be carried out in accordance with the details submitted and agreed thereafter.

Reason: To ensure that satisfactory measures are in place to safeguard and enhance existing wildlife in accordance with Policy DM6 of the adopted Hinckley and Bosworth Site Allocations and Development Management Policies DPD.

9. All paintballing games shall be confined to the Game Zones areas identified within Site Plan Dwg No.C387-2 received on the 29 August 2017, and shall be clearly marked out and maintained by high visibility rope at all times. No paintballing games shall be carried out outside the denoted areas at any time.

Reason: To ensure that satisfactory measures are in place to safeguard and enhance existing wildlife in accordance with Policy DM6 of the adopted Hinckley and Bosworth Site Allocations and Development Management Policies DPD.

11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.