



AGENDA

PLANNING COMMITTEE MEETING

Date: Thursday, 18 September 2014

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Barnicott (Chairman), Bryan Mulhern (Vice-Chairman), Sylvia Bennett, Andy Booth, Mick Constable, Derek Conway, Adrian Crowther, Mark Ellen, June Garrad, Sue Gent, Lesley Ingham, Peter Marchington, Mike Henderson, Prescott, Ben Stokes, Ghlin Whelan and Tony Winckless.

Quorum = 6

	Pages
1. Apologies for Absence and Confirmation of Substitutes	
2. Minutes	
To approve the Minutes of the Meeting held on 28 August 2014 (Minute Nos. 195 - 199) as a correct record.	
3. Declarations of Interest	
Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.	
The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:	
(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.	
(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.	
Advice to Members: If any Councillor has any doubt about the	

existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B reports for the Planning Committee to decide

4. Report of the Head of Planning

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To consider the attached report (Sections 1, 2 and 3).

The Council operates a scheme of public speaking at meetings of the Planning Committee. All applications on which the public has registered to speak will be taken first. Requests to speak at the meeting must be registered with Democratic Services (democraticservices@swale.gov.uk or call 01795 417328) by noon on Wednesday 2014.

Issued on Wednesday, 10 September 2014

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of the Planning Committee, please visit www.swale.gov.uk

Corporate Services Director Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

SWALE BOROUGH COUNCIL

PLANNING SERVICES

Planning Items to be submitted to the Planning Committee

18 SEPTEMBER 2014

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DEFERRED ITEMS Items shown in previous Minutes as being deferred from that meeting may be considered at this meeting

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PART 2 Applications for which permission is recommended

PART 3 Applications for which refusal is recommended

PART 4 Swale Borough Council's own development; observation on County Council's development; observations on development in other districts or by Statutory Undertakers and by Government Departments; and recommendations to the County Council on 'County Matter' applications.

PART 5 Decisions by County Council and the Secretary of State on appeal, reported for information

PART 6 Reports containing "Exempt Information" during the consideration of which it is anticipated that the press and public will be excluded

ABBREVIATIONS: commonly used in this Agenda

CDA Crime and Disorder Act 1998

GPDO The Town and Country Planning (General Permitted Development) Order 1995

HRA Human Rights Act 1998

SBLP Swale Borough Local Plan 2008

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INDEX OF ITEMS FOR PLANNING COMMITTEE – 18 September 2014

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- **Deferred Items**
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Part 2

2.1 **NEWINGTON** **SW/14/0486** **Parsonage Farm, School Lane**
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2.2 **FAVERSHAM** **14/501724** **29 Hilton Close**
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Part 3

3.1 **SITTINGBOURNE** **SW/14/0088** **Sittingbourne Speedway,
Church Road**
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Broadway**
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PLANNING COMMITTEE – 18 September 2014

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

1.1 SW/14/0399		(Case 06635)		<u>Sittingbourne</u>	
APPLICATION PROPOSAL					
Modifications to the S106 Agreement including removal of all financial payments apart from Primary and Secondary education contribution; deferral of payments to the end of the residential development programme; change to the phasing to bring the residential component forward; and a reduction in the provision of affordable housing to 10% intermediate provision.					
ADDRESS Old Sittingbourne Mill And Wharf, Sittingbourne (Morrisons), Kent, ME10 3ET					
RECOMMENDATION Modify S106 Agreement as requested					
SUMMARY OF REASONS FOR RECOMMENDATION					
The applicant has been able to demonstrate that the scheme is not viable with all of the obligations as set out within the original Section 106 agreement.					
REASON FOR REFERRAL TO COMMITTEE					
Significant changes to the Section 106 Agreement requiring consideration by elected Members.					
WARD Chalkwell		PARISH/TOWN COUNCIL		APPLICANT Essential Land	
				AGENT BPTW Partnership	
DECISION DUE DATE		PUBLICITY EXPIRY DATE		OFFICER SITE VISIT DATE	
N/A		N/A		N/A	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):					
App No	Proposal			Decision	Date
SW/11/0159	Hybrid application seeking; outline planning permission (Phases 3,4 & 5) for up to 1,200sqm of leisure use floorspace,			Granted planning permissio	08.02.2012

	<p>250sqm of community floorspace, 150 residential units, in buildings ranging from 2 to 4 storeys in height, together with car and cycle parking; and incorporating detailed planning permission (Phase 1) for a retail food store of 6,682sqm, petrol filling station of 72sqm together with associated landscaping, car and cycle parking & full landscaping detail for new parkland areas (Phases 2 & 3).</p>	<p>n subject to Section 106 agreement</p>	
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MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site for the planning application to which the Section 106 Agreement relates, comprises of a large area of land, 7.79 hectares in total, 225m to the northwest of Sittingbourne town centre High Street and 131m from Sittingbourne Railway Station. The site is separated into two distinct parts by Mill Way. To the south and west of Mill Way is the mill site that formally had a myriad of industrial buildings upon it, some dating back to the 19th Century. Much of this land is now occupied by the Morrisons foodstore and Petrol Filling Station. To the north and east of Mill Way is the wharf site located at the head of Milton Creek. This land is long and irregularly shaped and abuts the creek to the north, Sittingbourne Retail Park to the south and commercial buildings to the west. Part of the SKLR, including the ticket office, runs through the wharf site. There has been no development of the Wharf site so far but a Skate Park is planned for half of the waterside park area under SW/14/0023. Members resolved to grant planning permission for the skate park subject to ecology and flood risk issues being resolved.

1.02 A large proportion of the wharf site lies within Flood Zones 1, 2 and 3. The wharf site lies 2.07km from the closest SSSI, SPA and Ramsar site and lies within the SSSI consultation zone.

1.03 Neither the mill site, nor the wharf site, are allocated for a specific use in the Swale Borough Local Plan 2008 proposals map and the mill site is excluded from the masterplan area as defined by the Sittingbourne Town Centre and Milton Creek Supplementary Planning Document (2010).

1.04 The housing part of the development was granted outline permission only with landscaping and appearance to be agreed under a future reserved matters application. This reserved matters application is expected to be submitted within the next few months.

2.0 PROPOSAL

2.01 The proposal is to modify an existing Section 106 Agreement that was signed as part of the hybrid planning application as described above (SW/11/0159). The modifications would see the removal of all financial payments apart from the Primary and Secondary education contributions; deferral of payments to the end of the residential development program; change to the phasing to bring the residential component forward; and a reduction in the provision of affordable housing to 10% intermediate provision.

2.02 The requirements of the existing Section 106 Agreement are as follows:

Phase 1 – Morrison’s food store (built and all required money paid)

Bus stop contribution - £20,000

CCTV 25% of total contribution of £80,000

Green Travel plan fee £5000

Town Centre Pedestrian Improvements contribution £100,000

Section 278 agreement inc. £22,000 for pedestrian link improvement.

Milton Street Railway Bridge Maintenance £8000 prior to occupation of phase 1.

£27,750.05 = 5% monitoring fee.

Local labour agreement.

Phase 2 – Mill site public realm (linear park between Morrison’s and housing site)

On commencement submit strategy for management of the public realm.

Phase 3 – leisure building and waterside park

CCTV 75% of total contribution upon completion of phase 3.

Heritage Initiative contribution £225,000 – within 12 months of completion of phase 3 (but only if heritage building not provided).

10 working days prior to commencement of phase 3, off-site public right of way contribution £9000

Waterside Park maintenance contribution **£88,113** upon completion.

Phase 4 – Housing

Affordable housing – 45 units provided (30% of the total). 32 as social rented and 13 as intermediate (shared equity). Not more than 50% of open market housing to be occupied until the affordable housing has been transferred to social housing provider. All to be lifetime homes.

20% of open market housing as lifetime homes.

Car park management plan 28 days prior to commencement.

Primary School contribution £237,276.48 **prior to occupation of 1st dwelling**

Secondary school contribution £237,159.90 **prior to occupation of 1st dwelling**

Youth services contribution £32,034.38 prior to occupation of 1st dwelling

Library contribution £34,050 prior to occupation of 1st dwelling.

Submit and implement green travel plan.

Submit schedule of works to the Laburnum Road underpass on commencement and carryout the works prior to occupation of phase 4.

Wheelie bins £12,369 prior to occupation of phase 4.

£27,750.05 =50% of monitoring fee on commencement of phase 4.

Submission of schedule of works to improve the Laburnum Road underpass.

Phase 5 – heritage building.

If built then Heritage building contribution £39,000

Total contributions = £1,110,002.30

Monitoring fee **5%** = **£55,500.115**

All contributions index linked.

2.03 The applicant has submitted an Economic Viability Appraisal Report which tests the viability of the proposed housing development and seeks to demonstrate that the required modifications are necessary in order that the housing can be built out. Members should note that Officers have agreed that the viability assessment can be confined to the housing site only and does not need to take account of the leisure building in terms of its ability to 'add value' to the scheme. The advice from our independent assessor is that it is reasonable to allow the viability assessment on just the housing part of the scheme. This is primarily because the leisure building and the housing development are quite separate in terms of their physical location and the fact that they do not rely on each other to be acceptable in planning terms. Also, the financial returns from the Morrisons part of the hybrid application should not now be considered in my view for the same reasons as noted above and in addition, it could be argued that the Morrisons part of the application has already contributed significant sums by way of section 106 monies (detailed above under phase 1).

2.04 The proposed modified S106 agreement would require the following:

Phase A – residential units

Affordable housing – 10% = 15 units. Intermediate only. Not more than 50% of the open market houses occupied until the affordable housing provided.

Car parking management plan submitted 28 days prior to completion of housing phase.

Primary and Secondary education contributions - £237,276.48 & £237,159.90 respectively. 50% paid upon 25% occupation and 50% paid upon 75% occupation.

Submission of a Green Travel Plan and implement prior to occupation of housing phase.

Monitoring fee - £10,000 to be paid 10 working days prior to commencement of development.

Submission of schedule of works to improve the Laburnum Road underpass and the payment of £10,000 towards CCTV covering the underpass. The timing of these items is to be negotiated.

Phase B – Mill site public realm (linear park)

Upon practical completion, submit a strategy for the management of the land and clause to ensure that the footpath/cycle path is retained for public use.

Phase C – leisure building and waterside park

Prior to occupation of leisure building/waterside park, hand-over process for waterside park initiated.

Payment of waterside park maintenance contribution upon completion of phase C. (Members should note that the suggested draft S106 agreement does not put a figure on the 'waterside park maintenance contribution and as such, this requires further clarification).

Phase D – museum and heritage building

Submission of a new viability assessment, following the last occupation/sale of the last residential unit. If the Council and 'owner' agree that there is 'reasoned justification' for the payment of a sum by way of a Heritage Initiatives Contribution - £215,000. However, no payment of this sum if the Council and 'owner' agree that the viability assessment does not provide 'reasoned justification' for the payment.

Monitoring fee - £20,000 to be paid 10 working days prior to commencement of phase D.

In addition, they suggest that the local labour clause is retained in respect of the construction of the remaining parts of the development.

2.05 The implications of these modifications are as follows:

2.06 Phasing – the housing would be built before the linear park (buffer between Morrisons and housing site) and waterside park. Members should note that condition 39 of the hybrid planning application SW/11/0159 requires the linear park (mill site public realm phase 2) and the waterside park (phase 3) to be completed prior to the first occupation of the dwellings built as part of the residential phase (phase 4) of the development. This condition would have to be removed or varied by way of a new planning application under S73 of the Town and Country Planning Act - in addition to the modifications to the S106 Agreement.

2.07 I have indicated in bold above, those contributions/obligations that would now not be included, would be reduced or modified within the proposed modified section 106 agreement.

3.0 SUMMARY INFORMATION

3.01 See above.

4.0 PLANNING CONSTRAINTS

Archaeological Sites YES

Flood Zones Flood Zone 3

Flood Zones Flood Zone 2

Planning Category District

Swale Borough Local Plan 2008 AAP8 - Area Action Plan - land around Milton Creek

Swale Borough Local Plan 2008 H2 - Providing for New Housing

Swale Borough Local Plan 2008 H5 - Housing Allocations

Swale Borough Local Plan 2008 B2 - Providing for New Employment

Swale Borough Local Plan 2008 B14 - Neatscourt, Queenborough

Swale Borough Local Plan 2008 H6 - Sites within Existing Built-Up Areas

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG) – Planning Obligations.

Development Plan:

Swale Borough Local Plan 2008 – Policies E1, C2 & C3

Supplementary Planning Documents:

Developer Contributions 2009.

6.0 LOCAL REPRESENTATIONS

6.01 The Swale Museums Group have commented on the proposal. They express their disappointment about the potential loss of the heritage initiatives money. However, they are not surprised that this has happened. They consider that the Section 106 was a 'sweetener' to help the developer get what they wanted. They

have put a lot of time and effort into discussing how the heritage initiatives money could be spent. The review mechanism will allow the developer to further reduce the payment without recourse. There are not many opportunities that come along with the potential to help our community. They urge the planning committee to reject the new proposals and look for improve heritage initiatives contributions. If the proposal is allowed, the losers will be Sittingbourne and its community.

6.02 The Sittingbourne Society object to the proposal noting that the changes to the Section 106 agreement will adversely affect the well-being of the High Street. They are concerned about the way that the iconic mill buildings were destroyed. The new heritage museum would have provided a new home for the Periwinkle Mill remains. They consider that the town is in 'desperate need for a heritage museum' and this may be the last chance to get one.

7.0 CONSULTATIONS

7.01 KCC have asked that the viability assessment is independently reviewed to ensure that the loss of the community contributions is justified. They consider that the alteration to the wording of the obligation to pay the education contributions would leave the council in a vulnerable position in terms of enforcement of the payment. They also note that prior funding of school places is necessary to address the need and that payment after all of the houses are complete would fail to address this need at the right time. They do however acknowledge that the current requirement to pay the contribution 28 days prior to the first occupation is onerous and would suggest that the payment is amended to 50% upon 25% occupations, with the balance paid upon 50% of occupations. This would accord with the way that they have overcome this issue elsewhere in the County and will enable KCC to implement phased expansion in a timely manner.

7.02 The Open Spaces Manager has not commented.

7.03 The Head of Economic and Cultural Services has not commented.

7.04 The Head of Housing has not commented.

8.0 BACKGROUND PAPERS AND PLANS

8.01 Draft modified Section 106 Agreement and confidential Economic Viability Appraisal Report.

9.0 APPRAISAL

9.01 The key issues to consider are whether we are in agreement with the findings of the submitted Economic Viability Appraisal; whether the altered phasing of the development would have any detriment to environmental, economic and social factors; whether the deferment of certain payments would be acceptable and; whether the money that is potentially available for 'Heritage Initiatives' should be used for other, perhaps more necessary, community benefits.

9.02 On the first matter of whether this Council should accept the significant reduction in the financial contributions, it is prudent to set out the total reduction. This would equate to approximately £224,560.00 (or £439,560.00 if the Heritage Initiatives Contributions is not paid). This includes the loss of the wheeled bins contribution at £12,369 and the consequent additional cost to the council for providing them. In addition, there would be 30 less affordable housing units provided. Due to the significant reduction sought, it is crucial that the independent review of the submitted viability appraisal is robust. This Council has employed the services of the Valuation Office Agency (VOA) who have scrutinised the financial appraisal. They had originally questioned the construction cost assumptions as well as the valuations for the development. On running the appraisal based on their set of costs and valuations, the VOA concluded that the scheme would be unviable if all of outstanding Section 106 contributions are required to be paid. However, they found that the developer was offering less by way of affordable housing and other contributions than they could afford to. The VOA produced a draft report on this basis and this was the subject of discussion between them and the applicant's financial experts. The discussions have resulted in movement on both sides in terms of some of the costs and valuations of the development. Although there is still disagreement over the % profit for the development, the interest figures and abnormal costs e.g. remediation of contaminated land, preparation of the ground and installation of infrastructure, both parties have essentially agreed on a more realistic set of figures for the other construction costs and valuations. The VOA have re-run the appraisal based on the revised agreed set of costs and valuation figures and they have concluded that again the scheme is unviable, but also crucially, that there is now reduced scope to require further payments over and above those currently offered by the developer. As it stands, our consultant has concluded that there is potential for the developer to provide an additional 10% affordable housing on the site. However, I would ask Members to note that because there is such a difference

between our assumed abnormal costs and the applicants assumed abnormal costs, further negotiations may well result in this additional 10% affordable housing being reduced further. I would request that Members allow officers to continue negotiations and to seek to ensure that additional affordable housing is provided if possible. I can confidently state that the appraisal submitted by the applicant has been robustly scrutinised and will continue to be and that although the scheme is unviable with all of the obligations originally required, there may be opportunity for the provision of some additional affordable housing. I recommend therefore that Members accept the revised offer as set out at paragraph 2.04 put forward by the applicant but that officers are given delegation to continue to seek a larger proportion of affordable housing than the 10% currently offered.

9.03 On the second matter of phasing, the key issue is that the proposal would see the housing being built prior to the provision of the linear park. This linear park functions in three ways. 1 – it provides a buffer between the Morrisons foodstore and Petrol Filling Station and the housing development, 2 – it provides the necessary amount of open space to meet the needs of the residents of the housing development and 3, it provides a pleasant pedestrian/cycle link between the Laburnam Road underpass and Mill Way. With regards to its purpose as a buffer, the land will still act as a buffer regardless of its use, due to its width and there is a high fence along the boundary of the Morrisons site which would ensure that noise and disturbance is kept to a minimum. The ‘buffer land’ should of course be landscaped in the manner approved but it does not matter, in my view, whether this happens prior to occupation or on completion. With regards to the need for the open space provision, it is the case that open space can be provided upon completion of the housing development. Although this is not ideal, I am of the view that in this case, given the tight urban grain of the surrounding land which may result in the use of the linear park land for construction vehicles/construction compound, such a delay would not be unreasonable. With regards to the pedestrian/cycle link, this will still be provided, just later in the development process. I therefore consider that the altered phasing would be acceptable. It should be noted that the waterside park would also be provided after the housing phase rather than before it, as originally envisaged. I cannot identify any harm that would occur as a result of this modification.

9.04 On the third matter of deferred payments, KCC have suggested that there is a justified need to provide the education contributions prior to the completion of the residential phase. Their reasoning is set out above. I have put this suggestion to the applicant and they accept that payment upon completion of the housing would be too late in the process. They have come forward with a counter suggestion of providing 50% of the money on 25% occupation and the remaining 50% on 75% occupation. I consider that this alternative suggestion of a phased payment would be a good

compromise and I recommend to Members that this approach is endorsed by them. The only other deferred payment is the last payment of the monitoring fee which would now be linked to the heritage building phase (phase D/last phase) as opposed to the housing phase. It is quite possible that the heritage building will not be built out and so I have concerns about linking a payment of £20,000 to this phase. However, I am mindful that the Council usually seeks a payment of 5% of the total contribution. In this case, this would equate to a total of £24,221.50. The applicant has already agreed to pay £10,000 towards the monitoring fee prior to the commencement of the housing development and so there would potentially be a shortfall of £14,221.50 for the monitoring fee based on the 5% requirement. I recommend that Members accept the payment schedule as proposed given the fact that as I have set out above, the scheme has been proven to be unviable.

9.05 Finally, the suggested Heritage Initiatives Contribution clause suggests that the intention is not to build the heritage building but to instead provide a sum of money to be put towards 'Heritage Initiatives.' This sum of money would total £215,000.00 and would only be payable to the Council if, upon the submission of a new viability appraisal (following the last occupation/sale of the last residential unit), the Council agrees that there is enough money as a consequence of the funds generated from the housing development, to pay the agreed sum. If there is not enough money, the sum is not paid. Members will be aware of the loss of the old industrial buildings on the Mill site and when the original Section 106 Agreement was drawn up, the money sought for heritage contributions was seen to be justified. However, this was at a time when the Council would have also seen the provision of other contributions towards CCTV, libraries, youth services, wheeled bins, a large maintenance contribution towards the waterside park and the full 30% affordable housing. All of these contributions are now potentially being stripped away or cut back considerably. I therefore ask Members to consider whether they believe that a review mechanism, such as that currently proposed for the Heritage Initiatives Contribution, should instead be used to potentially release money for the above community benefits and/or a review of whether a greater number of affordable houses (social rented/or intermediate) should be provided. This is a matter for Members to give careful consideration to and it may be that Members decide to place greater importance on affordable housing, over the Heritage Initiatives Contribution. I would though remind Members also to consider the comments of the Museums Group which are set out above.

9.06 The wording of the modified Section 106 agreement will need to be scrutinised by the Council's Legal team and I anticipate that this will happen once Members have resolved to agree to this modification proposal.

10.0 CONCLUSION

10.01 Members are asked to consider the modification of the section 106 Agreement for SW/11/0159. The details of this application are set out above. The modification of the agreement would see a substantial reduction in the financial contributions received by the Council, a reduction in affordable housing, altered phasing, deferred payment and a review mechanism for the payment of a Heritage Initiatives Contribution. I have recommended that the phasing should be altered and ask Members to carefully consider the conclusions of our independent assessor of the submitted viability assessment. Members are asked to consider a phased payment of the education contributions and to consider accepting the altered trigger for the payment of the final monitoring fee. Finally, Members are asked to carefully consider whether a review mechanism should be used for the Heritage Initiatives Contribution (£215,000.00) or whether it should instead be used towards any of the other contributions/affordable housing that would be lost or reduced as a consequence of the modified agreement.

11.0 RECOMMENDATION –

11.01 Subject to the scrutiny of the Head of Legal Services, and to refinement of the amended agreement as required following further negotiations (as referred to in 2.04 and 9.02 above), to agree to the modification of the Section 106 Agreement Members are also asked to provide their views on the contents of paragraph 9.05 above.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

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PLANNING COMMITTEE – 18 SEPTEMBER 2014

Report of the Head of Planning

PART 2

Applications for which **PERMISSION** is recommended.

2.1 SW/14/0486		(Case 13645)		<u>Newington</u>
APPLICATION PROPOSAL				
Demolition of existing buildings on the site, closure of the existing access and the erection of fourteen dwellings, along with associated new access, garaging, parking and landscaping.				
ADDRESS Parsonage Farm, School Lane, Newington, Sittingbourne, Kent, ME9 7LB				
RECOMMENDATION Approval subject to a section 106 agreement				
SUMMARY OF REASONS FOR RECOMMENDATION				
The development is acceptable in principle given the housing need and my conclusion that this is a sustainable form of development. The proposed development would address School Lane and respect the established pattern of buildings in this way. The design of the buildings would be of a good quality and would respect the rural character of the area. The proposal has been carefully designed and amended to ensure that the impact on existing surrounding properties would be minimal in terms of overshadowing, overlooking and an overbearing impact. The development would have an adequate number of parking spaces and the access has been assessed by Kent Highway Services as being safe. The expected traffic generated from the housing development would be insignificant in terms of the impact on the wider highway network and the area outside of the primary school on School Lane. I have carefully considered the impact of the development on the setting of Parsonage House, a grade II listed building. I consider that the design of the development would be successful in respecting the setting, design and character of this listed building.				
REASON FOR REFERRAL TO COMMITTEE				
More than 3 objections and Parish Council objection				
WARD Hartlip, Newington & Upchurch	PARISH/TOWN COUNCIL Newington	APPLICANT Walker Residential Ltd AGENT Mr Eric Przyjemski		
DECISION DUE DATE 14 th July 2014	PUBLICITY EXPIRY DATE 4 th September 2014	OFFICER SITE VISIT DATE 1 st May 2014		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):				
App No	Proposal	Decision	Date	
SW/09/0999	Variation of condition 4 of SW/09/0801 to allow for the cars to be taken out of the	Approved	27/11/09	

	building between 09:00 and 17:00 Monday to Friday for cleaning and washing in the farmyard adjacent to the building.		
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SW/09/0939	Variation of condition 3 of planning permission SW/08/1019 to allow vehicles stored within the units to be taken outside and washed/cleaned between 09:00 and 17:00 Monday to Friday.	Approved	27/11/09
SW/09/0801	Change of use of redundant farm building to storage of wedding/classic cars.	Approved	09/10/09
SW/08/1019	Change of use of redundant farm buildings and farmyard to B1 light industrial and/or B8 storage, with associated parking.	Approved	05/12/08
SW/07/1060	Change of use of redundant farm buildings and farmyard to light industrial and/or B8 storage, with associated parking.	Refused	31/10/07
SW/94/0730	Change of use of farmyard to parking for 3 residential caravans	Withdrawn	09/09/94

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MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site lies just outside of the built-up area boundary to the northwest of Newington village, off School Lane and opposite Newington Primary School. Open agricultural land characterises the wider surrounding area. The site is bounded by residential properties to the north and east. Parsonage House, a grade II listed building lies immediately to the east of the site. The surface of the ground is mostly level but is raised above the level of the road – School Lane by approximately 2 metres at its highest. The road and site levels even out towards the western boundary adjacent to Shenley, the adjoining property. There are currently three large commercial buildings on the site, one centrally located and the others located towards the northeast corner. These are constructed of brick and metal sheeting. The ground consists of short grass, concrete and earth. The surrounding buildings are a mix of types and designs. A number of trees are present along the northern boundary of the site.

2.0 PROPOSAL

2.01 This application seeks planning permission for the demolition of the existing buildings on site, the closure of the existing access onto School Lane, adjacent to Shenley, and the erection of 14 no. 2 storey detached, semi-detached and terraced dwellings. These dwellings would have 3, 4 and 5 bedrooms. A new access would be provided which would be opposite the primary school on School Lane.

2.02 The layout of the development would consist of 7 dwellings fronting School Lane with the remaining 7 dwellings located within the application site and facing into a central courtyard. Each dwelling would have at least 2 parking spaces with garages and car barns provided throughout the development.

2.03 The dwellings are designed with traditional pitched roofs and finishing materials such as weatherboarding, stock bricks and rendering. The surface of the roads within the scheme would be a combination of block paving and bonded gravel.

2.04 The majority of the grass bank adjacent to School Lane would be retained with a narrow bonded gravel footpath running along the top to provide pedestrian access to the houses.

2.05 Existing trees along the northern boundary are to be retained and new trees and vegetation provided as part of the landscaping scheme.

2.06 The proposals also provide a new footway to link the development to the existing pedestrian facilities in School Lane, and this includes a traffic calming feature outside the school to keep vehicle speeds low and provide a safe crossing point.

3.0 SUMMARY INFORMATION

	Existing	Proposed	Change (+/-)
Site Area (ha)	0.45ha	0.45ha	0
Approximate Ridge Height (m)	6.5m	10.4m	3.9m
Approximate Eaves Height (m)	3m	5.5m	2.5m
No. of Storeys	1	2	1
Parking Spaces		36	
No. of Residential Units		14	14
No. of Affordable Units		0	

4.0 PLANNING CONSTRAINTS

The A2 to the south of the site is allocated as an Air Quality Management Area.

Listed Building Affect Setting Grade 2

Newington Conservation Area lies 60m to the east of the application site.

Potential for archaeological finds – early prehistoric, Roman and Post medieval periods.

Planning Category District

Swale Borough Local Plan 2008 RC7 - Rural Lanes

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)

The NPPF was released with immediate effect, however, **Paragraph 214** states that “for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”

The 12 month period noted above has expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.

The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking. For **decision-taking** this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

The NPPF outlines a set of core land-use planning principles (**Para 17**) which should underpin both plan-making and decision-taking including to -Contribute to conserving and enhancing the natural environment and reducing pollution and encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high value.

Paragraph 47 states that planning authorities should meet local housing needs and identify a five year housing land supply with an additional 5% buffer. Paragraph 49 states that housing application should be considered in the context of the presumption in favour of sustainable development and that “*Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.*”

Paragraphs 56-68 deal with requirement for high quality design. In particular, paragraph 56 includes the following: “Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.’ The NPPF also considers the importance of the natural environment.

Paragraphs 47-55 of the NPPF seek to significantly boost the supply of housing.

Paragraph 129 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.

Paragraph 131 states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 132 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

The Council must have special regards to the statutory duty to preserve the setting of listed buildings and other heritage assets.

National Planning Practice Guidance (NPPG) - Conserving and enhancing the historic environment; Design; Determining a planning application; Open space, sports and recreation facilities; travel plans, transport assessments and statements in decision making.

Development Plan: - Swale Borough Local Plan 2008:

SP1 (sustainable development); SP2 (historic environments); SP4 (new housing); SH1 settlement hierarchy); E1 (general development); E6 (countryside); E14 (development affecting a listed building); E19 (high quality design); H2 (housing); T3 (vehicle parking); T4 (meeting the needs of pedestrians and cyclists); U1 (servicing developments); C2 (community services and facilities); C3 (open spaces) and B1 (supporting and retaining existing employment uses).

Supplementary Planning Documents: Developer Contributions 2009.

Relevant policies are: ST1 (sustainable development); ST2 (target for new housing); ST3 (settlement strategy); **ST4 (allocation of 14 new houses at Newington)**; CP3 (wide choice and quality of homes); CP7 (enhancing the historic environment); DM7 (vehicle parking); DM14 (general development); DM15 (high quality design); DM18 (open space); DM20 (sustainable design and construction); DM21 (water, flooding and drainage); DM31 (preserving the historic interest of listed buildings) and; **A9 (allocates Parsonage Farm for the development of 14 residential units)**.

6.0 LOCAL REPRESENTATIONS

Thirteen letters of representation have been received. A summary of their responses is as follows:

- Initial concern about overlooking and an overbearing effect from unit 1 into Shenley (this has been addressed by the applicant by removing the offending window and altering the roof design);
- Concern over the impact from the car barns on Shenley (the design of these has since been amended);
- The presence of the Greater Stag Beetle (a protected species) has been identified within the front garden of Shenley;
- Suggestion that units 1 and 2 should swap positions to reduce the impact on Shenley;
- Unacceptable impact on the setting of Parsonage House, 17th Century a grade II listed building. The building would be surrounded on all sides by development, removing its isolation and competing with it. A recently dismissed appeal for an extension to the residential property to the east considered that that development would diminish the building's significance and contribution to the character of the locality. The proposal therefore conflicts with the aims of policy E14.
- Unit 7 will have an overshadowing and overbearing impact on Parsonage House;
- The boundary wall along the western boundary of Parsonage House would have to be raised to ensure a level of privacy is achieved;
- Church Lane into School Lane is heavily congested with traffic and development has been refused on this issue before;
- Congestion with school parking will be compounded and access to the site will be dangerous at drop-off and pick-up times;
- Replacing the existing buildings with housing could improve the appearance of the area;
- The roof height of the buildings is significantly higher than Parsonage House.
- The roof lines are fussy and ugly;
- Units 8-11 would have the appearance of backland development;
- The development proposes tandem parking which is contrary to the guidance of KCC Highways;

- The Transport Statement should consider the congestion on Church Lane close to the A2;
- Disturbance to roads and pedestrian safety during construction;
- The application site falls outside of the built-up area boundary and should not be approved in principle;
- The land should remain in agricultural use;
- The development is 'not appropriate' for the area or the country lane;
- There will be an increase in traffic, not a decrease as the developer claims. The current use of the site generates very little traffic;
- Any additional street lighting would cause light pollution;
- Has provision been made for the removal of asbestos from the barn?;
- The executive housing proposed does not meet the needs of the village;
- Congestion on School Lane associated with the primary school;
- Provision for school drop-off and pick-ups should be catered for within the application site;
- There are potential archaeological finds at the site, specifically the village Tithe Barn;
- There is no additional capacity for utilities/infrastructure;
- Detrimental cumulative impact of developments in and around the village;
- The scheme is too dense with too few parking spaces;
- There are no appropriate play facilities close-by;
- Request that a 1 metre buffer is provided between the boundary of 8 School Lane and the new dwellings, that the boundary fence to no. 8 is reinstated where trees within the site have cause damage over the years and that planning permission is granted for an extension to their property as the proposed development would have the same impact on the listed building;
- Was the ecological report carried out before trees were removed on the site and the number of bats reduced?
- An Inspector has already considered the development of this site and concluded that it would lead to 'visual intrusion into this attractive landscape and its allocation as a housing site cannot be justified.'

7.0 CONSULTATIONS

7.01 Newington Parish Council object to the proposal on the following grounds: visual amenity – proposal is not in keeping within the properties in the immediate vicinity; loss of sunlight, overshadowing/loss of outlook to surrounding residents, overlooking and loss of privacy, highway issues – traffic generation, vehicular access and highway safety. They are concerned about the impact of increased traffic on the AQMA from this and other developments in the area; the impact on School Lane at school drop-off and pick-up times; the lack of public transport; the inadequacy of the drainage infrastructure, water systems and electricity supplies; the lack of children's play areas to the north of the village. They question whether there is potential for the site to accommodate additional housing in the future. The proposal would not address the Housing Needs Survey carried out by them in 2008 which identified a need for housing for the young and the elderly. The LDF states that the village cannot be considered for large-scale development because of the lack of suitable

road infrastructure and existing congestion. Unplanned and piecemeal development will fail to address the needs of the village.

7.02 The Head of Environmental Services has no objection but recommends conditions to address the potential for contamination at the site; the safe disposal of asbestos; restrictions on hours of construction and dust suppression.

7.03 Southern Water have no objection. They note that a formal application to them is required for connection to the public foul sewer. Surface waters should not drain to public foul sewers and soakaways should be checked by building control. A condition requiring the submission of foul and surface water drainage details is recommended. There is a water main close to the site and its exact location should be determined prior to development.

7.04 KCC require secondary education contributions at a total of £33,037.20, community learning contributions at £1,633.97, library contributions at £1,633.97 and adult social services at £1537.33 (total £36,815.33).

7.05 The Tree Consultant comments that there is very little tree cover on the site apart from a couple of larger specimens located along the northern boundary. These trees are to be retained and so he has no objection. However, he recommends conditions to ensure that the trees are protected during construction and the submission of a landscaping scheme.

7.06 The KCC Biodiversity Officer has reviewed the ecological information submitted and they are satisfied that the proposed development site has limited potential to be suitable for protected/notable species. The survey recommends precautionary mitigation for bats, breeding birds, badgers and reptiles and they advise that this is implemented is planning permission is granted. They also advise that lighting is designed to consider bats and that biodiversity enhancements are provided on the site.

7.07 The Kent Downs AONB unit comment that the site is outside of the AONB setting and refer the Council to the Kent Farmstead Guidance.

7.08 Kent Highway Services have no objection. They comment as follows:

'Firstly, the principle of residential development is accepted, as the traffic generation would not be considered significant, with a development of this size likely to give rise to around 7 vehicle movements during each of the AM and PM peak hours. Considering the amount of traffic that would be associated with the school and existing residents in the area, the impact on Church Lane would be imperceptible. It should also be appreciated that the existing farm buildings would have been expected to generate vehicle movements associated with their use, and these would include a proportion of HGV trips that would be particularly intensive during the harvest period. As such, the residual impact of the proposed development would in fact be less than the 7 movements an hour during the peak periods, and the Transport Assessment suggests that it could even represent a total daily reduction of 5 movements over the extant uses. Therefore, it would not be reasonable to object to

the impact that the traffic volume of this development would have on the highway network.

Turning to the proposed layout of the development, it was agreed that the most suitable location for the vehicular access would be where it is now shown on the current drawings, as the existing access point at the far Northwest corner of the site is on the inside of a bend and is afforded very little visibility in either direction. The original proposal, as can be seen in. Section 3 of the Design and Access Statement, included two main access points from School Lane to serve the development, and an additional individual access for one dwelling where vehicles would have to reverse on or off School Lane. The submitted scheme has concentrated the access to a single point where adequate visibility sightlines can be provided in each direction, and ensured that all vehicles will be able to enter and exit the site in a forward gear.

Additionally, by retaining the highway verge embankment and setting the footway serving plots 1 to 4 behind this, vehicles associated with these dwellings will be less likely to park along School Lane, as they would not have direct pedestrian access available. The proposals also provide a new footway to link the development to the existing pedestrian facilities in School Lane, and this includes a traffic calming feature outside the school to keep vehicle speeds low and provide a safe crossing point. This footway is separated from plots 5 to 7 that face School Lane immediately alongside it, again to discourage residents from parking directly outside of their properties in preference to using their allocated spaces.

With respect to parking provision, the proposed amount meets the requirements of the adopted document, IGN3, as this suggests that 2 spaces would be appropriate for 3 and 4 bedroom dwellings in this location. It is noted that many of these units have actually been provided with 3 spaces, and although some of the provision has been arranged in tandem form, the units associated with these are not in positions where on-street parking is a more convenient option or parking elsewhere within the development would cause a problem. In addition to the allocated visitor spaces shown on the drawings, there appears to be adequate space available in the proposed layout to absorb further parking without obstructing movement, and it is understood that these areas are to remain in private management in any case.

Given the location of the site opposite the local primary school, and taking into consideration the restrictions along the route from the A2, including height, it would be appropriate to require the submission of a Construction Management Plan to ensure that the HGV movement associated with the development is properly managed to avoid conflict with school traffic and unsuitable roads. This should be secured by condition, as is normal practice.'

They recommend conditions to ensure that the off-site highway works are carried out prior to commencement, to prevent mud on the road, to ensure that there is a Construction Management Plan and that there is parking for construction vehicles, that parking and cycle spaces should be retained, access details should be submitted and the existing access stopped-up, details of surface water should be provided and carriageway improvements/works should be completed.

8.0 BACKGROUND PAPERS AND PLANS

Planning Statement; Design and Access Statement; Contamination Report; Archaeological Desk Based Assessment; Ecological Appraisal; Transport Assessment and; Foul and Surface Water Drainage Assessment.

9.0 APPRAISAL

Principle of Development

9.01 As noted above, the application site lies outside of the built-up area boundary as identified by the Swale Borough Local Plan 2008. Development outside of the built-up area boundary is restricted under policy E6 of the same plan which seeks to protect the character and appearance of the countryside. New residential development outside of the built-up area boundary would therefore normally be resisted. Although policy SH1 of the adopted local plan does make some allowances for development outside of the built confines on suitable sites that do not harm the settlement pattern of character of the countryside. There are also material planning considerations that weigh in favour of the residential development of this site. The NPPF clearly sets out the Government's expectations for the provision of new housing and requires local planning authorities to set housing targets and identify a five year (plus 5% buffer) supply of housing sites. This Council has not been able to meet these requirements and as such, new housing developments, if deemed to be sustainable development, should generally be permitted. I am mindful of the location of this application site which abuts the existing village envelope of Newington and is therefore well connected to the village and its services and facilities, including Newington Railway Station. In this respect I consider that the development is sustainable. The dwellings will be constructed to code level 3 of the Code for Sustainable Homes and in this respect, I consider that the development is sustainable. Also of significant weight in considering the principle of the development is the fact that it has been included within the housing site allocations within the emerging Local Plan (Policies ST4 and A9). The emerging local plan has been through public consultation and the allocation of the site remains within the draft to be submitted for inspection early next year. The allocation identifies that the site can accommodate 14 dwellings. The current proposal is for 14 dwellings and I consider that this density (29 dwellings per ha) is therefore appropriate. Although the emerging local plan can only be given limited weight in the decision making process, the allocation of the application site for housing in addition to the position that this Council is in, in respect of the five year housing land supply and the requirements of the NPPF, leads me to conclude that the development of this site for housing is acceptable in principle. I have given some thought in view of policy B1 to the loss of the employment uses at this site as a consequence of the housing development and consider that the need for housing outweighs the loss of the employment at this site. The number of employees at this site is very small and being so close to residential properties, any intensification of the commercial activities on this site could have a detrimental impact in terms of noise and disturbance. I therefore conclude that the loss of this employment site would be acceptable.

Visual Impact

9.02 The presence of a housing development on this land would undoubtedly urbanise the appearance of the site. However, its impact on the landscape would be limited in my view by the presence of residential properties to the north, east and west. It would be seen within the context of the village of Newington and in this respect, I consider that it would not harm the landscape character or the appearance of the countryside. The layout of the development will ensure that buildings address the main highway and in this respect, the development would emulate the established pattern of development along School Lane. The provision of dwellings within the middle of the site/to the rear of the dwellings fronting School Lane would conform with the cul-de-sac developments along Church Lane and the courtyard arrangement would be akin to a farmyard with buildings facing onto a shared central space. I therefore consider that the development layout would be in-keeping with the surrounding area. Parking courts are not always considered to be appropriate but here they would be well overlooked by the proposed dwellings and they would each serve a small number of dwellings. The architecture of the dwellings would be of a high standard in my view with variety of design throughout. They would be of a rural appearance with mainly traditional features. This is entirely appropriate within this rural village in my view. I have recommended a condition to ensure that the finishing materials are agreed prior to commencement of development. I consider that the proposed surface material to the access and parking areas and the proposed landscaping would create a pleasant and pedestrian friendly environment. The development would have a distinctive character that enhances the appearance of the area in my view being set amongst existing houses of limited architectural merit. The retention of the grass bank will help to retain the rural character when travelling along School Lane .

Residential Amenity

9.03 The proposal has been designed to limit the impact on neighbouring properties in terms of overshadowing, overlooking and an overbearing impact. The properties that will be affected the most are Shenley, Parsonage House and 8 School Lane. All three properties have objected to the proposal. The scheme has been amended to address many of the concerns of Shenley and so now, the proposed dwelling adjacent would have a hipped roof and there would be no facing first floor window. The scheme has also been amended to provide hipped roofs to the car barns adjacent to the boundary of this property and windows have been relocated. I now consider that the proposal would cause no harm to the amenities of this neighbouring property. With regards to Parsonage House, the closest proposed dwellings are plots 7 and 8. Parsonage House has a large side and rear garden which may slightly be affected by the proposal in terms of overshadowing some parts of the garden at certain points throughout the day. However, this overshadowing would be limited by the distance that the proposed dwellings would be from Parsonage House (12 and 15 metres respectively) and the fact that they are orientated to the west and north of Parsonage House. Both plots 7 and 8 would be at the same ground level as Parsonage House and would have hipped roofs, thereby limited any impact further. Plot 7 has no windows within the flank elevation facing Parsonage House and plot 8 has a small high level window serving the stairs. I have recommended a condition to ensure that this window is obscure glazed and fixed shut. I therefore consider that there would be no overlooking of Parsonage House from plots 7 and 8. Plots 8-11 would back onto the garden of no. 8 School Lane.

This property has a long rear garden and I am content that plots 9, 10 and 11 would be a sufficient distance and at a sufficient angle from this neighbouring property to ensure that overlooking is limited. Plot 8 has the potential to overlook no. 8 School Lane but this existing dwelling has a large rear extension that will ensure that some privacy is retained to the area immediately to the rear of this dwelling. Also of consideration is the broad line of tall trees along the boundary of this property which will ensure that privacy is maintained to a certain extent. I do not consider that the impact on no. 8 School Lane would be significant therefore. There will undoubtedly be some difference in the levels of noise and activity at this site but I do not consider that this would be to a harmful degree and am mindful that the former agricultural use and current commercial use will generate some noise and activity. The internal and external spaces provided for each dwelling would be of a good standard in my view and would function well for its future residents.

Highways

9.04 Members will note the detailed response provided by Kent Highway Services above in respect of highway safety/amenity. I am in full agreement with the views given. I have inspected the site during school pick-up time and have witnessed the congestion and parking along School Lane close to the primary school. I can see why local residents are concerned about this element of the proposal. However, the scheme has been designed to meet the requirements of Kent Highway Services and I note the predicted amount of traffic generated by the housing development which is lower than residents fear. There is no doubt that there is an existing traffic problem associated with the primary school but it would be unjust to preclude development at the application site as a consequence, particularly as times of congestion on School Lane would be during week days, mostly at the peak drop-off/pick-up times and are therefore predictable and avoidable for residents of the new properties. I note the concerns of local residents in respect of increases in traffic impacting on the congestion at the top of Church Lane, close to the A2 where there is a pinch-point in the road. Whilst I appreciate that there are difficulties here, I am mindful of the expected number of vehicles generated by the proposed housing and consider that the impact of this development on that stretch of road would be inconsequential. The application would provide an improved pedestrian crossing point across School Lane and this would also act to slow traffic down. I consider that these highway alterations would be of benefit to the area. The number of parking spaces within the site is adequate and exceeds the requirements of Kent Highway Services. This level of parking provision will ensure that the need to park on School Lane is minimised. In addition, the development has been designed to discourage people from parking on School Lane through the retention of the steep bank at the edge of the development which creates a physical barrier between the road and the houses. As such, I consider that the proposed development would have no detrimental impact on highway safety/amenity.

Impact on setting of listed building

9.05 Parsonage House is a grade II listed building which dates back to the 17th Century. The assessment submitted with the application documents notes that the farmhouse would have originally been orientated to front onto the farmyard and this has now been replaced with modern houses. The application site is occupied by

ugly functionally designed former agricultural buildings. I conclude that these buildings compromise the setting of the listed building somewhat and so their removal would be beneficial. I acknowledge that the openness of the application site is of benefit to the listed farmhouse as it results in the farmhouse appearing to be set apart from other dwellings to a degree. There is no doubt that this setting will be altered as a consequence of the proposal. However, the key test is whether the setting would be harmed by the proposed development. In my view, the architecture of the dwellings would be respectful of the historic rural appearance of the listed building. The gap between Parsonage House and the closest dwellings would maintain the sense of spaciousness around the listed building to a degree and it is of note that Parsonage House would be set closer to the road than the new dwellings. It would still therefore be a prominent feature when viewed from the west. I am of the view that the setting of the listed building would be preserved and also enhanced by the loss of the former agricultural buildings. The boundary wall between the application site and Parsonage House is historic and forms an important element of the setting of the listed building in my view. The wall would be unaffected by the proposal and it is likely that a 1.8m high close boarded fence would be provided on the application side of the wall to ensure privacy between the existing and proposed dwellings. I have recommended a condition to require details of the boundary treatments surrounding the site and so the exact arrangements will be considered in detail post decision. However, I do not consider that the historic wall would need to be altered as a consequence of the proposal, nor would its role in the setting of the listed building be compromised.

Other matters

9.06 The applicant has agreed to the developer contributions as requested by KCC (see above). In addition, the developer has agreed to pay contributions towards bins (approx. £1,120), open space (£11,200) and a monitoring fee at 5% of the total figure. This will be the subject of a Section 106 Agreement, should Members resolve to approve this proposal.

9.07 The site has been the subject of an ecological survey and a further review following additional information about the presence of the Greater Stag Beetle. I am content that the development would have no detriment to ecology/biodiversity and have recommended an appropriate condition to secure the precautionary approach as recommended and biodiversity enhancements.

9.10 The small amount of traffic generated from the site would have an inconsequential impact on the Air Quality Management Area in my view. The Head of Environmental Services has not objected.

9.11 The lack of a children's play area close to the application site is a concern but not one that I consider to be overriding and I am mindful that the developer will be contributing approximately £11,200 towards open space/the improvement of play equipment in the village.

9.12 The need for housing nationally is unquestionable. However, objectors do not consider that the type of housing proposed is needed within the village. They would prefer to see housing for the young and the elderly. Whilst I am mindful of the

perceive need, there would be no policy basis in my view for refusing this application on the grounds that the 3, 4 and 5 bedroom houses are not needed.

9.13 I consider that the Newington Conservation Area is such a distance (60m) from the application site and separated by a number of buildings to ensure that its setting would be unaffected by the proposal.

9.14 With regards to the foul and surface water drainage, the application is accompanied by a drainage assessment. This concludes that there is adequate capacity within the existing sewer to accommodate the development. Soakaways and permeable paving is proposed allowing natural soakaway of rainwater. The assessment concludes that there is adequate space within the application site to capture that water falling on the site.

10.0 CONCLUSION

10.01 Having considered the relevant planning policies, comments from consultees, local residents and the parish council, I am of the view that the development is acceptable in principle given the housing need and my conclusion that this is a sustainable form of development. The proposed development would address School Lane and respect the established pattern of buildings in this way. The design of the buildings would be of a good quality and would respect the rural character of the area. I therefore consider that there would be no harm to visual amenities. The proposal has been carefully designed and amended to ensure that the impact on existing surrounding properties would be minimal in terms of overshadowing, overlooking and an overbearing impact. I therefore consider that the proposed development would have no significant harm on residential amenities. The development would have an adequate number of parking spaces and the access has been assessed by Kent Highway Services as being safe. The expected traffic generated from the housing development would be insignificant in terms of the impact on the wider highway network and the area outside of the primary school on School Lane. I therefore conclude that there would be no detriment to highway safety/amenity. I have carefully considered the impact of the development on the setting of Parsonage House, a grade II listed building. I consider that the design of the development would be successful in respecting the setting, design and character of this listed building. I therefore conclude that the development would preserve the setting of the listed building.

11.0 RECOMMENDATION – GRANT Subject to a section 106 agreement securing contributions towards secondary education, community learning, local libraries and adult social services, wheeled bins, open space and a monitoring fee. Also subject to the following conditions:

CONDITIONS to include

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) The development hereby approved shall be carried out in accordance with the following approved drawings: 2306 – 4, 2306 – 21A, 2306-03D, 2306-15A, 2306-02F, 2306-27, 2306-28, 2306-02F, 2306 – 20A, 2306 – 19A, 2306-18A, 2306-16A, 2306-17 A, 2306-14A, 2306-12, 2306-10A, 2306-11, 2306-13A.

Grounds: For the avoidance of doubt and in the interests of proper planning.

(3) Notwithstanding the provisions of Class A, Part 2, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no gates, fences, walls or other means of enclosure shall be erected or provided in advance of any wall or any dwelling fronting on a highway without the consent in writing of the Local Planning Authority.

Grounds: In the interests of residential amenity.

(4) Before the development hereby permitted is first used, the proposed first floor window in the south elevation of plot 8 as shown on drawing no. 2306 - 16A shall be obscure glazed and shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

Grounds: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

(5) Details in the form of cross-sectional drawings through the site, of the existing and proposed site levels shall be submitted to and approved in writing by the Local Planning Authority before work commences and the development shall be completed strictly in accordance with the approved levels.

Grounds: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

(6) Prior to the commencement of development hereby approved, the applicant, or their agents or successors in title, shall secure the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Grounds: To ensure that features of archaeological interest are properly examined and recorded.

(7) Prior to the commencement of development hereby approved, a contaminated land assessment (and associated remediation strategy if relevant), being submitted to and approved in writing by the Local Planning Authority, comprising:

- a) A desk study and conceptual model, based on the historical uses of the site and proposed end-uses, and professional opinion as to whether further investigative works are required. A site investigation strategy, based on the results of the desk study, shall be approved by the Local Planning Authority prior to any intrusive investigations commencing on site.
- b) An investigation, including relevant soil, soil gas, surface and groundwater sampling, carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analyses, risk assessment to any receptors and a proposed remediation strategy which shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment, including any controlled waters.

Grounds: To ensure any land contamination is adequately dealt with.

(8) Before any part or agreed phase of the development is occupied, all remediation works identified in the contaminated land assessment and approved by the Local Planning Authority shall be carried out in full (or in phases as agreed in writing by the Local Planning Authority) on site under a quality assured scheme to demonstrate compliance with the proposed methodology and best practice guidance. If, during the works, contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

Grounds: To ensure any land contaminated is adequately dealt with.

(9) Upon completion of the works identified in the contaminated land assessment, and before any part or agreed phase of the development is occupied, a closure report shall be submitted which shall include details of the proposed remediation works with quality assurance certificates to show that the works have been carried out in accordance with the approved methodology. Details of any post-remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Grounds: To ensure any contaminated land is adequately dealt with.

(10) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with.

Grounds: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

(11) Prior to the commencement of development hereby approved, full details of the method of disposal of foul and surface waters shall be submitted to and

approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Grounds: In order to prevent pollution of water supplies and localised flooding.

(12) Prior to the commencement of development hereby approved, a programme for the suppression of dust during the demolition of existing buildings and construction of the development shall be submitted to and approved by the Local Planning Authority. The measures shall be employed throughout the period of demolition and construction unless any variation has been approved by the Local Planning Authority.

Grounds: In the interests of residential amenity.

(13) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:-

Monday to Friday 0730 - 1900 hours, Saturdays 0730 - 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Grounds: In the interests of residential amenity.

(14) During construction of the development adequate space shall be provided on site, in a position previously agreed by the Local Planning Authority to enable all employees and contractors vehicles to park, load and off load and turn within the site.

Grounds: In the interests of highway safety and convenience.

(15) Adequate precautions to be previously agreed in writing by the Local Planning Authority, shall be taken during the period of demolition and construction to prevent the deposit of mud and/or other debris on the public highway.

Grounds: In the interests of highway safety and convenience.

(16) The area shown on the submitted plan as car parking and turning space shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Grounds: Development without adequate provision for the parking of cars is likely to lead to car parking inconvenient to other road users and detrimental to amenity.

(17) No work shall commence on the development site until the provision of the off-site footway and pedestrian crossing point shown on drawing 2306-02F has been

carried out in accordance with a design and specification to be approved in writing with the Local Planning Authority and to be fully implemented to the satisfaction of the Local Planning Authority.

Grounds: In the interests of amenity and road safety.

(18) Prior to the works hereby approved commencing on site, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.

Grounds: In the interests highway safety and the proper programming of the development.

(19) Before the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

Grounds: In the interests of highway safety and convenience.

(20) No dwelling shall be occupied or the approved use commenced until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for cycles to be securely parked and sheltered (providing for 1 cycle per bedroom).

Grounds: To ensure the provision and retention of adequate off-street parking facilities for cycles in the interests of highway safety.

(21) The development hereby approved shall not be occupied until the existing vehicular access on School Lane has been stopped up and its use permanently abandoned in a manner to be agreed in writing by the Local Planning Authority.

Grounds: In the interests of highway safety and convenience.

(22) The development hereby permitted shall not be occupied until the visibility splays shown on the submitted plan have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Grounds: In the interests of highway safety.

(23) Before the first occupation of a dwelling, the following works between that dwellings and the adopted highway shall be completed as follows:

(A) Footways and/or footpaths shall be completed, with the exception of the wearing course;

(B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:

- (1) highway drainage, including off-site works,
- (2) junction visibility splays,
- (3) street lighting, street nameplates and highway structures if any.

Grounds: In the interests of highway safety.

(24) Prior to the commencement of development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which should be native species where possible and of a type that will enhance or encourage local biodiversity and wildlife), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Grounds: In the interests of the visual amenities of the area.

(25) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Grounds: In the interests of the visual amenities of the area.

(26) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Grounds: In the interests of the visual amenities of the area.

(27) Prior to the commencement of development hereby approved, details in the form of samples of external finishing materials to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details.

Grounds: In the interest of visual amenity.

(28) The dwellings hereby approved shall achieve at least a Level 3 rating under The Code for Sustainable Homes or any other specification approved by the Local Planning Authority, and no development shall take place until details have been submitted to, and approved in writing by the Local Planning Authority, which set out what measures will be taken to ensure that the development incorporates sustainable construction techniques such as rainwater harvesting, water conservation, energy efficiency and, where appropriate, the use of local building materials; and provisions for the production of renewable energy such as wind

power, or solar thermal or solar photo voltaic installations. Upon approval, the details shall be incorporated into the development as approved.

Grounds: In the interest of promoting energy efficiency and sustainable development,

(29) The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained to the satisfaction of the planning authority. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Grounds: In the interests of visual amenity.

(30) Prior to the commencement of the development hereby approved, details of the external boundary treatment to be used on the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those approved details and retained unless otherwise agreed to in writing by the Local Planning Authority.

Grounds: In the interests of visual amenity.

(31) The recommendations and ecological enhancements to be applied to the development hereby approved as set out in the submitted Ecological Appraisal shall be implemented.

Grounds: In the interests of ecology and biodiversity.

(32) No asbestos associated with the demolition of the existing buildings shall remain on the site.

Grounds: In the interests of appropriate contamination control.

(33) No development shall take place until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection.

Grounds: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

(34) No equipment, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection (in accordance with the details submitted in respect of condition 33) except to carry out pre commencement operations approved in writing by the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the protection areas. No alterations shall be made to the siting of barriers and/or

ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority.

Grounds: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

INFORMATIVES

(1) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

(2) A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

2.2 14/501724/FULL		Faversham
APPLICATION PROPOSAL Extend existing first floor bedroom over the existing garage to form a much larger bedroom. To convert the existing conservatory to a dining room and then to add a small conservatory to the end of that converted room.		
ADDRESS 29 Hilton Close Faversham Kent ME13 8NN		
RECOMMENDATION Grant		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL Proposal is in accordance with national and local planning policy.		
REASON FOR REFERRAL TO COMMITTEE Town Council recommends refusal		
WARD Watling	PARISH/TOWN COUNCIL Faversham	APPLICANT Mr Bruce Springett
DECISION DUE DATE 22/09/14	PUBLICITY EXPIRY DATE 11/09/14	OFFICER SITE VISIT DATE 29/08/2014
RELEVANT PLANNING HISTORY – None		

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The site is situated in Hilton Close, a fairly new development situated adjacent to the old lime quarry just off the A2. Hilton Close is situated atop the quarry face, with a sheer drop to Finch Close below. It is within the established built-up area boundaries, and is characterised by a fairly modern mix of house types in relatively spacious gardens.

1.02 The house is situated on a corner plot, where Hilton Close leads into an ‘S’ bend.

2.0 PROPOSAL

2.01 The proposal is for a first storey side extension over the existing attached garage; to remove the existing conservatory to the rear and replace with a new dining room and a new smaller conservatory attached.

2.02 Due to the nature of the site, the rear of the property can be seen from the highway, albeit over the present 1.8 metre high brick wall.

- 2.03 The present rear conservatory extends 4.5 metres from the rear wall; the combined extension and new conservatory would extend 6.8 metres from that same wall. This would provide a new dining room and a smaller conservatory.
- 2.04 The proposed first floor extension would provide an extension and en-suite to the present 'box' room. It would have a depth of 4 metres and a width of 2.6 metres.

3.0 PLANNING CONSTRAINTS

- 3.01 None.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
Swale Borough Local Plan 2008 – Policies E1, E19 and E24
Supplementary Planning Guidance: Designing an Extension – A Guide for Householders

5.0 LOCAL REPRESENTATIONS

I will report any representations received to Members at the meeting.

6.0 CONSULTATIONS

- 6.01 Faversham Town Council recommends refusal for the following reasons: “1. *The proposed two storey extension will have a terracing effect.* 2. *The extent of the single storey extension will have a harmful effect on the street scene.*”
- 6.02 No other representations have been received.

7.0 BACKGROUND PAPERS AND PLANS

- 7.01 Application papers and drawings referring to application reference 14/501724.

8.0 APPRAISAL

The key issues in this case are the scale and the effect on the street scene, and whether or not the first floor extension would create a terracing effect.

To take the first point, as noted above, the proposed single storey rear extension can be seen from the highway, due to the position of the site on the double bend in the road. However, being single storey, set back a little from the side boundary, and that side boundary consisting of a 1.8 metre high brick wall, little of either the existing or the proposed extension can or could be seen from the public highway. As such, I do not believe that the proposal, if approved, would have an adverse impact on the street scene.

Similarly, I note the concerns expressed with regard to the possibility of terracing, but I note that whilst many houses in Hilton Close are detached and semi-detached, many are built on or very close to their side boundaries. This means that the area has a closely developed character, not one presenting a uniformly spacious appearance. In addition, there are a number of terraced units nearby, which have a certain effect upon the character of the area. Terracing is a term normally used to refer to a harmful impact on the character of the area, but I do not consider this to be the case here. As such, I would contend that the proposal would not create a visual impression of terracing.

It should also be noted that the proposal would not create any new issues of overlooking or other issues adversely affecting visual amenity.

9.0 RECOMMENDATION – GRANT Subject to the following conditions:

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Grounds: In pursuance of Section 91 of the Town & Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those on the existing building in terms of type, colour and texture.

Grounds: In the interests of visual amenity.

Council's approach to this application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the proposal was submitted to the Planning Committee for their decision.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

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Report of the Head of Planning

PART 3

Applications for which **REFUSAL** is recommended

3.1 SW/14/0088		(Case 09198)	<u>Sittingbourne</u>
APPLICATION PROPOSAL Variation of condition (7) of SW/09/0314, to allow speedway racing between 1500 and 2200 hours on weekdays and bank holidays			
ADDRESS: Central Park Stadium, Church Road, Sittingbourne			
RECOMMENDATION REFUSE			
SUMMARY OF REASONS FOR REFUSAL Whilst consideration has been given to the benefits the use brings to the town and the wider Borough, the use of the site for the holding of league and cup speedway meetings beyond the current finishing time of 8:30pm would give rise to demonstrable and substantial harm to the residential amenities of nearby residents by virtue of noise and disturbance late into the evening such that planning permission should be refused.			
REASON FOR REFERRAL TO COMMITTEE Significance			
WARD Murston	PARISH/TOWN COUNCIL N/A	APPLICANT Cearnspport Ltd AGENT Robinson Escott Planning	
DECISION DUE DATE 29 th April 2014	PUBLICITY EXPIRY DATE 14 th April 2014	OFFICER SITE VISIT DATE	

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 Central Park Stadium lies within the built up area of Sittingbourne, on the fringes of the Eurolink industrial estate, and adjacent to the East Hall Farm industrial and residential development. Murston lies to the south of the site. An established sport venue, Central Park Stadium is used successfully for greyhound racing and, currently, for league speedway racing. A large parking area is located to the front of the building. Pit areas for the speedway bikes and riders etc are located to the north east of the site. A substantial acoustic fence has been erected along the southern boundary of the site, in order to try

and prevent substantial noise and disturbance to the dwellings in the vicinity, the closest of which lies approximately 150 metres to the south.

1.02 The planning history of the site, in so far as it relates to speedway use, and in particular, the use currently carried out, is as follows:

SW/08/0962 – This application sought permanent planning permission for the use of the site for the holding of speedway racing. My officers recommended that planning permission should be refused on the basis of likely harm to residential amenity by virtue of noise and disturbance. Members though resolved to grant temporary planning permission, to allow the use of the site on a trial basis only, for a period of a single season. The permission granted required the erection of an acoustic fence (Members may recall that the fence which has been constructed does not comply with the approved details), and also sets a limit on the number of races and the start and finish times for meetings, in accordance with the details and specific times submitted with the application. 17 races are permitted per meeting, meetings can take place once per week, and start and finish times are: on weekdays between 1700 & 2030 hours only, with warming up of bikes permitted from 1630, and from 1500 to 1800 hours on Bank Holiday Mondays, with warming up of bikes from 1430 hours.

SW/09/0274 – This application sought to amend the design of the acoustic fence approved under SW/08/0962. This application was approved. The fence as constructed does not comply with these approved details either.

SW/09/0275 – This application sought to vary condition (2) of SW/08/0962, in order to allow a minimum of 7 seasons speedway use. The application made clear that a permanent planning permission was being sought and that 7 years would be the minimum the applicant considered would enable the use to be viable. The application was not originally accompanied by any viability information. Some information in this regard was submitted at a late stage during the consideration of the application. However – it was not considered sufficient to justify the grant of a 7 year temporary planning permission, nor the grant of a permanent planning permission.

SW/09/0313 – This application sought to vary condition (7) of SW/08/0962, in order to allow the warming up of speedway bikes at 2pm rather than at 2:30pm as specified in the original permission. This application was approved.

SW/09/0314 – The application sought to vary condition (5) of SW/08/0962, in order to allow meetings to be held once per week only on any weekday, rather than on either a Monday, Tuesday or a Wednesday. This application was approved.

- 1.03 The applicant submitted appeals against the refusal of SW/09/0275 and the approval (including the disputed condition restricting use to one season only) of SW/09/0314. At the appeal, the applicant produced detailed viability information, which the Inspector considered in coming to his decision to allow both appeals and grant temporary planning permission for four years use of the stadium. A copy of the appeal decision is attached as an **appendix** to this report.
- 1.04 The use commenced last year, and the use may therefore continue, under the terms of the temporary planning permission granted on appeal, until the end of the 2016 season.

2.0 PROPOSAL

- 2.01 This application seeks to vary condition (7) of the planning permission granted on appeal under reference SW/09/0314, in order to extend the start and finish time for racing.
- 2.02 The restriction as it stands allows for racing on weekdays to take place between 1700 & 2030 hours only, with warming up of bikes permitted from 1630, and from 1500 to 1800 hours on Bank Holiday Mondays, with warming up of bikes from 1430 hours.
- 2.03 This application seeks to vary those times, to allow use of the site between 1500 and 2200 hours, regardless of whether the day is a bank holiday or not.
- 2.04 The application is accompanied by a noise report, including measurements taken in a supporting letter. An extract from the letter is as follows:

“The introduction of speedway racing was conditional upon the construction of an acoustic barrier around the southern part of the stadium in order to provide acoustic protection to the residents in the nearest streets such as Hugh Price Close and Oak Road.

*The construction of this barrier has enabled an empirical assessment to be undertaken of its effectiveness in limiting noise emissions from the stadium whilst racing is in progress. The conclusions of this investigation are set out in a report dated 4 July 2013 prepared by Hill Engineering Consultants. The analysis concluded that the noise barrier is operating effectively so as to safeguard these residents from the adverse effect of noise emissions. The Planning Committee resolved on 1st August 2013 to take no action on the basis that the acoustic fence is performing effectively. **[This is incorrect. The report to Members made clear that the fence was operating as predicted – that is to say that officers were clear from the outset that it was unlikely to provide an appropriate level of attenuation and that harm to residential amenity was likely to occur. I address this point further below.]***

These conditions were originally imposed for the reason that they were necessary in order to safeguard the residential amenity of the locality. Whilst this was a reasonable, and initially acceptable principle, as far as the applicant is concerned it has now been satisfactorily demonstrated that under normal conditions residential amenity is not adversely affected. At the same time the conditions impose severe restrictions on the operational flexibility of the speedway racing in terms of its ability to attract spectators, competitors and volunteers and also to attract more prestigious race meetings to make the most of the recreational and sporting opportunities which the stadium offers....

The current time limit means that it is contended by the applicant that the finish time is excessively early, meaning that the time to start the racing is also inevitably excessively early. It takes two hours to complete a meeting, so practice is started at 1830 to allow spectators, competitors and volunteers to reach the stadium. However, many find this too early in order to get to the stadium in time for such an early start. Many local spectators commute to and from London. The sport aspires to be family friendly (for example under 12s are admitted free) meaning that parents have to get home and collect their children before reaching the stadium and in practice this tends to be an impossibility for many. This adversely affects the number of people who actually come to see a race meeting.

The same difficulties apply to volunteers and race meetings are very reliant upon volunteers' assistance. Volunteers are affected by adverse traffic conditions in the locality as well. For example, race meetings cannot start without an ambulance being present and it is vital that such volunteers have ample time to get to the stadium. The present early start makes this too difficult in many situations having regard to the fact that the minimum duration of a meeting has to be two hours.

Competitors also encounter difficulty particularly if they are coming from any distance away. The ability of the stadium to recruit skilled and experienced speedway riders to their team is evidence of the present difficulties. The applicants wish to have the ability to recruit more skilled and experienced racers to their team so that they can compete in more senior leagues.

Evidence from other stadia, some located in equivalent positions as Central Stadium, show that most circuits are able to start racing at 1930 with a 2200 hours finish time. This would seem entirely reasonable, given the conclusions of the noise assessment report....

In order to make the stadium an attractive venue and to ensure its financial viability, it is necessary to facilitate and attract more spectators. The stadium currently holds races on a Monday, which is not a good day of the week to attract maximum potential attendance. It is, therefore, vital that potential spectators are not deterred by inconveniently early start times. There is also an aspiration on the part of the operators to attract more prestigious events. Currently, for example, international events cannot be allocated to Central Park with the restrictions that currently exist.”

2.05 The applicant has recently signalled that he would be willing to accept an earlier finish time of 9:30pm. I consider this below.

3.0 POLICY AND OTHER CONSIDERATIONS

3.01 The National Planning Policy Framework (NPPF) sets out the following:

Paragraph 109 – The Planning system should contribute to and enhance the natural and local environment by....preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;

Paragraph 120 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 121 - Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;

Paragraph 70 - To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and
- ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

National Planning Practice Guidance (NPPG)

The following are extracts from the NPPG on Noise:

Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

At the lowest extreme, when noise is not noticeable, there is by definition no effect. As the noise exposure increases, it will cross the no observed effect level as it becomes noticeable. However, the noise has no adverse effect so long as the exposure is such that it does not cause any change in behaviour or attitude. The noise can slightly affect the acoustic character of an area but not to the extent there is a perceived change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.

As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.

The table below summarises the noise exposure hierarchy, based on the likely average response.

Perception		Examples of Outcomes	Increasing Effect Level	Action
Not noticeable	No Effect		No Observed Effect	No specific measures required
Noticeable and not intrusive	Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life.		No Observed Adverse Effect	No specific measures required
			Lowest Observed Adverse Effect Level	
Noticeable and intrusive	Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.		Observed Adverse Effect	Mitigate and reduce to a minimum
			Significant Observed Adverse Effect Level	
Noticeable and disruptive	The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.		Significant Observed Adverse Effect	Avoid
Noticeable and very disruptive	Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory		Unacceptable Adverse Effect	Prevent

The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.

These factors include:

- the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;*
- for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;*
- the spectral content of the noise (i.e. whether or not the noise contains particular high or low frequency content) and the general character of the noise (i.e. whether or not the noise contains particular tonal characteristics or other particular features). The local topology and topography should also be taken into account along with the existing and, where appropriate, the planned character of the area.*

How can the adverse effects of noise be mitigated?

This will depend on the type of development being considered and the character of the proposed location. In general, for noise making developments, there are four broad types of mitigation:

- engineering: reducing the noise generated at source and/or containing the noise generated;*
- layout: where possible, optimising the distance between the source and noise-sensitive receptors and/or incorporating good design to minimise noise transmission through the use of screening by natural or purpose built barriers, or other buildings;*
- using planning conditions/obligations to restrict activities allowed on the site at certain times and/or specifying permissible noise levels differentiating as appropriate between different times of day, such as evenings and late at night, and;*
- mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.*

Saved Policies of the Swale Borough Local Plan 2008:

Policy E1 requires, amongst other things, for development proposals to cause no demonstrable harm to residential amenity.

Policy C1 seeks to support existing community facilities, (including sporting facilities) and states that:

“The Borough Council will grant planning permission for new or improved community services and facilities. Additionally, where proposals would meet an identified local need in an accessible location, it will permit development proposals that will help maximize the use of existing public and private community services and facilities, including those that would make them available for wider public use, in locations where shortfalls in local public provision could be met.”

4.0 LOCAL REPRESENTATIONS

22 letters in support of the application (including one letter from the speedway promoter have been received, together with two petitions in support, bearing a total of 340 signatures - although some of these are duplicated between the two petitions). The comments are summarised as follows:

- This will go a long way in promoting and attracting a bigger audience in the county of Kent to the sport of speedway
- It is vital for the success of the sport at Central Park to remove the 8:30pm curfew;
- If it was permitted to start a little later it would enable more people to take advantage of it;
- More flexibility of times will be of benefit to the club and spectators;
- A depressed town like Sittingbourne needs this we have a reputation for being Swale dump full of charity shops and very little else with the most minimum of entertainment;
- New speedway exhaust regulations with the exhaust silencers mean that bikes are a lot quieter now;
- It makes sense to have a later start time as sometime people don't finish work until 6pm;
- This is a family sport with people attending from babies to OAPs. There is nothing else in Sittingbourne that families can do;
- These meetings are attended by families from all over Kent and Essex and further afield, so must be good for local businesses;
- This sport benefits the local community;
- Sittingbourne is at a disadvantage in starting and finishing earlier compared to other stadia;
- The noise is intermittent and no longer than one and a half minutes;
- The number of people who attended the speedway in its first season illustrates what a need there is for speedway in Swale;
- The speedway enterprise has been professionally and responsibly run, the curfew has been strictly adhered to and spectators have not used air horns. This demonstrates a respect for any local people possibly affected by the racing by the management and supporters of the speedway operation. Meetings run regularly, not on an ad hoc basis and are contained - therefore any potential noise can be anticipated and accommodated. Speedway is a local asset, bringing the sport back to Kent after a drought of 26 years and in my opinion you should be encouraging it.

44 letters of objection have been received. Members should be aware that, at the time the application was the subject of consultation, a flyer was distributed to local dwellings which contained incorrect information on this and the now withdrawn application SW/14/0087. It set out that races would take place every 20 minutes between 3pm and 10pm every day of the week. This is incorrect and was never the intention of the applicants. Indeed, the number of days per week in which meetings can take place is restricted to one only by the temporary planning permission granted for the use. 16 of the letters of objections specifically refer to the incorrect information in the flyer. However – they all also refer to specific impacts experienced from the use of the site for speedway since the use commenced last year. I have therefore summarised their contents (in so far as they are relevant to this proposal) below:

- Almost all of the objectors state that they have to have their windows closed and are unable to use their gardens during meetings;
- It is ruining the time spent in our home and in the summer when it is hot we have to keep our windows closed;
- The noise is repetitive and annoying;
- We were led to believe that with the noise reduction measures in place this would not happen but it is far more intrusive than we thought;
- The noise echoes down the road and rolls around the estate. It is ridiculous to expect people to put up with this;
- The area is already extremely deprived and to inflict the noise of speedway racing on the people living in the area is unfair and unjust;
- Last season, depending on the wind direction, was unbearable. We had to shut all windows and doors just to make the noise bearable, which was very uncomfortable;
- Will cause loss of value to property [Members will be aware that this is not in itself a material consideration]
- Even with double glazing shut, during summer evenings, we can still hear the noise of the speedway above our television;
- Greyhound racing operates from the site starting at 6:30pm. Why can't speedway?
- The noise causes misery for local residents;
- Noise from the bikes is very loud and intrusive, despite the acoustic fence;
- The area used to be peaceful and tranquil;
- Will greatly infringe on the human right to enjoy an acceptable level of peace and tranquillity on our property;
- Having taken part in speedway events, I am very aware of how loud they are. The proposed location is totally unacceptable because of the effect of noise pollution to residents in the vicinity;
- The speedway use means I have to leave my property to find peace and quiet elsewhere;
- The constant noise from speedway is “horrendous” and “like torture”. For this to be increased, we would be like prisoners shut in our homes;
- The speedway is not beneficial to us or the community in any way;
- Will increase traffic and damage to local roads;
- Will harm air quality;

- If this is allowed it will make the lives of residents of Oak Road intolerable;
- Young children will be in bed by 8 o'clock. This will blight their lives and harm their education;
- The acoustic fence constructed is not fit for purpose;
- One writer's husband works shifts and has to be in bed by 8pm;
- When racing takes place, one writer alleges that you can't hear someone speaking to you;
- This Council doesn't care for its residents anymore;
- The noise is particularly bad when the wind is from the north, which it was most of last season;
- We have to put up with the warm up laps and revving of engines prior to the race, not just the race itself;
- My house backs on to the playing field behind the stadium and when the races are on the noise is terrible and I know it's 3 minutes at a time but for that 3 minutes you can't hear yourself think let alone speak to your family;
- The acoustic fence does nothing to stop the noise;
- Any more than 8:30pm once per week would be cruel, unkind and unacceptable;
- Will cause light pollution from late night floodlights;

5.0 CONSULTATIONS

5.01 Kent Highway Services do not raise objection;

5.02 The Environmental Health Manager raises objection, and comments as follows:

"The application states that the acoustic barrier is operating effectively and the report accompanying it concludes that it does not need to be raised or modified. This is based on an empirical level in the WHO evening guidelines relating to 55 dB(A) Leq. It is not considered appropriate to adopt the guidelines in this situation and this argument was advanced at the Appeal and resulted in both parties agreeing to differ. However, it suits the applicant's argument to use this guideline.

The Council took the view that the actual noise level heard by residents should be compared with the background noise level without racing. Looking at an average LAeq level, whether of individual races lasting just over a minute or over a 15 minute period involving a few races, or all evening; the difference is marked.

When comparing the relative levels with the maximum level created by speedway bikes, the difference becomes even more substantial.

This can be explained by looking at noise levels taken on 3rd June 2013 during a race meeting. The applicant's consultant Mr Hill measured a background noise level of 42 dB(A), a 15 minute LAeq level of 56.5 dB and a

maximum level of 82 dB(A) in the time period 18:45 – 19:00 hours at Hugh Price Close.

This gives a substantial difference above the normal background of 14.5 dB(A) over 15 minutes and 40 dB(A) resulting from revving and accelerating peaks. These peaks are the most noticeable impact and are heard clearly inside homes.

Between 21:00 and 21:15 hours, Mr Hill confirmed that the background level had dropped to 35 dB(A), adding another 7 dB to the difference above.

The department has done noise monitoring during some race meetings in 2013 and the levels above broadly agree with those measured.

Therefore after 21:00 hours the average noise from racing over 15 minutes will be a massive 21 dB (A) and the peaks will sound much louder with a difference of 47 dB(A).

To put this in context, because noise measurements are logarithmic, the human ear can only detect a difference in sound levels of 2 to 3 dB(A) higher or lower. An increase of 5dB(A) is certainly noticeable, but a difference of 10 dB(A) to the ear equates to doubling the loudness. As previously stated the noise in reality is considerably higher.

The acoustic barrier is not particularly effective as in northerly wind conditions noise is taken straight over the top of the barrier to the nearby houses and beyond. Because of the distance from the moving bikes to the barrier and then the distance to the houses the barrier is ineffective for the peak noises. Acoustic barriers work best when the noise source is close to the barrier and linear as in the case of motorways. The barrier at Central Park is at the southern end and is only effective when the bikes are at that end of the track not when the bikes are accelerating away and being ridden around the northern end.

A finish time of 22:00 hours is too late into the evening and noise will undoubtedly adversely affect a large number of families in their homes at that time of night. The noise from speedway bikes is clearly audible inside the nearest resident's homes with the windows closed. We have considered the noise climate generated by a race meeting and conclude that retaining the current finish time of 20:30 hours is crucial to ensuring the level of noise disturbance does not become unreasonably excessive."

In response to an assertion from the agent that tracks in similar locations elsewhere in the UK operate without complaint until later into the evening, the Environmental Health Manager has researched a number of other UK speedway tracks and advises as follows:

Leicester Lions, Leicester Lions Speedway, Leicester

Planning permission granted in 2009, contrary to Environmental Health and Planning Officer recommendation. Hours of use – 8am -10:30pm. The closest dwellings to the site are located approximately 300-350 metres to the north-west and south-east. Industrial/retail uses lie to the north-east and south-west. The Environmental Health Officers at the authority have confirmed that they receive a significant number of complaints, although some of these relate to the use of the site for dirt bikes, which takes place during the day. Speedway use lasts into the evening, and the EHOs consider the use is harmful to amenity.

Plymouth Devils, St Boniface Arena, Plymouth

Planning permission to expand hours of use and days of use for speedway granted in 2013, contrary to Environmental Health Officer recommendation, allowing 7:15pm- 9:45pm on Thursday, Friday or Saturday, and 6pm - 8:30pm on Bank Holidays. Closest dwellings lie approximately 150-200 metres to the north west and approximately 200 metres to the north east. The site lies in-between main roads, with industrial and retail uses to the east, south west and south east. The Environmental Health Officers at the authority have received a large volume of complaints relating to noise.

Lakeside Hammers, Arena Essex Raceway

Permission granted for the use in 1976. Condition relating to noise rendered unenforceable by significant noise sources introduced to the area since then (the M25, A13 and flight path to London City Airport). Speedway tends to occur once per fortnight and although 100 complaints have been received relating to the use of the site, not all of these relate to speedway and most relate to events which have gone beyond 10pm. The A13 lies to the north, motorway services and the M25 to the west, and the closest dwellings lie approximately 250 metres to the south east.

Eastbourne Eagles, Arlington Stadium, Hailsham

Site has been in operation since 1929, and is remote from housing. Noise can be heard in the town, but is distant. No noise complaints. The site is surrounded by countryside. The closest housing estate appears to be approximately 1200 metres to the east. There may be isolated dwellings which lie closer to the site.

Poole Speedway, The Stadium, Poole

Established speedway use, in operation for 50 years, in town centre location close to dwellings. Events take place once per week and finish at 10pm. The closest dwellings to the site are approximately 60 metres to the west, across a mainline railway. Very few complaints received. Environmental Health Officer at Poole advises that the speedway is long established and part of Poole town culture, so very few complaints received. Officers have visited residential

properties that back on to the stadium and the noise from the speedway can be heard in gardens but not inside properties with the windows shut.

Redcar Bears, South Tees Motorsports Park, Middlesbrough

Approved in 2005, races once per week from 7pm-10pm. 6 hours practice per week. The speedway track forms part of a larger motor racing complex. The closest dwellings to the boundary of the site are approximately 200-250 metres to the east. Industrial uses lie to the west and south. Complaints have been received by the Environmental Health team.

6.0 APPRAISAL

- 6.01 Members will note that Kent Highway Services do not raise objection. I concur that the additional hours of use requested do not give rise to harm to highway safety and convenience and as such I do not recommend that planning permission be refused on such a basis. Equally, Members will be aware that the loss of value to property is not a material consideration to be afforded weight here.
- 6.02 For the sake of clarity, whilst Swale Borough Council owns the Central Park Stadium site, Members cannot afford this any weight whatsoever in considering this application. The proposed extension to the hours of use of the stadium should be considered on its own merits, having regard to planning policy and relevant material considerations.
- 6.03 The key issues to be considered here are the implications for the extension of hours of use in respect of residential amenity, and the potential benefits to be derived from approving this scheme.

Residential Amenity

- 6.04 Whilst the application seeks to widen the hours of use that speedway racing would be permitted at the site to 3pm-10pm regardless of whether the day in question is a bank holiday or a weekday, such a use would still be restricted as to the number of races which could take place – up to a maximum of 17 per meeting, and one meeting only per week. It is extremely unlikely, if this application were to be approved, that racing would actually start at 3pm and not finish until 10pm. The key issue here is not in my view, the earlier start times during the week, but the later start finish times on weekdays and bank holidays. It is this element of the proposal which would have an impact on residential amenity, and it is this which Members should give careful consideration to here.
- 6.05 It is clear to me from the representations received, and from the comments of the Environmental Health Manager, that the use of the site within the current time limits does cause harm to residential amenity. Having regard to the criteria set out in the policy section above, in my view the use of the site up to 8:30pm is likely to give rise to, as a minimum, noticeable and intrusive noise. The representations received from local residents, with specific regard to their

behaviour during meetings at present, together with the comments of the Environmental Health Manager set out that the noise generated is sufficient to lead to a change in the behaviour of local residents – the representations suggest that residents turn up the volume of their television, speak more loudly, have to close windows for some of the time because of the noise and use their gardens less if at all whilst the speedway takes place. Furthermore, the type of noise and its intermittent nature exacerbates the impact it has.

- 6.06 Government planning guidance in such circumstances is clear that such noise should be mitigated against and reduced to a minimum. In my view, without prejudice to any future application to make this temporary planning permission permanent, it is arguable that the restrictions in place relating to hours of use, together with the other restrictions relating to days of the week and the number of races per meeting, go some way to mitigating against this noise. I am firmly of the view that increasing the hours in which speedway racing could take place would cause demonstrable and significant harm to residential amenity. An increase in use to 10pm would be likely, in my view, to lead to noise levels becoming noticeable and disruptive. Government guidance, as set out above, is that such situations should be avoided.
- 6.07 The restriction on times of use was clearly uppermost in the Inspector's mind at the appeal, where he set out at paragraph 19, as part of his considerations in favour of the grant of permission, that "It is also the case that each race would be short in duration, that there would only be a limited number of meetings during the year **and that the timing of the meetings, particularly the finish times for the evening meetings, would be such as to minimise disturbance at what are generally accepted as the most sensitive times of the day**" [my emphasis.]
- 6.08 The Inspector thus gave some weight to the reduction in potential disturbance from noise due to the comparatively early start and finish times, when considering whether to grant an extended trial period here.
- 6.09 Members should be clear that the start and finish times for racing at the site are those suggested by the applicant under his original application. Furthermore, his case at the appeal, based on the viability of the use over time, was made and accepted by the Inspector on the basis of the use being carried out within the specified hours. No appeal was made against these hours of use.
- 6.10 Members should equally be clear that this application comes part of the way through the four year trial period, which was granted only so that the Council could assess the noise impact on local residents. Officers have never considered it likely that the use of the site for speedway racing could be carried out without some harm to the amenities of local residents by virtue of noise and disturbance, and the empirical evidence collected by the Environmental Health Manager, together with anecdotal evidence from local residents, suggests that this is the case.

- 6.11 As a trial period, this temporary planning permission is only granted as a means to assess whether permanent permission should, if the applicant seeks it, be granted in future, having specific regard to the impacts considered possible. The applicant has not argued that the refusal of permission to hold events later into the evening would prevent this trial period taking place. Equally, it is evident to me from the information already gathered during the first season's racing, that the speedway meetings cause some harm to residential amenity and that there is certainly enough empirical evidence to suggest that it is extremely likely that if the use were to begin later and extend later into the evening that the impact on the living conditions of local residents would be more pronounced, bearing in mind the late time, the reduction in background noise levels, and the fact that most people will be looking to go to bed around that time.
- 6.12 I have given consideration to the stadia referred to by the Environmental Health Manager. It appears from the details provided that, where a speedway use is established over some significant time, that there is unlikely to be significant complaints from local residents. As set out in relation to the Poole stadium, it becomes part of the local culture and is not seen as intrusive. However – where such uses are new, such as Plymouth and Leicester, significant numbers of complaints have been received. Notwithstanding that this seems to run counter to the agent's suggestion that similar stadia in similar locations with finish times of 10pm do not give rise to complaints, it seems to me to be an inherently unreliable means of gauging potential harm. Each stadium is different, in a different location both topographically and relative to sensitive uses, and the reaction of local residents is likely to be different dependent on how long running such a use is. The evidence in relation to noise as set out above is a more reliable means of gauging the impact of this particular use at this site.
- 6.13 I therefore conclude on the issue of noise and disturbance that the proposed extension of the hours of use would give rise to significant and intrusive noise at a very quiet period of the evening, which would be very likely to harm the living conditions of residents nearby. Whilst the applicant has subsequently suggested that a 9:30pm finish time could be acceptable, the Environmental Health Manager is clear that any increase over and above the current 8:30pm curfew on weekdays, and 6pm on Bank Holidays is likely to give rise to unacceptable noise and disturbance.

Benefits of the proposal

- 6.14 The application does not make explicit what benefits to the local economy would flow from this proposal. Nonetheless it is possible that the increase in hours of use would provide for some limited additional employment at the site, and that the later start may encourage some fans to go to Sittingbourne town centre either before (although this seems unlikely bearing in mind the principal argument made by the agent in favour of the proposal) or after racing has finished. This will provide some uplift to the local economy such that Members may have regard to it in reaching their decision on this application.

- 6.15 There are clear benefits to the wider community both within and beyond Swale in the provision of a well-used facility such as this. In general terms, support should be given in order to maximise the potential for recreational facilities and spectator sports to reach as wide an audience as possible. In particular, I have some sympathy with the notion that the current early start times of the meetings, do limit the potential for spectators to make their way to the site. Members are entitled to give this matter some weight.
- 6.16 I give little weight to the agent's assertion that it is difficult to attract sufficient volunteers to be able to stage a meeting (as set out in section 2 above.) No evidence has been provided to support the assertion that race meetings have been adversely affected by a lack of volunteer staff.

Balancing Exercise

- 6.17 In balancing the harm against the benefits, Members will need to consider whether the significant likely harm identified by the Environmental Health Manager, and as expressed in anecdotal evidence from local residents, is outweighed by the wider benefits of approving an extension of time, namely making the use of the stadium for speedway racing more accessible to spectators. In reaching a decision, Members are not necessarily restricted to consideration only of the 3pm – 10pm time the applicant originally requested, or indeed for it to apply to the remaining two or so years of the temporary planning permission which still remain. It is open to Members to allow a finish time, in line with that recently suggested by the applicant, of 9:30pm and, for example, to limit this to the remainder of this season, in order that the effects be monitored over the remaining fixtures, or for the first few fixtures of the next season or both.
- 6.18 I would not though recommend such an approach as, firstly, the evidence of the Environmental Health Manager strongly suggests that this would be harmful to residential amenity, and secondly, as I remain wholly unconvinced that the benefits of approving this application are outweighed by the harm that would result to the living conditions of residents in the vicinity of the site.
- 6.19 I do give weight to the representations received in support of this application, and in particular, the notion that a later start and correspondingly later finish time would attract more spectators. Equally, I am clear that the speedway racing takes place once per week only, and that the number of races is limited, the warm up times are limited and that racing itself takes place over a comparatively short time.
- 6.20 However – in balancing the likely harm against the likely benefits, I conclude that the benefits of this scheme would not be so significant as to outweigh the very significant harm which would certainly arise to the living conditions of nearby residents.

7.0 CONCLUSION

7.01 Given the above, whilst I am mindful that there would be some benefit to be derived from a later start and finish time to speedway racing at the Central Park Stadium, I am firmly of the view that any extension of the hours of use later into the evening would cause substantial harm to residential amenity, such that this application should be refused.

8.0 RECOMMENDATION – REFUSE for the following reasons:

1) Whilst consideration has been given to the benefits the use brings to the town and the wider Borough, and the benefits which would arise as the result of the proposal, the use of the site for the holding of league and cup speedway meetings beyond the current finish time of 8:30pm would give rise to demonstrable and substantial harm to the living conditions of nearby residents by virtue of noise and disturbance late into the evening. The proposal is contrary to Policy E1 of the Swale Borough Local Plan 2008 and to the provisions of the National Planning Policy in relation to Noise.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

1) The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and there were not considered to be any suitable solutions to resolve this conflict.

2) The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

3) It is noted that the applicant/agent did not engage in any formal pre-application discussions.



Appeal Decisions

Inquiry held on 16 February 2010 and
27-29 April 2010

Site visits made on 16 February 2010
and 29 April 2010

by **L Rodgers** BEng CEng MICE MBA

The Planning Inspectorate
4/11 Eagle Wing
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2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

an Inspector appointed by the Secretary of State
for Communities and Local Government

Decision date:
25 May 2010

Appeal A Ref: APP/V2255/A/09/2114712

**Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent
ME10 3SB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Cearnsport Ltd against the decision of Swale Borough Council.
- The application Ref SW/09/0275, dated 3 April 2009, was refused by notice dated 17 August 2009.
- The application sought planning permission for a part change of use of the existing sports stadium to permit the holding of speedway meetings, including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter without complying with a condition attached to planning permission Ref SW/08/0962, dated 16 January 2009.
- The condition in dispute is No 2 which states that: The use of the site for speedway shall cease on or before 31st October in the calendar year of races first taking place.
- The reason given for the condition is: In order to allow the District Planning Authority to reassess the impact of the use, having regard to the residential amenities of the occupiers of nearby dwellings, and in pursuance of Policies E1 and E2 of the Swale Borough Local Plan 2008.

Appeal B Ref: APP/V2255/A/09/2115416

**Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent
ME10 3SB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Cearnsport Ltd against the decision of Swale Borough Council.
- The application dated 9 April 2009, was approved on 13 October 2009 and planning permission was granted subject to conditions.
- The development permitted is a variation of condition (5) of SW/08/0962 to allow speedway motorcycle racing to take place once per week between Mondays and Fridays, as opposed to between Mondays and Wednesdays.
- The condition in dispute is No 2 which states that: The use of the site for speedway shall cease on or before 31st October in the calendar year of races first taking place.
- The reason given for the condition is: In order to allow the District Planning Authority to reassess the impact of the use, having regard to the residential amenities of the occupiers of nearby dwellings, and in pursuance of Policies E1 and E2 of the Swale Borough Local Plan 2008.

SWALE BOROUGH COUNCIL

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Application for costs

1. At the Inquiry an application for costs was made in respect of both appeals by Cearnspart Ltd against Swale Borough Council. This application is the subject of a separate Decision letter.

Decisions

2. I allow Appeal A and grant planning permission for a part change of use of the existing sports stadium to permit the holding of speedway meetings including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter at Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent ME10 3SB in accordance with the application Ref SW/09/0275, dated 3 April 2009, without compliance with condition numbers 2, 4 and 5 previously imposed on planning permission Ref SW/08/0962, dated 16 January 2009 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
 - (2) The use of the site for speedway shall cease within four years of the date of the first race taking place. The local planning authority shall be notified of the date of the first race in accordance with the arrangements laid out in condition (5).
 - (4) The acoustic fencing approved under Ref SW/09/0274 shall be constructed in full prior to the first use of the site for speedway and shall thereafter be retained until use of the site for speedway has ceased.
 - (5) Speedway motorcycle racing shall take place only once per week between Mondays and Fridays inclusive between 1st March and 31st October plus four Bank Holiday Monday afternoon meetings and the dates and times of races shall be provided on the stadium website, published in the local press, made available at the application site and provided in writing to the local planning authority, all at least six weeks prior to their taking place.
3. I allow Appeal B, and vary the planning permission Ref SW/09/0314 for a part change of use of the existing sports stadium to permit the holding of speedway meetings including the installation of a clinker track surface, provision of a covered 'warm up' area and pits and erection of an acoustic fence around part of the perimeter at Central Park Stadium, Church Road, Eurolink, Sittingbourne, Kent ME10 3SB granted on 13 October 2009 by Swale Borough Council, deleting conditions 2 & 4 and substituting for them the following conditions:
 - (2) The use of the site for speedway shall cease within four years of the date of the first race taking place. The local planning authority shall be notified of the date of the first race in accordance with the arrangements laid out in condition (5).
 - (4) The acoustic fencing approved under Ref SW/09/0274 shall be constructed in full prior to the first use of the site for speedway and shall thereafter be retained until use of the site for speedway has ceased.

Main issue

4. Although there are two appeals, both are in respect of a common condition. I therefore consider there to be only one main issue; whether the condition in dispute is necessary in the interests of the living conditions of local residents and meets the other tests of Circular 11/95.

Reasons

The necessity of the condition

5. The Appellant accepted at the inquiry that speedway is an inherently noisy sport. It was also accepted that the residential development near to the stadium is noise sensitive and that the noise climate at the nearest properties is likely to change as a result of the proposed use.
6. According to the Statement of Common Ground (SOCG) on noise, the nearest noise sensitive residential properties are those to the south of the stadium at Hugh Price Close and Oak Road and the currently uninhabited and dilapidated property at Mere Court to the east. With the acoustic barrier in place, the Appellant predicts a speedway noise level of some 57dB $L_{Aeq,1h}$ at Mere Court and around 52dB $L_{Aeq,1h}$ at Hugh Price Close with maximum noise levels no greater than 75dB $L_{Amax,fast}$. The Appellant suggests that, having reference to the British Speedway Promoters' Association (BSPA) adopted criterion, these noise levels are unlikely to give rise to justifiable complaints from local residents.
7. In predicting the likely noise levels above, the calculations not only assumed that the noise barrier would be in place but that the noise source would be in the centre of the stadium. Initially, the Council queried the validity of assuming that the noise source would be in the centre of the stadium, pointing out that as the bikes moved further away from the barrier, it would become less effective. However, following further work during the course of the inquiry (Document 18), the Council accepted that the increased attenuation over distance would compensate for any reduction in the effectiveness of the barrier. The reverse would be true in that the barrier would be more effective when the bikes were at their closest. Consequently, it was agreed by the Council that there would be similar noise levels at Hugh Price Close and Oak Road irrespective of the bike's position on the track. Nevertheless, the Council remains concerned that the submitted evidence is insufficient to demonstrate that the predicted noise and disturbance would be at an acceptable level.
8. I shall turn first to the effect on the properties at Hugh Price Close and Oak Road which, based on the submitted evidence, would be similar. The ambient evening noise levels at Hugh Price Close were measured at around 42-45dB L_{A90} , not untypical for a suburban area. I found on my visits that the area was generally quiet. The predicted speedway noise level would be some 7-10 dB above the ambient noise levels and, if one were to apply a BS 4142: 1997 (Method for rating industrial noise affecting mixed residential and industrial areas) type methodology, would be likely to lead to some complaints. This would be particularly so if a 5 dB correction was to be applied to account for the intermittent nature of the noise.

SWALE BOROUGH COUNCIL

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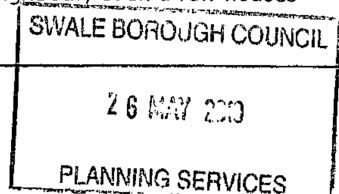
26 MAY 2009

PLANNING SERVICES

9. However, the Appellant argues that experience elsewhere, reflected in the 2003 report commissioned by the BSPA, '*Preliminary Assessment of Environmental Noise from Speedway in the UK*', suggests that an energy equivalent noise level of between 15 and 18 dB(A) above the background noise level would be an appropriate criteria for determining whether the noise from speedway would be acceptable. The Appellant also claims further support from the *Code of Practice on Environmental Noise Control at Concerts* (The Noise Council 1995). This, it is pointed out, includes guidance stating that the Music Noise Level should not exceed the background noise level by more than 15dB(A) over a 15 minute period. Whilst the Appellant acknowledges that it would be strictly incorrect to apply criteria for music noise to speedway noise, it is nevertheless suggested that an excess of greater than 10 dB(A) would be acceptable for a short-term, occasional, noisy event.
10. I find none of these arguments conclusive. The Council's view is that BS 4142 does not sit comfortably with the analysis of speedway noise and I agree that looking at an $L_{Aeq,1h}$ figure would not be representative of the characteristics of speedway where parcels of high activity are followed by relative lulls. A BS4142 type analysis may therefore underestimate the potential for annoyance and it is possible that justified complaints could arise at lower excess noise levels than envisaged by BS 4142. However, and conversely, BS 4142 is an accepted method of assessing the noise from fixed plant where any potential annoyance may extend over a much longer period than would be the case with speedway. I therefore consider it highly questionable as to whether BS 4142 can be directly applied to speedway and using a BS 4142 type of analysis has the potential to underestimate, or indeed overestimate, any harm.
11. Turning to the BSPA report, this has the advantage that it relates directly to speedway. However, it has never been turned into a code of practice and has therefore not undergone the scrutiny normally associated with that process. It remains a private report commissioned by the Promoters' Association and for these reasons can, in my view, attract no more than moderate weight. In any event, whilst the report shows that, at certain stadia, levels of speedway noise greater than 17 dB(A) over the background noise have not attracted complaints specific to bike noise, it also shows that at other stadia, lower levels of excess noise have resulted in a range of complaints. The conclusion of the report that an "energy equivalent noise level of between 15 and 18 dB(A) above the background noise level would be an appropriate criteria for determining whether the noise from speedway would be acceptable" seems, on this basis, open to question.
12. In respect of the guidelines in the *Code of Practice on Environmental Noise Control at Concerts*, these are concerned with far fewer events than would be likely here. Although there is some ambiguity about the number of speedway events likely to take place at Central Park Stadium in any one season, the Council's analysis of the potential number of race meetings shows that, within the framework prescribed by other conditions on the existing permissions, up to 39 meetings could be held during 2010. This far exceeds the 4-12 concert days per calendar year per venue referred to in the guidelines. However, compared to the noise from speedway, the noise associated with concerts is likely to be more sustained throughout the course of the event. It would in any

case have different characteristics which in my view would render direct comparisons inappropriate.

13. I have also been referred to other guidance on noise matters including Minerals Planning Guidance 11: The control of noise at surface mineral workings (MPG 11). This says that, other than in certain specified circumstances (which may result in lower, or higher, limits) the daytime nominal limit at noise-sensitive properties used as dwellings should normally be 55 dB $L_{Aeq, 1h}$ (free field) where 1 h means any of the one hour periods during the defined working day. However, whilst the noise levels at Hugh Price Close and Oak Road would come within the limit, the permitted hours of speedway operation would in part fall outside the normal definition of 'daytime' and again the noise characteristics in terms of duration and pitch are likely to be significantly different between a speedway and mineral workings.
14. Although my attention was also drawn to the World Health Organisation (WHO) guidelines, the Council and Appellant agreed that whilst the noise from speedway would not increase the existing 16 hour daytime noise level by more than 1 dB(A), neither party were content with the inclusion of intermittent noise within a WHO type assessment.
15. Notwithstanding the difficulties in applying existing guidance, the Appellant argues that, based on the $L_{Aeq, 1h}$ and $L_{Amax, fast}$ analysis, the noise levels would be consistent with the existing levels in the area and would be less than in other places where speedway has been successfully introduced. However, in comparing the predicted and existing noise levels, the analysis does not specifically account for the nature of the noise, and particularly the fact that the higher levels of noise would be sustained over the duration of a race and would not simply be very short, discrete events.
16. For these reasons I consider that it is not possible to establish with any reasonable degree of certainty whether or not there would be material harm to the living conditions of local residents in Hugh Price Close and Oak Road. The fact that the BSPA report shows that complaints have arisen at a variety of noise levels suggests that much is dependent on the particular local circumstances. As was pointed out at the inquiry, it is, for instance, difficult to accurately model the effect of the range of reflective surfaces around the stadium.
17. In respect of the property at Mere Court, if one were to assume the background noise levels were similar to those at Hugh Price Close, the predicted speedway noise level of some 57dB $L_{Aeq, 1h}$ would, even adopting the conclusion of the BSPA report, be approaching the upper limit of acceptability and would be more likely to result in material harm. However, I am conscious that the property is in a dilapidated state and whilst I accept the Council's point that it could potentially be made available for occupation, I was given no substantive evidence to show that it would be restored to residential use. In these circumstances I consider that the possibility of harm to any potential future residents of Mere Court should carry only limited weight.
18. Although I accept that the proposed use could be detrimental to local residents, the Appellant points out that the speedway noise levels arising at Hugh Price Close would be significantly quieter than if a neighbour, even a few houses



distant, were mowing a lawn with a powered lawnmower. The introduction of new silencers is likely to further reduce the predicted noise levels and, despite the Council's concerns as to whether use of the new silencers could be controlled, I note that a licensed speedway promoter is not given permission to stage speedway racing until he has signed a contract to abide by the Speedway Control Bureau (SCB) rules and regulations. Amongst other matters, these regulate the use of silencers. In these circumstances, and despite the limited testing to date, I consider it reasonable to have some regard to the benefits of the new silencers. It is also the case that each race would be short in duration, that there would be only a limited number of meetings during the year and that the timing of the meetings, particularly the finish times for the evening meetings, would be such as to minimise disturbance at what are generally accepted as the most sensitive times of the day.

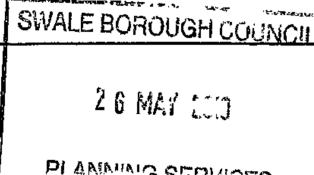
19. According to the Appellant, the introduction of speedway would also help to offset the downturn in revenue from greyhound racing and would help to secure the future of the stadium. It was also said that the development would result in a contribution to the local economy. Whilst these assertions were not supported by substantive evidence, it nevertheless seems to me likely that there would be some benefits to the community.
20. However, notwithstanding any possible benefits, given that I have found that the proposed racing could be detrimental to local residents there may also be conflict with the Swale Borough Local Plan, particularly Policies E1 and E2. In these circumstances an unrestricted permission would not be appropriate. However, it is not certain that residents would suffer material harm. Circular 11/95 says that "where an application is made for a permanent permission for a use which may be "potentially detrimental" to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run".
21. In this case, the number of years of racing could be controlled by condition. However, Circular 11/95 makes it clear that any such temporary permission should be reasonable having regard to the capital expenditure necessary to carry out the development and a trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or refusal is the right answer. I deal with these matters below.

Whether or not the disputed condition is reasonable and meets the other tests of Circular 11/95

22. According to the Appellant, the capital expenditure required to prepare the stadium for speedway racing would be of the order of £250,000. Although the Council questioned the make up of the figure, the Council also noted that the capital costs of recent similar projects at other stadia were comparable or slightly higher. Notwithstanding the Council's concerns it therefore seems reasonable to take a figure of £250,000 as the likely capital expenditure.
23. The forecast profit and loss account submitted by the Appellant suggests that payback would occur early in the fifth year of operation. This payback period was also questioned by the Council and in particular the inclusion of a non-cash item of £25,000 per annum for depreciation. The Council also queried other

matters in the projection such as the assumed number of meetings (25), the lack of other income opportunities and the lack of any sponsorship income. However, even if all the Council's suggested adjustments were to be adopted, payback is shown as occurring in year two.

24. Circular 11/95 says at Paragraph 111 that a temporary permission should be reasonable having regard to the capital expenditure necessary to carry out the development and Paragraph 35 says that a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. Although the Circular does not require any permission to be long enough to pay back the investment, and any financial projections are likely to be subject to variation and uncertainty, it seems to me that the payback period is one indicator of what may be an appropriate length for any temporary permission.
25. In this case, I consider that a condition which limits racing to one season, when even a highly optimistic scenario shows payback would not occur until year two, effectively nullifies the benefit of the permission. I am also conscious that, because of its forward planning cycles, the BSPA view is that permission being granted for a single season means in reality that the stadium would never operate. Although I find no conflicts with the other tests of Circular 11/95, I therefore find the disputed conditions unreasonable.
26. Although the Appellant's figures show that payback would occur in year five I note that over 90% of the capital investment would be paid back in the first four seasons. However, whilst I agree with the Council that it would not be reasonable to include depreciation when considering the length of a temporary permission, it would nevertheless be very marginal to suggest that payback would occur in year three. Although the Council's view was that there were other income opportunities that would help in boosting profitability, the Appellant considered that it would be unreasonable to include these in the projections. As some would affect the intended offer and some would be subject to considerable uncertainty, I accept the Appellant's view.
27. Although the Appellant has made it clear that he is seeking unlimited permissions, or minima of seven years in order to justify the investment, it is my opinion that permissions allowing racing for four years would be reasonable having regard to the capital expenditure involved. The Appellant and Council both accepted that, if I determined that temporary permissions were appropriate, their duration would be a matter for my judgement based on the facts before me.
28. Notwithstanding that a four year permission would be reasonable having regard to the capital expenditure involved, there remains the question of whether a four year permission would be reasonable having regard to the potentially detrimental effect on local residents. Planning Policy Guidance: Planning and Noise (PPG24) says that, in considering noise from recreational and sporting activities, the local planning authority will have to take account of how frequently the noise will be generated and how disturbing it will be, and balance the enjoyment of the participants against nuisance to other people.
29. Despite the opposition of many local residents, a significant number of letters have been received in support of the proposal and there appears to be considerable enthusiasm for the introduction of speedway at Central Park



Stadium. I have already established that the frequency and duration of noisy events would be controlled by other conditions and that the projected noise levels would be further limited by the new silencers. Taking account of all these factors it is my opinion that limiting racing to four years would be reasonable having regard to the potentially detrimental effect on local residents and the enjoyment of the participants. Four years would also be long enough to determine whether a permanent permission or refusal is the right answer.

Other matters

30. A number of local residents have raised other concerns including the use of the proposed track for practice and junior meetings, the commercial viability of the operation and the sensitivity of the financial information. However, other conditions would restrict the number of times that motor cycle racing can take place and prevent use of the track for speedway practice and whilst I have had regard to the sensitivities inherent in the financial projections, the commercial viability of the proposal is largely a matter for the Appellant.
31. In respect of the unease expressed by third parties over the potential for congestion and additional parking on local roads, the Council has not objected on these grounds and as greyhound racing already attracts similar size crowds to the stadium, I see no reason to take a different stance.

Conditions

32. I have established that, if I were to allow the appeals, conditions limiting the number of years over which racing may take place would be necessary. In respect of Appeal A, I would also need to refer back to the conditions imposed on planning permission Ref SW/08/0962 but, for consistency with other permissions subsequently granted by the Council, I would also need to impose new conditions 4 and 5. Similarly, in respect of Appeal B, a new condition 4 would be required. This approach was agreed by the main parties.

Conclusion

33. I have found that the disputed conditions are unreasonable. However, I have also found that the effect of the proposed racing on the living conditions of local residents is uncertain and potentially detrimental. Taking account of these matters I have determined that conditions limiting the racing to four years would be reasonable in all respects. Therefore, and having considered all other matters before me, including the sustainability of the development, I conclude that both Appeal A and Appeal B should succeed but that the resultant permissions should be subject to new conditions limiting racing to no more than four years.

Lloyd Rodgers

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Stoker of Counsel	Instructed by Ms Blades-Chase, Head of Legal, Swale/Tonbridge/Maidstone Borough Councils
He called	
Mr D N Ledger FCIEH, MRSPH	Environmental Protection Manager, Swale Borough Council
Mr K Godden MISPAL	Director, pmp genesis Ltd
Mr R T Bailey MRTPI	Area Planning Officer, Swale Borough Council

FOR THE APPELLANT:

Mr S Randle of Counsel	Instructed by Robinson Escott Planning
He called	
Mr RJC Cearns	Cearnsport Ltd
Mr A E Mole	President, British Speedway Promoters Association
Mr N Hill C Eng, MIOA, MIMechE	Hill Engineering Consultants Ltd
Mr F Robinson FRTPI, CMILT	Robinson Escott Planning

INTERESTED PERSONS:

Cllr M Henderson	Swale Borough Councillor, Member of the Planning Committee. Appearing on behalf of local residents.
Ms. E Walker	Local resident
Cllr E Lowe	Swale Borough Councillor, Member of the Planning Committee. Appearing on behalf of local residents.
Mr B Bibby	On behalf of a local resident
Mr G Marriott	Local resident
Mr RA Swade	Local resident
Cllr D Banks	Ward councillor and local resident

DOCUMENTS HANDED IN AT THE INQUIRY

- 1 List of persons attending the inquiry on behalf of the Appellant. Submitted by Mr Robinson.
- 2 Bundle of letters. Submitted by Mr Robinson.
- 3 Letter from JP Crook and Co. dated 9.2.10. Submitted by Mr Robinson.
- 4 BPSA letter plus attachments. Submitted by Mr Robinson.
- 5 Supplementary noise proof of Nicholas Hill. Submitted by Mr Robinson.
- 6 Bundle of letters. Submitted by Mr Stoker.
- 7 Response to Appellant's evidence from Pmpgenesis Ltd. Submitted by Mr Stoker.
- 8 The 2009 Speedway Regulations (SCB). Submitted by Mr Stoker.
- 9 BS 4142: 1997. Submitted by Mr Stoker
- 10 Statement of Common Ground (Noise).
- 11 Acoustic evidence of Mr Bibby
- 12 Letter from Cllr Manuella Tomes
- 13 Appellant's opening statement. Submitted by Mr Randle.
- 14 Environmental Noise Assessment June 2000. Submitted by Mr Stoker.
- 15 The 2010 Speedway Regulations (SCB). Submitted by Mr Randle.
- 16 Copy of Decision Notice from Birmingham City Council in respect of Application Number N/04323/08/FUL (Perry Barr Stadium). Submitted by Mr Stoker.
- 17 Letters in respect of the introduction of new homologated silencers (R&D Aggregates/ACU). Submitted by Mr Randle.
- 18 Calculation sheet of N Hill in respect of attenuation effect of barrier with bikes at different track points. Submitted by Mr Randle.
- 19 2010 Calendar showing potential number of meetings under existing permissions. Submitted by Mr Stoker.
- 20 Table 4.1 of WHO guidelines. Submitted by Mr Stoker.
- 21 Council's closing statement. Submitted by Mr Stoker.
- 22 Appellant's closing statement. Submitted by Mr Randle.
- 23 Joint statement on the applicability of the WHO guidelines to properties at Hugh Price Close and Oak Road.
- 24 Costs application on behalf of the Appellant. Submitted by Mr Randle.

3.2 14/501140/FULL		<u>Sheerness</u>	
APPLICATION PROPOSAL Creation of Vehicular Access and Driveway			
ADDRESS Victoria Working Mens Club And Institute Broadway Sheerness Kent ME12 1TP			
RECOMMENDATION Refuse			
SUMMARY OF REASON FOR REFUSAL The proposal is harmful to the conservation area and unacceptable in policy terms.			
REASON FOR REFERRAL TO COMMITTEE At the request of Councillor Mark Ellen.			
WARD Sheerness East	PARISH/TOWN COUNCIL NA	APPLICANT Mr C Boorman AGENT Mr Douglas Sheppard	
DECISION DUE DATE 22/09/14	PUBLICITY EXPIRY DATE 12/09/14	OFFICER SITE VISIT DATE 19/08/14	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/14/0581	Creation of a gated vehicular access to facilitate future redevelopment (There is a current undecided appeal against this refusal ref APP/V2255/A/14/2221808).	Refused	12/06/14.
SW/14/0129	Erection of 8 new maisonette type dwellings, associated parking, vehicular access and new cross over to pavement.	Withdrawn	
SW/00/0806	Pedestrian access and repositioning of existing gates.	Approved	

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site falls between the former Victoria Working Mens Club (now flats) and number 39 on the north side of Broadway, Sheerness. Part of the wall has already been demolished. The site is flat with a number of trees fronting Broadway and a grassed area to the rear with a narrow concrete path winding through it towards the now demolished former working mens club. To

the north is a car park which serves the Sheppey leisure centre. The wider area is characterised by a mix of commercial and residential properties.

2.0 PROPOSAL

- 2.01 The proposal is for the creation of a vehicular access and driveway. An identical proposal was refused under planning application reference SW/14/0581 and is subject to a current appeal ref APP/V2255/A/14/2221808. It involves the demolition of a length of wall at the back of pavement line which has already taken place but which is not specifically referred to in the application. A new 4.2m wide pair of gates is proposed set 5m into the site with curved walls, together with a new pavement crossover and a 4.2m wide shared access drive across the site. One mature tree is to be felled.

3.0 PLANNING CONSTRAINTS

- 3.01 The site is within the built up area boundary of Sheerness, the Sheerness Mile Town Conservation Area, flood zone 3, the secondary shopping area, the coastal zone and area action plan 4.

4.0 POLICY AND OTHER CONSIDERATIONS

- 4.01 National Planning Policy Framework (NPPF) in relation to sustainable development, heritage assets, flooding. Policies E1, E10, E13, E15, E19, B3 and AAP4 of the Swale Borough Local Plan 2008.
- 4.02 The NPPF states that in considering development proposals great weight should be given to the conservation of designated heritage assets (in this case the conservation area) and that “as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification”.
- 4.03 The adopted Swale Borough Local Plan 2008 reflects both the Act and the NPPF in attaching similar high priority to heritage conservation. Policy E15 requires that all development affecting a conservation area should preserve or enhance all features that contribute positively to the area’s special character or appearance. It states that the Council expects (among other things) development proposals to: retain the layout of streets, spaces and means of enclosure; retain unlisted buildings or other structures that make, or could make a positive contribution to the character or appearance of the area; pay special attention to the use of detail, materials, surfaces and vegetation; and respond positively to conservation area character appraisals.

5.0 LOCAL REPRESENTATIONS

5.01 Letters were sent to neighbours, a site notice put up near the site and an advert placed in a local newspaper. No responses have been received.

6.0 CONSULTATIONS

6.01 The Environment Agency confirms a flood risk assessment is not required.

6.02 Kent Highway Services commented on the previous identical application as follows;

“The principle of creating a vehicular access in this location is acceptable, and the location of the gates and the size of the pedestrian visibility splays proposed accord with the advice given during pre-application discussions. The gates are set back far enough to ensure that a vehicle waiting for them to be opened would not obstruct the footway, and the sightlines are adequate to allow pedestrians and emerging vehicles to have sufficient advance warning to see one another. The existing on-street parking bay will need to be shortened slightly to accommodate the access, and this should be arranged with the Technical Services Team at Swale Borough Council who manage on-street parking restrictions. It may be appropriate to require this by condition. Although the drawings indicate the access being formed with radius kerbs, I would prefer to form this as a vehicle crossover with dropped kerbs, so that the pedestrian activity retains priority over vehicles, and they maintain a level footway without interruptions.”

6.03 Conditions relating to the access, visibility splays, modification of on street parking bays, and changes to the design of the vehicle cross over are recommended. Informatives were also recommended.

6.04 The Council’s Engineer confirms that the existing on-street parking bay will need to be shortened slightly to accommodate the access, and this should be arranged with the Technical Services Team.

7.0 APPRAISAL

7.01 The key issue here is the impact of the proposals on the special character of the conservation area. As Members will be aware, conservation areas are “designated heritage assets”, and there is a statutory requirement for Local Planning Authorities to have regard to the impact of development on their historic and architectural merits. Development within conservation areas should preserve or enhance the special character of the area.

7.02 The existing brick boundary wall facing Broadway encloses the walled garden to the former Victoria Working Men’s Club. The Club closed in the late 1990s and the garden and building were sold off separately divorcing the garden from its host building. The former Club is a distinct and noteworthy architectural composition built in 1882 which is a non-designated heritage asset. The wall forms part of the walled boundary which continues around all

four sides of the Club building in varying forms. The green space forming the garden to the Club contrasts markedly with the otherwise urban built environment in the vicinity. It is the contrast between the enclosure, the tranquillity and green character of the garden and its urban surroundings that make this an area of special interest the character and appearance of which it is desirable to preserve or enhance.

- 7.03 The conservation area character appraisal refers to it as: “The private space alongside (the Working Men’s Club), although somewhat hidden behind a high brick wall, brings an element of green into the street scene without opening up the street frontage”. The historic wall is of value in its own right and serves to provide privacy and seclusion to the garden as well as continuity to the street frontage.
- 7.04 The existing concrete driveway and the recently demolished (unauthorised) gate piers do not add to the special interest of the conservation area.
- 7.05 The recent demolition of a large proportion of the wall without planning permission is regretted and the Council is currently considering whether to serve an enforcement notice to secure its rebuilding. This is being held in abeyance until this application and the appeal are determined.
- 7.06 The proposals involve widening the existing 2.4m wide opening in the wall to a total of 8.2m wide leaving only 13.2m of the historic wall remaining. The harm caused to the character and appearance of the conservation area can be summed up as follows:
- Several metres of historic brickwork would be permanently lost.
 - The simple rectilinear lines of the walled garden and the wall itself would be compromised by the radiused corners and the deep recess for the gated opening.
 - Two-way traffic would intrude into the garden space resulting in a traffic-dominated environment in place of a garden environment. The historic appearance of the secluded walled garden would take on the character of an entrance to a developed site.
 - The creation of the dropped pavement crossing and the extensive use of concrete block Tegula paving will increase the feeling of urbanisation. Concrete block paving is an alien material in the conservation area context.
 - The ball finials on the proposed gate piers are inappropriate and a little clichéd. Historic photographs indicate a more dignified and appropriate design for new gate piers.
- 7.07 In my view, the harm these proposals would cause to the special character of the conservation area is such that planning permission should be refused.
- 7.08 The Council’s Tree consultant has not commented but I consider the loss of a single small tree to cause minimal harm to amenity and the tree is not worthy of a TPO.

- 7.09 The comments of Kent Highways make clear that the highway safety and convenience impacts are acceptable.
- 7.10 The impact on flooding, the coastal zone, the secondary shopping area and area action plan 4 are all very minimal given the nature of the proposal.

8.0 CONCLUSION

- 8.01 Planning permission should be refused due to the harm the development would cause to the special character of the conservation area.

9.0 RECOMMENDATION –REFUSE for the following reasons:

- (1) The proposal, by virtue of the loss of the wall, the poor design of the gate piers, the alignment of replacement wall and location of gates, the introduction of vehicular traffic, parking and vehicle movements into the garden space (resulting in a traffic-dominated environment in place of a garden environment), together with the materials proposed would cause harm to the character of the Sheerness Mile Town Conservation Area without adequate justification. The development would fail to preserve or enhance the character of the conservation area and therefore is contrary to saved policy E15 of the Swale Borough Local Plan 2008 and to the provisions of the National Planning Policy Framework.

The Council's Approach to this Application

The Council recognises the advice in paragraphs 186 and 187 of the National Planning Policy Framework (NPPF) and seeks to work with applicants in a positive and proactive manner by offering a pre-application advice service; having a duty planner service; and seeking to find solutions to any obstacles to approval of applications having due regard to the responses to consultation, where it can reasonably be expected that amendments to an application will result in an approval without resulting in a significant change to the nature of the application and the application can then be amended and determined in accordance with statutory timescales.

In this case the application was unacceptable as submitted.

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