

**PLANNING COMMITTEE – 6 DECEMBER 2018****PART 3**

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

<b>3.1 REFERENCE NO - 18/504830/FULL</b>		
<b>APPLICATION PROPOSAL</b> Variation of conditions 2 and 3 of planning application 15/510605/FULL to allow for speedway motorcycle racing to operate between 1st March and 31st October once per week only, on Monday to Saturday, with an additional 40 minutes on Fridays and Saturdays (between 1700 and 2110 hours), plus four Bank Holiday afternoon meetings.		
<b>ADDRESS</b> Central Park Stadium Church Road Sittingbourne Kent ME10 3SB		
<b>RECOMMENDATION</b> REFUSAL		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposal would be likely to give rise to significant harm to residential amenity, by virtue of noise and disturbance.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called in by Ward Member		
<b>WARD</b> Murston	<b>PARISH/TOWN COUNCIL</b> None	<b>APPLICANT</b> CearnSport Ltd <b>AGENT</b> PowerHaus Consultancy
<b>DECISION DUE DATE</b> 19/12/18	<b>PUBLICITY EXPIRY DATE</b> 26/10/18	

**Planning History**

15/500862/FULL

Variation of condition 7 of SW/09/0314 to allow speedway racing between 1800 and 2130hrs on Fridays

Approved Decision Date: 12.05.2015

*This application, similar to the current application, was recommended for refusal, but approved by the Planning Committee on a temporary basis. The permission was not implemented and has now lapsed.*

15/510605/FULL

Removal of condition 2 to allow permanent use of the stadium for speedway of planning permission SW/09/0314.

Approved Decision Date: 03.05.2016

*The approval of this application made the, previous temporary, planning permission for the use permanent.*

SW/14/0088

Variation of condition (7) of SW/09/0314, to allow speedway racing between 15:00 &amp; 22:00 hours on weekdays and bank holidays.

Refused Decision Date: 24.09.2014

*This application was refused on the basis of likely harm to residential amenity as the result of the late start time.*

SW/14/0087

Variation of condition (8) of SW/09/0314 to allow up to 23 races per speedway meeting, plus occasional re-runs on six days per season.

Withdrawn Decision Date: 18.06.2014

SW/09/0314

Variation of condition 5 of SW/08/0962 to allow 1 speedway race per week between Mondays and Fridays, as opposed to between Mondays and Wednesdays.

Grant of Conditional PP Decision Date: 13.10.2009

*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.*

*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 A** to this report.*

SW/09/0313

Variation of condition 7 of SW/08/0962 to allow warming up of speedway bikes from 1400 hours on bank holidays, rather than from 1430 hours.

Refused Decision Date: 28.08.2009

*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.*

SW/09/0275

Variation of condition (2) of SW/08/0962 to allow a minimum of 7 seasons use for the holding of speedway meetings.

Refused Decision Date: 17.08.2009

*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/09/0274

Erection of acoustic fence around southern perimeter of stadium terraces maximum height 6.1m.

Decision Date: 11.09.2009

*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.*

SW/08/0962

Part change of use of existing sports stadium to permit the holding of speedway meetings, including the installation of clinker track surface, provision of covered 'warm up' area and pits and erection of acoustic fence around part of the perimeter.

Grant of Conditional PP Decision Date: 15.01.2009

*This application sought permanent planning permission for the use of the site for the holding of speedway racing. 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.*

## **1. DESCRIPTION OF SITE**

- 1.1 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.
- 1.2 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.
- 1.3 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.

## **2. PROPOSAL**

- 2.1 This application seeks to vary conditions (3) and (5) of the permission granted under reference 15/510605/FULL (the planning permission for the use of the site for league speedway racing), in order to allow racing to take place once per week on any day except Sundays, and to allow a later finish time on Fridays and Saturdays.
- 2.2 The current permission allows for racing on once per week only, on Mondays to Fridays (and Bank Holiday Mondays). The latest finish permitted by condition (5) is 8:30pm, and on Bank Holidays, 6.00pm
- 2.3 The application is accompanied by a supporting statement, extracts from which is as follows:

*“It is therefore considered that the Council’s policies (ST 1, ST5 and CP 5) support and encourage economic development, tourism and sporting activities in appropriate locations and in terms of speedway there can only be one appropriate location in Sittingbourne, which is the Central Park Stadium. The NPPF also supports sustainable economic uses in appropriate locations. Permanent use of the stadium for speedway is a highly sustainable use of this important community facility and is appropriate and in accord with the Boroughs policies.*

*The application to vary the conditions of the existing consent arises from a need for Central Park Stadium to continue to represent the commercial requirements of Speedway Racing and provide flexibility to maximise the Speedway Racing season for competitors and spectators alike. The use is already established, the location is appropriate, acoustic fencing protects residential amenity and the hours of use continue to respect the residential amenity requirements of local residents, including the already approved later Friday night finish, as now required for Saturday’s. The application therefore represents a sustainable form of development with no material impacts on other interests.”*

### 3. POLICY AND CONSIDERATIONS

#### **The National Planning Policy Framework (NPPF)**

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

**Paragraph 92** - *To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- a) *plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- b) *take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
- c) *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;*
- d) *ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
- e) *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

**Paragraph 170** – *Planning policies and decisions should contribute to and enhance the natural and local environment by.... preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*

**Paragraph 180** - *Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should...mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*

#### **National Planning Practice Guidance (NPPG)**

3.2 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.*

<b>Perception Examples of Outcome</b>		<b>Increasing Effect Level</b>	<b>Action</b>
Not noticeable	No Effect	No Observed Effect	No specific measures required
Noticeable & 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 no such that there is a perceived change in the quality of life.	No Observed Adverse Effect  Lowest Observed Adverse Effect Level	No specific measures required
Noticeable & 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  Significant Observed Adverse Effect Level	Mitigate and reduce to a minimum

<b>Perception Examples of Outcome</b>		<b>Increasing Effect Level</b>	<b>Action</b>
<i>Noticeable &amp; Disruptive</i>	<i>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.</i>	<i>Significant Observed Adverse Effect</i>	<i>Avoid</i>
<i>Noticeable and very Disruptive</i>	<i>Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, eg regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, eg auditory and non-auditory</i>	<i>Unacceptab le Advserve Effect</i>	<i>Prevent</i>

*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 (ie whether or not the noise contains particular high or low frequency content) and the general character of the noise (ie 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.*

### **Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017**

- 3.3 Policy ST1 states that development proposals will “promote healthy communities through...protecting, managing, providing and enhancing open spaces and facilities for sport and recreation”
- 3.4 Policy CP1 states that development proposals will “Secure additional non-food retail/leisure growth, taking account of committed schemes and existing centres...”, “...consolidate or widen the Borough’s tourism potential”.
- 3.5 Policy CP5 states that development proposals will “safeguard or provide as appropriate, open space, sport and recreation in accordance with Policy DM17...”
- 3.6 Policy DM14 requires, amongst other things, development proposals to “Cause no significant harm to amenity and other sensitive uses or areas”.
- 3.7 Policy DM17, referred to above, relates principally to the provision of open space and recreation facilities, rather than providing, enhancing or safeguarding spectator sports facilities. Nonetheless, the general thrust of the policy emphasises the importance of sports and leisure facilities within the Borough.

## **4. LOCAL REPRESENTATIONS**

- 4.1 59 representations in support of the proposals have been received. It is notable that many of these representations are from outside Sittingbourne and, indeed, outside Swale. The contents are summarised as follows:
- The use supports the local community;
  - A later time and at weekends would allow children to attend;
  - Children do not generally go to bed before 9pm;
  - The track may close if the application is not approved;
  - The benefits outweigh the harm;
  - Will enable team to operate at a higher level and in a higher league;
  - Disturbance from the use is not excessive;
  - 6:30pm starts are a dreadful inconvenience and put off potential team members;
  - The noise from a nearby bus depot is comparable to the noise generated here;
  - The sound in nearby dwellings is likely to be comparable to that generated by a fridge;
  - The use contributes to the local economy;
  - Contributes to tourism;
  - Visitors to the site will spend money in the town centre;
  - Later time allows more spectators to attend;
  - Any noise lasts a total of 15 minutes per meeting;
  - A small minority would be inconvenienced by the noise;
  - Saturday racing is more likely to encourage visitors to the town in the run up to meetings.
- 4.2 27 representations objecting to the proposals have been received from local residents, summarised as follows:

- The noise generated is unbearable;
- Writers are unable to use their gardens during meetings;
- Local residents have to shut windows and doors;
- One writer has to wear noise cancelling headphones
- The noise is unbearable in the summer months;
- The acoustic fence does not work;
- Would not be reasonable to families with young children or people who get up early for work;
- Writers have to turn their TV up to drown out the noise;
- Causes air and road pollution;
- The noise generated is not just from races but from warming up the bikes;
- Wind direction makes a significant distance;
- The letters of support are from outside the area;
- The Council should put the wellbeing of locals first;
- Would prevent the use of the garden at weekends for entertaining;
- Will make use less predictable for residents;
- Young children still have early bedtimes;
- Will not benefit the local community;
- The current use ruins Mondays and Bank Holiday Mondays;
- The noise is intrusive;
- Will have a traffic impact;
- The benefits to the local economy are exaggerated;
- Will impact on wildlife;
- The Council has a duty of care to local residents;
- One writer has to leave the house if the noise is particularly bad;
- The conditions imposed on the planning permission are needed to limit the impact of the use on neighbours.

## 5. CONSULTATIONS

### 5.1 The Council's Environmental Health Manager comments as follows:

*Speedway has been operating at the site for several years now and it continues to be an inherently noisy sport.*

*Given the size of the residential community that is potentially affected by the noise, complaints received by the Council's Environmental Protection Team each year are small and confined to a handful of residential households. However, irrespective of the number of complaints received, Officers have previously reported that sound levels measured in homes in Oak Road, Sittingbourne during the 2013 and 2014 racing seasons, confirmed that noise from speedway bikes was audible and intrusive both in gardens and at times inside homes even with windows closed.*

*Understandably the actual noise experienced by nearby residents is not always at the same intrusive level and is to a great extent influenced by weather conditions and specifically temperature, humidity, wind speed and direction.*

*However, I think it likely that by allowing the additional time applied for, the local community may be less tolerant to future noise from speedway when exposed to it after 9pm on a Friday or Saturday evening.*

*As far as I am aware the temporary planning consent previously granted for a later Friday finish time (Ref: 15/50862/FUL) has not been implemented. Therefore those residents potentially affected by the extended time have not had the opportunity to experience the impact on their amenity nor have the Council had the opportunity to assess it.*



*In my view if permission is granted, it should be for a temporary period to allow an assessment to be made of any increase in adverse noise impact on the immediate residential community and whether the additional time provokes an increase in those numbers of households complaining.*

5.2 KCC Highways and Transportation do not wish to comment on the proposal.

## **6. BACKGROUND PAPERS AND PLANS**

6.1 Application papers and correspondence for applications SW/08/0962, SW/09/0274, 275, 313 & 314, SW/14/0088, 15/500862/FULL, 15/504830/FULL, 15/510605/FULL and 18/504830/FULL

## **7. APPRAISAL**

7.1 I note the objections raised in respect of air pollution and traffic. Members will note that Environmental Health Manager does not object on the basis of air pollution. Notwithstanding this, air pollution and highway matters would not be worsened by the use starting and finishing at a later time.

7.2 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.

7.3 The key issues to be considered here are the implications of the extension of hours of use in respect of residential amenity, and the potential benefits to be derived from approving this scheme.

### Residential Amenity

7.4 Whilst the application seeks to increase the finish time to 2130 hours on Fridays, and to allow the use to take place on Saturdays to the same time, (with the hours remaining the same for the remainder of the week), 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. The agent has indicated that under normal circumstances, racing would finish at 2110 hours, with the remaining 20 minutes being used only in the event that races need to be re-run during the evening. Members are entitled to give this some weight. I will though consider the proposal on the basis that it is likely that racing will continue until after 2110 hours.

7.5 The comments of the Environmental Health Manager make clear that the use of the site within the current time limit does cause harm to residential amenity. In addition, Members will note from the representations received raising objection to the proposal that local residents consider the proposal causes significant harm to their residential amenity (there are a number of representations from local residents which set out that the use of the site does not give rise to noise and disturbance, but these are outweighed by local residents who are disturbed by the level of noise, and in any case they are contradicted by the evidence collected by and referred to above by the Environmental Health Manager). 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.

- 7.6 Government planning guidance in such circumstances is clear that such noise should be mitigated against and reduced to a minimum. In my view, 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.
- 7.7 The key issue for Members to grapple with here is whether such a finish time would cause significant harm to residential amenity and whether this is outweighed by any benefits which it might give rise to.
- 7.8 Members will note that the Environmental Health Manager clearly sets out that in his opinion, the proposal would give rise to noticeable and harmful impacts to residential amenity. These comments are supported by the views of nearby local residents, as set out above.
- 7.9 The appeal decision which granted permission for the temporary use of the site is attached as Appendix A to this report. This has now been made permanent, but the restrictive conditions remain in place. As I have previously advised Members, 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.]
- 7.10 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.
- 7.11 Members should be clear that the approved 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, and the applicant does not seek to argue that the use is not viable under the present start and finish times.
- 7.12 The applicant has not argued that the refusal of permission to hold events later into the evening would affect the viability of the use at the site, indeed the supporting statement submitted with the current application refers to speedway at the site being "a successful addition to the commercial uses of the stadium" and goes on to state that "Speedway racing is a popular event at Central Park Stadium and receives considerable support from the local community" (although this latter statement is not necessarily borne out in the representations received from local residents). Although it does go on to state that "the application to vary the conditions of the existing consent arises from a need for Central Park Stadium to continue to represent the commercial requirements of Speedway Racing" it is unclear what this means. Certainly, no detailed information relating to viability nor any detailed argument on this basis have been submitted with the application.
- 7.13 It is evident to me from the information already gathered during the use of the site to date, 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 some people, and in particular children, will look to go to bed at that time.

- 7.14 The previous application sought to argue that a later finish time on a Friday would not impact on local residents as severely as during the week, as there is no school the following day. I note that many of the supportive representations make the same argument. Whilst I understand the rationale behind this statement, it is in my view unrealistic to consider that there would be no sleep disturbance to children on the basis that they do not attend school on a Saturday or Sunday.
- 7.15 Equally, the issue here is not simply with regards sleep disturbance – the definition of “noticeable and disruptive” noise impacts, as set out above, include sleep disturbance resulting in difficulty getting to sleep and staying asleep, together with a material change in behaviour, such as keeping windows shut most of the time because of the noise and avoiding certain activities during periods of intrusion.
- 7.16 Finally, racing does not currently take place on Saturdays, or Sundays. It could take place on any other day of the week. The effect of this is that it gives local residents some certainty over when the use will definitely *not* take place, and the ability to use their dwellings and gardens at the weekend without the possibility of intrusive and harmful noise.
- 7.17 On the basis of the comments of the Environmental Health manager, and as supported by the majority of representations from residents in the immediate vicinity, I 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 quiet period of Friday and Saturday evenings, which would be very likely to seriously harm the living conditions of residents nearby.

#### Benefits of the proposal

- 7.18 The previous application sought to argue that it is an “economic imperative” that the site attracts an Elite Speedway team and that this could only be done by extending the potential hours of use. However – it was not made clear what the economic imperative amounted to, nor whether the viability of the use was in question. It is notable that, firstly, the temporary planning permission granted by this Planning Committee for the later use into the evenings on Fridays was not implemented. Secondly, as I set out above, a case is not made under this application that the viability of the site and the use is at risk.
- 7.19 Equally, as with the previous application, it is not made 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 one of the arguments by the agent in favour of the proposal, namely that it is difficult for spectators to arrive at the site in a timely fashion given its current start time) 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. Using the site on a Saturday would in my view be more likely to benefit the local economy than a later start on a Friday, because spectators would be more likely to visit the town centre. That said, this benefit would be likely to occur regardless of the start and finish time on a Saturday.
- 7.20 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 early start times in particular do limit the potential for spectators to make their way to the site. Members are entitled to give this matter some weight.

### Balancing Exercise

- 7.21 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.
- 7.22 I give weight to the representations received in support of this application, and to their number. The wide geographical spread of writers is indicative of a spectator sport which reaches a wide audience, beyond Swale and in some cases, Kent. In particular, the notion that a later start and correspondingly later finish time, and use on a Saturday, would attract more spectators is something to which Members should afford some weight. Members should also be clear that the speedway racing takes place one day per week only, that the number of races is limited, that the warm up times are limited and that racing itself takes place over a comparatively short time period (generally two hours per meeting).
- 7.23 The agent has indicated that her client would be willing to accept a condition requiring a finish time of 2110 hours, with a further 20 minutes being available for delays caused by crashes and re-runs of races.
- 7.24 It is open to Members to consider an alternative, earlier, finish time to that proposed, and/or to limit the number of occasions that a finish of 2110 or 2130 hours could take place over a season, and/or to limit how many seasons late finishes can take place, and to approve the use on a Friday evening but not on a Saturday. These alternatives might be considered to mitigate against the harm identified by the Environmental Health Officers in their comments above.
- 7.25 The Environmental Health Manager advocates, as a maximum, the grant of a further temporary planning permission for later uses. However, on the basis of the remainder of his comments, I would not advocate taking such an approach. In my view, the arguments in favour of approving a later finish time and use on a Saturday here are not persuasive. I have no doubt that the current use is well supported and would be better supported were a later finish time to be approved. Nonetheless, it remains the case that an extension to the finish time at the site would be significantly detrimental to the amenities of nearby residents, by virtue of noise and disturbance. I conclude that the justification in favour of approval is limited.
- 7.26 In balancing the likely harm against the likely benefits, I can only 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.
- 7.27 Members are not of course bound to accept the comments of the Environmental Health Manager and are entitled to take a different decision. However – to do so here may not in my view be appropriate without having good grounds to do so contrary to the evidence presented by the Environmental Health Manager and summarised in their comments above.

## 8. CONCLUSION

- 8.1 I conclude that the proposal would give rise to significant and intrusive noise and disturbance to local residents and that the benefits of approving the scheme would be outweighed by the harm caused. I therefore recommend that the application is refused.

## 9. RECOMMENDATION

REFUSE for the following reason:

- 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 DM14 of the Swale Borough Local Plan 2017 and to the provisions of the National Planning Policy Framework and National Planning Policy Guidance in relation to Noise.

### **The Council's approach to the application**

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), July 2018 the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

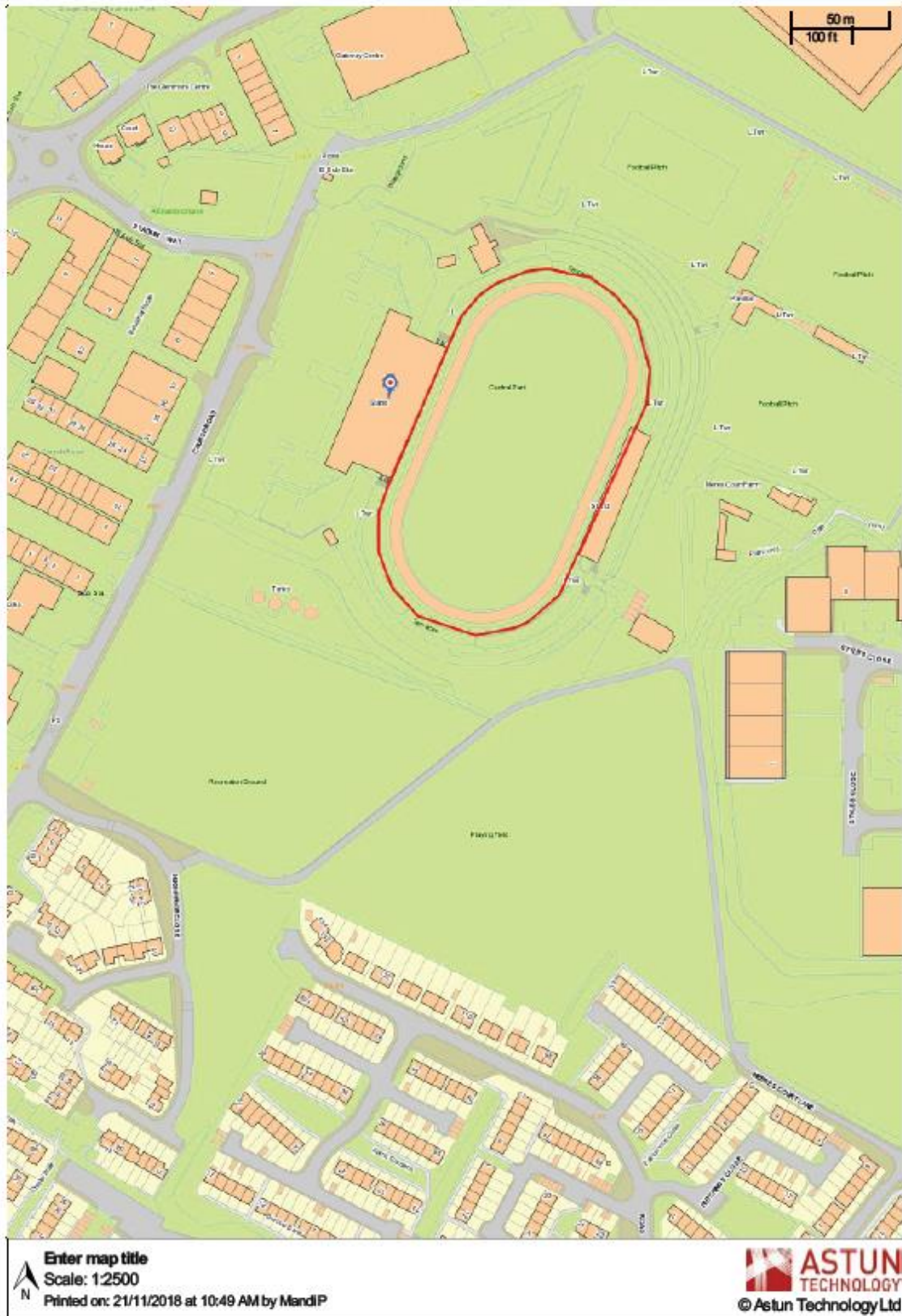
In this instance:


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

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.

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





## 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 I. Rodgers** BEng CEng MICE MBA

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

The Planning Inspectorate  
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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 31<sup>st</sup> 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 31<sup>st</sup> 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.

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**Application for costs**

1. At the Inquiry an application for costs was made in respect of both appeals by Cearnspport 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 1<sup>st</sup> March and 31<sup>st</sup> 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.



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**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.

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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

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- 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<sub>Aeq,1h</sub> (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<sub>Aeq,1h</sub> and L<sub>Amax,fast</sub> 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<sub>Aeq,1h</sub> 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

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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
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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

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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

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**APPEARANCES**

**FOR THE LOCAL PLANNING AUTHORITY:**

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

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

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