

3.4 REFERENCE NO - 15/500862/FULL			
APPLICATION PROPOSAL Variation of condition 7 of SW/09/0314 to allow speedway racing between 1800 and 2130hrs on Fridays			
ADDRESS Central Park Stadium Church Road Sittingbourne Kent ME10 3SB			
RECOMMENDATION: Refuse			
SUMMARY OF REASONS FOR REFUSAL The extension of hours of use later into the evening would cause substantial harm residential amenity.			
REASON FOR REFERRAL TO COMMITTEE Significance			
WARD Murston	PARISH/TOWN COUNCIL N	APPLICANT Cearnsport Ltd AGENT Robinsc Escott Planning	
DECISION DUE DATE 29.04.14	PUBLICITY EXPIRY DATE 14.04.14	OFFICER SITE VIS DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history of adjoining sites):			
App No	Proposal	Decision	Date
SW/08/0962	This application sought permanent planning permission for the use of the site for the holding of speedway racing. Members 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. 4 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.	GRANT	16.01.09
SW/09/0274	This application sought to amend the design of the acoustic fence approved under	GRANT	11.09.09

	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 180 days seasons speedway use. The application made it 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 – this was not considered sufficient to justify the grant of a 7 year temporary planning permission, nor the grant of a permanent planning permission.	REFUSED	17.08.09
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 2:30pm as specified in the original permission.	REFUSED	28.08.09
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 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 to this report. The use commenced in 2013, and may therefore continue, under the terms of the temporary planning permission granted on appeal, until the end of the 2016 season.	GRANT	13.10.09
SW/14/0088	Variation of condition (7) of SW/09/0314, to allow speedway racing between 15:00 & 22:00 hours on weekdays and bank holidays.	REFUSED	23.9.14

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.

2.0 PROPOSAL

- 2.01 This application seeks to vary condition (7) of the planning permission granted under SW/09/0314, to allow speedway racing between 1800 and 2130 hours on Fridays.
- 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 Speedway racing is permitted to take place only once per week at the site, regardless of which day it is. This application would not change that, nor does it seek to limit racing to Fridays only. It does though seek to have Friday evenings as an exception to the hours of use set out above, enabling a later start time and a later finish time on these days only.
- 2.04 I have discussed the hours requested with the agent, as the supporting statement sets out that whilst the finish time requested is 2130 hours, the intention is that under normal circumstances racing would finish at approximately 2110 hours with the remaining 20 minutes to be used in the event of re-runs of races.
- 2.05 The application is accompanied by a noise report, a Planning Statement (attached as Appendix B to this report) and a supporting letter, an extract of which is as follows:

“The economic imperative of this application is to attract Elite speedway clubs to the race track, to operate in a top league and to ensure racers, workers and spectators can reach the grounds in good time for the speedway races. There is no other speedway track in the country that operates with such restricted hours and this significantly hampers the ability of Cearnsport to attract the Elite teams to compete from Central Park Stadium. An Elite team competitor would positively alter the economic benefits of the speedway operation, contributing to the local economy,”

2.06 An extract from the supporting statement reads as follows:

“Planning application reference SW/14/0088...sought to amend the start and finish times on weekdays and bank holidays to between 1500 and 200 [hrs], but was refused at Committee on the grounds of perceived harm to the living conditions of nearby residents by virtue of noise and disturbance. This current application proposal is similar in nature but only seeks to extend the finish time by one hour so that race meetings on Fridays only will finish no later than 2130 instead of the authorised time of 2030. All other restrictions relating to the use of the site would remain unchanged.

Policy tests within local and national policy guidance stipulate that planning decisions should aim to avoid noise from generating a significant adverse impact on quality of life. The guidance contained within the NPPG sets out a noise exposure hierarchy which categorises various levels of noise impacts with corresponding actions, such as mitigation. In the Officers’ report relating to application SW/14/0088, the Council considered that the current use of the site up to 2030 gives rise to “noticeable and intrusive noise” which is defined in the NPPG as causing small changes in behaviour and/or attitude, e.g. turning up television, speaking more loudly and closing windows, but is capable of being reduced to an acceptable level with appropriate mitigation. However, the Council considered that if the use was extended to 2200 (as previously proposed) this would lead to noise levels becoming “noticeable and disruptive” which is defined as causing a material change in behaviour which should be avoided and cannot be mitigated, e.g. avoiding certain activities during periods of intrusion, potential for sleep disturbance, having to keep windows closed, premature awakening.

In response to this, the applicant now proposes a finish time of 2130 on Friday, which would be sufficient to meet the needs of the business. It is considered that the use of the site up to 2130 is not materially different from 2030 and would not create significant adverse noise impacts. The Council’s concern that the previously proposed 2200 finish time would adversely impact those local residents looking to go to bed at that time is now overcome – most residents would not be going to bed at 2130 on a Friday and also younger children would not be going to school the next day, so there would be no disruption to sleep as a result of this proposal.

In light of national policy guidance, the noise impacts resulting from the proposed additional hour may give rise to “noticeable and intrusive” effects, as the Council has suggested is the case with the existing situation i.e. finishing at 2030. However, the noise effects as a result of the application proposal would not be “noticeable and disruptive” given the conclusions of the noise assessment report and the successful implementation of an effective acoustic barrier which fully mitigate and reduce noise emissions to an acceptable level. It is considered that the infrequent use of the speedway use would not be demonstrably harmful to the amenities of residents in the area.”

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.

This table summarises the noise exposure hierarchy, based on the likely average response

<i>Perception Examples Outcome</i>		<i>Increasing Level</i>	<i>Effect</i>	<i>Action</i>
<i>Not noticeable</i>	<i>No Effect</i>	<i>No</i>	<i>Observed Effect</i>	<i>No specific measures required</i>
<i>Noticeable & not intrusive</i>	<i>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.</i>	<i>No</i>	<i>Observed Adverse Effect Lowest Observed Adverse Effect Level</i>	<i>No specific measures required</i>
<i>Noticeable intrusive</i>	<i>Noise can be heard and cause small changes in behaviour and/or attitude, e.g. turning volume of television; speaking more loudly; where there is no alternative ventilation, having 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.</i>	<i>Observed</i>	<i>Adverse Effect Significant Observed Adverse Effect Level</i>	<i>Mitigate and reduce to a minimum</i>
<i>Noticeable and 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 keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due change in acoustic character of the area.</i>	<i>Significant</i>	<i>Observed Adverse Effect</i>	<i>Avoid</i>
<i>Noticeable and very disruptive</i>	<i>Extensive and regular changes behaviour and/or an inability to mitigate effect of noise leading psychological stress physiological effects, e.g. regular sleep deprivation/awakening loss of appetite, significant medically definable harm, e.g. auditory and non-auditory</i>	<i>Unacceptable</i>	<i>Adverse 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.”*

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 maximise 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

4.01 14 letters raising objection have been received, their contents are summarised as follows:

- The park behind people who live near the stadium will result in noise being carried to the houses;
- The additional traffic will cause Sittingbourne to come to a standstill;
- It will generate much higher noise levels which will greatly infringe on our human rights to enjoy an acceptable level of peace and tranquillity in our property;
- Every few months we have to object to this anti-social event that pollutes our locality with unacceptable noise;
- Friday is one of the most objectionable days that could be chosen. Most people will wish to enjoy their garden after a week of work;
- Many neighbours are not objecting due to issues that this causes when they look to sell their house;
- The nuisance from this speedway on every bank holiday and every week in the summer time shatters the enjoyment of my property and garden by self and family that come to visit my house.
- On several occasions one writer says that he has had to leave his property to find peace and quiet elsewhere.
- This encroachment upon peace and quiet is unacceptable Those who propose and support this application do not live in the area, in fact those that support it don't want it in their area;
- The noise levels are totally unacceptable and have a detrimental effect on the quality of our lives.
- People have and will argue that the races only last a few minutes , but we have to put up with the warm up laps the revving of engines prior to the race, not just the race itself. We can also hear the tannoy system so we get the running commentary as well.
- We moved to this address over 42 years ago from London to escape the noise and pollution and settled happily in Murston, until a few years ago we were extremely happy in the area.
- Speedway racing was approved after the promoter said that a screen would be erected to eliminate the noise pollution. If any screen has been erected it is useless as since from approximately 3.00pm on the days of the meetings every few minutes the noise of the motorbikes roaring round the track can be heard consistently until the meeting is over.
- The only way to escape is to leave the rear garden go indoors shut all doors and windows and turn on the television which as this is in the summer months is not a reasonable situation.

- We sit indoors with the sunshine outside and hope and pray that it will pour with rain so that the whole thing will be cancelled. Every other speedway arena in the country seems to be sited miles away from any residential area so this problem does not occur. At the age of 79 do I have to move away from the area just to reclaim a peaceful final years?
- Once again appeal to the council not to let this application go through as I have pointed out on more than one occasion the speedway is not wanted in Murston regardless of the council owning the site.
- The residents of Murston do not want to sit in their gardens on a Friday night or any night to that and listen to the noise of the motor bikes going round and the tannoy.
- Please can the council not see what an imposition this to us all that live in the area. If this sport was a winter sport it would not be quite so bad as we have our windows and doors shut then (bad enough) but as it is a summer sport it is unbearable to think that this is going to disturb our peace once again.
- The use of speedway has crept in over the past few years and in the summer the noise generated is unbearable forcing us in hot weather to shut the windows and patio doors to the rear of the house to reduce the overwhelming noise to an acceptable level. We have lost our privacy as result and have to suffer the noise on Monday nights and bank holidays through the summer months.
- I work shifts and as a night-worker am unable to sleep through the noise.
- Supporters of the speedway will argue that measures have been put in place with a sound barrier to block the noise. Living here I invite you to measure the noise generated into my house when the speedway is on. It does not block the noise at all.
- I think the proposal should be rejected as it is very noisy, from our house it's like a loud constant droning noise. I have young children and it's very hard trying to get them to bed in the evening to the point that I don't want to have the windows open as it makes it sound louder.
- Personally I think there should be no speedway altogether, but it certainly shouldn't be allowed to increase.
- This venue already produces some level of noise on occasions which are intrusive and annoying, speedway racing greatly adds to this as the sound barrier wall currently in place is inadequate and inefficient at containing the noise.
- I do not want or agree to the proposed variation of condition 7 of SW/09/0314 to allow speedway racing between 1800 and 2130hrs on Fridays as there is no consideration to my quality of life.
- The noise and light from this venue will also not end at 9.30pm but nearer to 10pm, the venue is clearly visible from my bedroom window and will disturb my sleep on nights when my shift pattern for work demands that I get up at 4.15am on Saturday mornings (there are quite a number of people who live in this area who leave for work before 6am every day of the week).
- In spite of the acoustic fence, on race nights the noise from the bikes is still very loud and intrusive. It means we cannot enjoy the peace and quiet of our garden, or have the windows open while indoors. If Speedway was

held in the winter it would not be so bad. On a warm Friday evening we would like to be able to relax in our garden with friends, after a busy week at work.

- Occasionally, if the wind, is blowing in the right direction, the noise is not so bad. Surely this shows that the acoustic fence is not working to prevent the sound escaping.
- It has been claimed that later race meetings would bring trade to Sittingbourne, but this is unlikely as Speedway supporters will go straight to the Stadium and eat and drink there.
- It is an absolutely incredible noise that the speedway makes. The noise levels are so bad that the windows to the house have to be shut and at times the tv turned up also to completely drown them out, if you are in the garden you have to raise your voice to be heard, even if only a few metres apart from the person you are talking to.
- When we moved here there were no plans for speedway, it is a residential area, if it were here and I decided to move here fair enough, but how can this much noise just be imposed on people?
- The noise levels from the speedway are high, and are intolerable when the wind is from a northerly direction. In previous seasons the regular meetings have been on Mondays, so we do not understand why the application specifically refers to Fridays.
- I find the short loud bursts of noise from the speedway extremely disruptive and irritating. As a resident living very close to the Stadium, I am concerned that the noise will become even more noticeable and disruptive if speedway is allowed to finish later in the evening.
- Speedway is obviously a very noisy sport and should never have been approved at the Stadium, given how close it is to established residential housing. However, it was approved for a trial period, but with strict Conditions imposed by the Inspector, at the Appeal Decision to protect residents living close to the Stadium from excessive noise nuisance.
- Why should our lives be blighted by potentially ever increasing noise nuisance and disruption, so that the speedway operator can make more profit. Surely a more suitable venue well away from residential housing should be found.
- The acoustic fence erected to stop excessive noise nuisance from the speedway has not proved effective. At times, particularly when the wind is blowing from the Stadium towards the residential housing estate, the noise nuisance remains very loud and disruptive. In the event that a later finish time is approved for speedway meetings on Fridays, the noise nuisance would become even more noticeable and disruptive, particularly to shift workers and parents trying to get young children to sleep.
- Regarding the claim by the speedway operator that allowing speedway until 2130hrs on Fridays will positively benefit the local economy, where is there any proof that traders other than the speedway operator at the Stadium will benefit. It is very likely that visitors to the Stadium will travel straight to the Stadium for the speedway meetings, eat and drink there and then head straight home afterwards.

6.02 A number of residents refer to the fact that the acoustic fence as built does not comply with the approved design. Members may recall considering this matter previously. For the sake of clarity, I would advise that although the fence does not comply with the approved design, it has been appraised by the Environmental Health Manager, who confirms that it is as effective at mitigating against noise from the site as the approved fence. That is not to say that the Environmental Health Manager consider the fence to be effective – the opposite is true. The Environmental Health Manager has been clear from the outset that he considers the fence as shown on the approved drawings and as built to be ineffective.

4.03 The application was accompanied by a petition in favour of the proposal bearing 135 signatures. In addition, reference is made in the supporting statement to an online petition bearing more than 1000 signatures. A petition bearing 27 signatures, and 30 letters of support, including 7 duplicate letters, have been received, summarised as follows:

- I support this change so all workers, commuters and visitors can get here in time;
- Sittingbourne needs this entertainment on a Friday evening. Speedway is a great night out;
- Speedway puts Sittingbourne on the map;
- Sittingbourne needs this to attract people to the town bringing a boost to the local economy;
- It would put Sittingbourne on the map as a major sporting venue;
- The noise is well contained and living nearby one writer has never heard it;
- The site has ample parking and there is no need to park in nearby roads;
- One writer, in Tonge Road, advises that he cannot hear any noise from the site, with or without his windows open;
- Will the Council stop everything that makes a noise?
- One writer wishes to attend and take their family, but finds that the early start time makes it impossible to do so;
- Having speedway at Central Park is a real boon for the local community;
- A 9:30pm curfew on a Friday would be more acceptable to supporters and local residents and makes more economic sense than the present situation;
- Speedway only runs on one evening per week for a couple of hours;
- The stadium is in an industrial location away from the town centre;
- Central Park needs to be supported encouraged and permitted to run a variety of sports otherwise it will just stand as a white elephant;
- Would allow one writer to attend with his grandchildren on many more occasions than they currently do;
- Two local residents advise that noise during previous meetings was not intrusive;
- The stadium is a fantastic facility which provides jobs and family entertainment;
- The only people who will complain will not be lovers of speedway and if an elite team is ever to grace the stadium (bringing in much needed

economical success and additional popularity) the early start time would be a non-starter;

- We need more of this type of thing in our area;
- One employee has written, advising that the stadium find it difficult to make the speedway financially viable because of the early finish [Members should be aware that the applicant does not make this argument in the supporting documents] and that a later finish time would enable far more people to attend. He continues that he has visited Hugh Price Close on three occasions during racing and has had difficulty in discerning any noise which might be described as a nuisance;
- It is fine family entertainment, enjoyed by a wide age group of people from children to pensioners. The races are of short duration and the total noise pollution for the whole evening is over a short period. I think that any noise that can be heard is more acceptable than the go-cart track and even local football matches on a Sunday morning. I think the council should be embracing a new venture that provides Sittingbourne with a leisure facility, as our town is severely lacking in all forms of family entertainment.
- I live in Oak Road (100 yards or so from the stadium). I would like to add my support to the application as anything that attracts people to the town should be supported. The noise from the speedway is very limited and does not worry me.
- I understand that there are no longer noise problems, the barrier apparently has been tested by officials and passed the test. With the introduction of even more exhaust baffles fitted to the bikes, evening sitting in the stands the noise is not extreme;

4.04 An addendum to the noise statement has recently been submitted and is the subject of consultation with interested parties. I will update Members at the Meeting.

5.0 CONSULTATIONS

5.01 The Environmental Services Manager objects to the proposal and comments as follows:

“The application seeks to alter the speedway race meeting operating hours on Fridays only by one hour making the new hours 18.30 to 21.30 on that day of the week.

Members will be aware of the previous application for the extension of operating hours to allow speedway racing until 22.00 hours which was refused.

The results of noise monitoring by officers in the Council’s Environmental Protection Team during the previous two operating seasons concluded that noise levels have caused a significant adverse impact at times to those residents living closest to the site i.e. in Oak Road, Murston.

The current application proposal is not materially different from the previous one in that a proposed finish time of 21.30 hours is of the same concern as the previously proposed 22.00 hours finish time.

The applicants own noise consultant previously reported that the ambient background noise level in the area around the site drops considerably by some 7dB(A) from an early evening level of 42dB LA90,1hour, to 35dB LA90,1hour, after 21.00 hours. Maximum noise levels of 73 dB LAmax,fast, measured by officers external to residential properties in Oak Road and 82 dB LAmax,fast, measured by the applicant's consultant at Hugh Price Close, due to the revving and accelerating of speedway bikes, will therefore be potentially more prominent and audible inside homes at the proposed later finish time.

Speedway noise levels of 52 dB LAeq,1 hour, predicted by the consultant have been confirmed by actual measurements on occasions in the past two seasons of speedway meetings. However, there have also been speedway meetings when measured levels have exceeded this figure, notably during an attended measurement on 15th September 2014 in a garden in Oak Road, Murston, when a level of 60 dB LAeq,1 hour, was witnessed on a mild evening with no noticeable wind.

On the basis that there is clear evidence that the specific noise level can and has exceeded the WHO evening guidelines of a maximum of 55 dB LAeq on occasions, retaining the current finish time of 20.30 hours is in my view crucial to protecting the nearby residential community from an unreasonable level of disturbance.”

5.02 Kent Highway Services do not object.

6.0 BACKGROUND PAPERS AND PLANS

6.01 The application is accompanied by a planning statement and a noise assessment. An addendum to that statement has recently been submitted and is the subject of consultation with interested parties.

7.0 APPRAISAL

7.01 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.

7.02 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.

7.03 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

- 7.04 Whilst the application seeks to increase the finish time to 2130 hours on Fridays, (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. As I set out in 2.04 above, 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 have requested that the agent advise how often re-runs of races occur, or accidents/crashes during races as this is a matter which Members need to be appraised of. In the absence of this information, I will consider the proposal on the basis that it is likely that racing will continue until after 2110 hours.
- 7.05 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 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.
- 7.06 As I have previously advised this Committee, 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. My report to Members for the previous application (SW/14/0088), which sought to increase the finish time to 2200 hours, set out my firm view that a finish at that time was wholly unacceptable and would give rise to noise levels becoming noticeable and disruptive. Government guidance, as set out above, is that such situations should be avoided.
- 7.07 This application seeks an earlier finish for racing of at least half an hour over that previously proposed. 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.

- 7.08 Members will note that the Environmental Health Manager clearly sets out, again, that in his opinion, the proposal would give rise to noticeable and harmful impacts on residential amenity, and that these would amount to an “unreasonable level of disturbance” to local residents. This empirical evidence is supported by the views of nearby local residents, as set out above.

- 7.09 The appeal decision which granted permission for the temporary use of the site is attached as Appendix A to this report. 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 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.
- 7.13 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 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 Members will note above that the planning statement submitted with the application states that "*most residents would not be going to bed at 2130 on a Friday and also younger children would not be going to school the next day, so there would be no disruption to sleep as a result of this proposal.*" 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.

- 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 The planning statement refers to other sites in close proximity to dwellings which have later finish times than currently imposed on the application site, and later than proposed under this application. Members may recall my report on application SW/14/0088, which set out in some detail the location, race times and in some cases reports from Environmental Health Officers relating to those sites. Of the two cases raised in the planning statement, the site in Plymouth is the subject of numerous noise complaints to the local Environmental Health Officers. The site referred to in Manchester appear to be located close to an existing speedway track and as such does not amount to the introduction of a new noisy use close to dwellings. In any case, this application has to be considered on its own merits, and I would reiterate to Members that the appeal decision here was made on the basis that the current finish times avoided sensitive hours of the day/night.
- 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 the evening, which would be very likely to harm the living conditions of residents nearby.

Benefits of the proposal

- 7.18 The extract from the supporting letter (see paragraph 2.05 above) states that it is an “economic imperative” that the site attracts an Elite Speedway team. However – it is not made clear what this economic imperative amounts to, nor whether the viability of the use is in question. Whilst the planning statement includes a section in relation to viability, it is not explicitly set out that viability of the use is at risk. It states that “in order to make the stadium an attractive venue and to ensure its financial viability, it is necessary to facilitate and attract more spectators and to ensure that spectators are not deterred by inconvenient opening hours” .The statement later sets out that “If the speedway meetings continue to operate in accordance with the existing restrictions, it would fail to compete with other speedway racing leagues which would be detrimental to the viability of the use of the site. The approval of this application would help offset the downturn in revenue from greyhound racing and would help to secure the future of the stadium.” No evidence has been presented to demonstrate that the use of the site for an additional hour would help secure the future of the stadium, nor that the use cannot continue in its present form. In the absence of detailed financial

information relating to viability, Members are entitled to give these assertions little weight.

- 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 the principal argument made 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.
- 7.20 As with the previous application, 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.
- 7.21 I give little weight to the assertion in the planning statement that it is difficult to attract sufficient volunteers to be able to stage a meeting. No evidence has been provided to support the assertion that race meetings have been adversely affected by a lack of volunteer staff.
- 7.22 In addition, whilst there is an argument that competing in a more prestigious league (the “Elite” League) and attracting occasional prestigious events (such as the international event held last year) are a benefit to the town and the Borough, Members must give weight to the fact that this application comes midway through a trial period – a temporary permission specifically imposed by the Planning Inspectorate wholly on the basis that it a) was of a period sufficient, on the applicants own argument, for the use to be viable, and b) that it was the minimum required in order for the Local Planning Authority to assess the impacts of the use on nearby residents.

Balancing Exercise

- 7.23 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, for entering a higher calibre of league, for hosting more prestigious events, and for issues relating to viability (notwithstanding that, in my view, the latter three matters should be given limited weight.).
- 7.24 I give weight to the representations received in support of this application, and to their number. In particular, the notion that a later start and correspondingly later

finish time 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).

- 7.25 As I set out above, the agent has indicated that his 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. I am awaiting additional information as to how often this additional 20 minutes would be likely to be put to use and will update Members at the Meeting.
- 7.26 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 (bearing in mind that the temporary permission expires at the end of next season). I have sought clarification from the agent as to whether limiting the number of late finishes per season may be acceptable to his client and will update Members at the Meeting. These alternatives might be considered to mitigate against the harm identified by the Environmental Health Officers in their comments above.
- 7.27 However, on the basis of the comments of the Environmental Health Manager, I would not advocate taking such an approach. In my view, the arguments in favour of approving a later finish time 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, and in view of the fact that the current use amounts to a trial period only, I conclude that the justification in favour of approval is limited.
- 7.28 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.
- 7.29 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..

8.0 CONCLUSION

- 8.01 Given the above, whilst I am mindful that there would be a wider benefit to be derived from a later finish time to speedway racing at the Central Park Stadium, I am of the view that any extension of the hours of use later into the evening would cause substantial harm to residential amenity, such that, subject to any further comments on the additional information received, this application should be refused.

9.0 RECOMMENDATION – REFUSE for 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 Framework and National Planning Policy Guidance 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 these were not considered to be any 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.

Case Officer: Rob Bailey

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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Appeal Decisions

Inquiry held on 16 February 2010 and 27-29 April 2010
 Site visits made on 16 February 2010 and 29 April 2010

The Planning Inspectorate
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 Bristol BS1 6RN

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by L Rodgers BEng CEng MICE MBA

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.

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Application for costs

1. At the Inquiry an application for costs was made in respect of both appeals by Cearnsport 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.

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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 $L_{Aeq,1h}$ (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

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

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

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

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Chartered Surveyors | Property Advisors | Planning and Development Consultants

15/500862



**CENTRAL PARK STADIUM,
SITTINGBOURNE, KENT ME10 3SB**

PLANNING STATEMENT

Date: 28 January 2015

Ref: 9289

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1.0 INTRODUCTION

- 1.1 The application seeks to alter the opening hours of speedway race meetings at the Central Park Stadium, Church Road, Sittingbourne on Fridays only to 18.00 to 21.30. The economic imperative of this application is to seek to attract Elite speedway clubs to the race track, to be able to operate in a higher league and to ensure racers, workers and spectators can reach the grounds in good time for the speedway races. There is no other speedway track in the country that operates with such restricted hours and this significantly hampers the ability of Cearnsport Ltd to attract the Elite teams to compete from Central Park Stadium. An Elite team competitor would positively alter the economic benefits of the speedway operation, contributing to the local economy.
- 1.2 This structure of this Planning Statement is as follows:
- **Section 2 The Proposal** – sets out the proposed change to alter the speedway race meeting opening hours on Fridays only by one hour from 18.00 to 21.30.
 - **Section 3 Site and Location** – describes the aspects of the site and surroundings relevant to the application proposal.
 - **Section 4 Background** – sets out the relevant background with regard to speedway racing at Central Park Stadium.
 - **Section 5 Need** – demonstrates the urgent need for the proposed extension of the Friday speedway race meeting finishing time.
 - **Section 6 Planning History** – sets out the recent and relevant planning history of the speedway use at Central Park Stadium at other stadia in the UK relevant.
 - **Section 7 Planning Justification** – assesses the proposals against the relevant planning policy framework.
 - **Section 8 Conclusion** – provides a series of conclusions.

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2.0 THE PROPOSAL

- 2.1 The application proposal seeks to vary Condition 7 of planning permission ref. SW/09/0314 which regulates the permitted opening times of Central Park Stadium for speedway race meetings. Condition 7 currently states:

“Weekday races shall take place between 1700 and 2030 hours only and there shall be no warming up of speedway bikes prior to 1630 or after 2030 hours.

Bank Holiday Monday races shall take place between 1500 and 1800 hours only and there shall be no warming up of speedway bikes prior to 1430 or after 1800 hours”.

- 2.2 It is proposed to alter the operating times by one hour on Fridays only so that the meetings on this day would start at 18.00 instead of 17.00 and finish at 21.30 instead of 20.30. All the other existing restrictions in Condition 7 would remain unchanged; i.e. the operating hours on Monday to Thursday will remain at 1700 to 2030 and meetings will still finish at 1800 on bank holidays.

- 2.3 The proposed revised Condition 7 states:

“Weekday races shall take place between 1700 and 2030 hours only and there shall be no warming up of speedway bikes prior to 1630 or after 2030 hours, except on Fridays during which races may take place between 1800 and 2130 hours with no warming up of speedway bikes prior to 1630 or after 2130 hours.

Bank Holiday Monday races shall take place between 1500 and 1800 hours only and there shall be no warming up of speedway bikes prior to 1430 or after 1800 hours”.

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**3.0 SITE AND LOCATION**

- 3.1 Central Park stadium is used successfully for league speedway racing. A large parking area is located to the front and side of the building. Pit areas for speedway bikes and riders are located to the north east of the site. A substantial acoustic fence has been erected along the southern boundary of the site.
- 3.2 Central Park Stadium also hosts greyhound racing and football activities which have been permitted since 1996 to take place 7 nights a week until 11pm. During busy times, the stadium accommodates crowds in excess of 5,000 spectators associated with these events. The applicant also has a drinks licence until 2am and is permitted to hold five outdoor concerts a year. Speedway race meetings as proposed on Fridays would still finish earlier than other activities within the same stadium and would also take place comparatively infrequently. Current restrictions ensure that no more than 17 races take place per meeting and that there is only one meeting per week.
- 3.3 Central Park Stadium is appropriately situated on the outskirts of Sittingbourne, on the fringes of the Eurolink industrial estate. It is adjacent to the East Hall Farm industrial estates and the nearest residential development streets to the stadium are at Murston to the south of the site, the closest of which lies approximately 175m to the south at Hugh Price Close and Oak Road.

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**4.0 BACKGROUND**

- 4.1 Speedway racing is a popular event at Central Park Stadium and receives considerable support from the local community. Speedway race meetings consist of 17 one-minute races which take place for two hours at a time on one weekday approximately 19 times in the season (1st March to 31st October). Typically, meetings take 1hr 30 minutes however this occasionally increases to 1hr 55 minutes if there has been a delay, such as a crash or a heat recall. The total length of each meeting would remain the same, never exceeding two hours.
- 4.2 It is expected that with a later start on Fridays, the last race on Friday would be around 21.10, with the additional 20 minutes to be used only infrequently if a delay occurs as described above. The activities taking place during the additional hour (i.e. 20.30 to 21.30) would typically be limited to 5 to 8 sixty second races, amounting to a maximum of 8 minutes of racing during this hour.
- 4.3 The speedway use is in full compliance with the terms of the relevant planning permissions (refs. SW/08/0962 and SW/09/0314) first granted by the Borough Council but as subsequently varied by the Inspector on appeal by means of the decisions dated 25 May 2010. Under the planning permission, the speedway racing may continue until the end of the 2016 season.

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5.0 NEED

- 5.1 The current speedway racing finish time of 20.30 is excessively early, meaning that the time to start the racing is also inevitably excessively early. It takes up to two hours to complete a meeting so the practice is to start at 18.30 to allow spectators, competitors and volunteers to reach the stadium, however many are unable to arrive at the stadium in sufficient time for the start.
- 5.2 There are a number of materially important issues which currently adversely affect the number of people who are actually able to attend or take part in race meetings, which are summarised below:
- **Many local spectators commute to and from London.** National rail trains from London terminals to Sittingbourne take approximately 1 hour although Sittingbourne station is a further 1.7 miles from the Stadium. For those that commute by public transport, this does not leave sufficient time to arrive at the stadium before the start time.
 - **It is a family orientated sport.** For example, children under 12 are admitted free. Many parents need to get home and collect their children before reaching the stadium which is difficult to achieve in practice, particularly given the start time is during the peak evening rush hour.
 - **Race meetings are very reliant upon volunteer assistance.** Volunteers are also often affected by adverse traffic conditions which can present difficulties. For example, race meetings cannot commence without an ambulance present.
 - **Competitors also encounter difficulty** particularly when travelling from far away. The inability of the stadium to recruit skilled and experienced speedway riders to their team is evidence of the present difficulties. Speedway is not comparable to a football team in salaries and benefits, and most competitors have a day job.
 - **Need more visitors to promote to Elite league status.** On average, approximately 550 people attend the speedway racing meetings, however, a minimum of 750 visitors are required in order to be promoted from the bottom league. The applicant has recently received an approach from an Elite league team to transfer to Central Park Stadium, which would be a significant coup for Sittingbourne. A later start on Friday is therefore required to maximise the number of people able to attend each event and so that the races can be broadcast on Sky TV. Sky TV also has financial benefits to the speedway team and stadium sponsors. An increase in the number of people able to attend the event is required to cover the higher rider costs.
 - **Financial viability.** In order to make the stadium an attractive venue and to ensure its financial viability, it is necessary to facilitate and attract more spectators and to ensure

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that spectators are not deterred by inconvenient operating hours. There is also an aspiration to attract more prestigious and international events which would be unable to take place at the stadium given the existing operating restrictions. Riders for such events may travel from all over Europe. Such events, if they were held, would enhance the reputation and image of the stadium and the Country as they are of immense interest and tend to attract many new supporters.

- **A written** petition (appended to this Statement) demonstrates that 135 people support an extended finishing time on Fridays and an **on-line petition** demonstrates that (at the time of submission) over 1069 people support an extended finishing time. This is a significant number of supporters compared to those who objected to the refused proposal - 44 letters of objection were received in relation to previous application ref. SW/14/0088 according to the Officers' report. The on-line petition can be accessed here: <http://www.change.org/p/swale-council-kent-reconsider-a-rejection-for-central-park-speedway-revised-start-times>

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6.0 PLANNING HISTORY

6.1 This site has a relatively extensive planning history, of which the table below summarises the relevant cases:

Table 1. Recent and relevant planning history at Central Park Stadium

Reference	Description	Decision
SW/08/0962	The 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.	Approved on 15/01/09 Note – Planning Officer recommended refusal, but Members resolved to grant a temporary planning permission to allow the use of the site on a trial basis only.
SW/09/0274	Erection of acoustic fence around southern perimeter of stadium terraces maximum height 6.1m	Approved on 11/09/09
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 on 17/08/09 Allowed on appeal 25/05/10
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 on 28/08/09
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. Applicant sought to vary Condition 2 attached to permission SW/09/0314 which restricted the use to one season only at appeal.	Approved 13/10/09 Appeal allowed on 25/05/10 and temporary permission extended to four years (until the end of the 2016 season).
SW/14/0088	Variation of condition (7) of SW/09/0314, to allow speedway racing between 15:00 & 22:00 hours on weekdays and bank holidays.	Refused on 24/09/14

Recent and relevant planning history at other UK speedway stadia

- 6.2 **A planning application (ref. 13/0116/FUL)** to continue the use of part of the land at St Boniface's College Sports Ground, Plymouth as a speedway track and to vary existing conditions of planning permission ref. 07/00547 was approved at Committee on 13 January 2014. Permission was granted to change the start time of the speedway race meeting from 19.30 to 19.15 and the finish time from 21.30 to 21.45 on weekdays only (and 20.30 on bank holidays). The Supporting Statement states the nearest house to the track is 200m away.
- 6.3 **A planning application (ref. 106133/VO/2014/N2)** for a new speedway stadium with a capacity of 6,024 seats at Belle Vue Leisure Centre, Kirkmanshulme Lane, Manchester was granted permission at Committee on 11 September 2014. The Environmental Statement identifies that the nearest residential properties are at Ellen Wilkinson Crescent, Scarcroft Road and Penketh

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Avenue/Stanley Grove which lie 30m and 7m from application site boundaries respectively. The speedway events take place during the season (March to October) on Wednesday, Friday and Saturdays from 18.00 to 22.30

- 6.4 **A planning application (ref. 2010/02985/PA)** for the continued additional use of the Perry Bar Stadium, Birmingham for speedway racing on a permanent basis; on weekdays either on Wednesdays or Thursdays was approved at Committee on 26 August 2010. Under Condition 12 of this permission, speedway race meetings are restricted to Wednesdays or Thursdays between 19.30 and 22.00, and 18.00 to 21.00 on Sundays.

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7.0 PLANNING JUSTIFICATION

7.1 The key planning issues identified for consideration include:

- (i) The principle of altering the permitted hours of operation
- (ii) Impact on the living conditions of nearby residents by virtue of noise and disturbance

Principle of altering the hours of operation

- 7.2 In the Swale Borough Local Plan (SBLP) (February 2008), the Council recognises the importance of supporting and retaining businesses and ensuring that the needs of local businesses can be met to the full (section 3.2, para. 3.72). Core Strategy Policy SP3 (1) states that supporting local companies to grow and develop and providing opportunities for new innovative industries to flourish can help to satisfy economic need and bring about the required step-change in economic performance, particularly in its principal town centre, Sittingbourne.
- 7.3 SBLP Core Strategy Policy SP7 states that to satisfy the social needs of the Borough's communities, development proposals will promote safe environments and a sense of community by *"increasing social networks by providing new community services and facilities, increased use of local facilities or innovative ways of providing or continuing existing services"*.
- 7.4 SBLP Development Control Policy C1 (2) states that the 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 proposals that will help maximise 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"*.
- 7.5 Through the National Planning Policy Framework (2012) (NPPF), the Government is committed to ensuring that the planning system proactively supports sustainable economic growth and accounts for and reacts to market signals. To help achieve this, paragraph 20 states that local planning authorities should plan to meet the development needs of business and support an economy fit for the 21st Century. Furthermore, the document recognises the importance of supporting existing business sectors when they are expanding, and implementing planning to allow rapid response to change in economic circumstances.
- 7.6 Paragraph 70 of the NPPF states that in order 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;*

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- *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"*

7.7 All modern businesses require an element of flexibility in their operating hours, a fact that becomes more pronounced for medium sized enterprises which are critical to the sustained development of the UK economy. It is demonstrated in sections 4 and 5 above that there is a real and urgent need for the finish time of the speedway race meetings on Fridays to be extended in order to allow existing visitors sufficient time to arrive before meetings commence, and to attract new visitors to the venue. The success and necessary expansion of the business depends on an increase in visitor numbers which would enable it to move out of the speedway bottom league and to accommodate an elite national speedway league team. This would ensure the financial viability of the business and would contribute to the local economy of Sittingbourne.

7.8 In varying Condition 7 to extend the operating hours of the speedway race meetings on Friday, the proposal complies with both national and local policy and contributes towards the strengthening of the Borough's economic and employment provision, particularly for this now well established sports enterprise. In addition, the extended operating hours would allow more spectators and competitors to attend race meetings which addresses Core Strategy Policy SP7 and Development Control Policy C1(2) which seek to increase the improve the use of community facilities respectively. As the proposed extended day is a Friday, this would not affect parents with school children, either attending the track or residents in the area.

7.9 A study of the 29 speedway stadia in the UK has been undertaken, which expands upon the Council's study in the Committee report dated 18 September 2014. This study clearly demonstrates that speedway race events at all other stadia in the UK finish much later than the meetings held at Central Park Stadium, with the majority of meetings finishing around 10pm on weekdays. Central Park Stadium is the only stadium in the UK at which speedway race meetings are restricted to finish as early as 20.30 during weekdays, which is between half an hour to two hours earlier than all speedway race meetings held at other stadia.

Table 2. UK Speedway Stadiums finish times

Speedway track and location	Latest finish time (approx) and main race day
Birmingham Brummies, Perry Barr Stadium	22.00 (Wednesday/Thursday), 21.00 (Sunday)
Glasgow Tigers, Ashfield Stadium	18.00 (Sunday)
Edinburgh Monarchs, Armadale Stadium	22.30 (Friday)
Berwick Bandits, Shielfield Park	22.00 (one weekday), 21.30 (Saturday)

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Workington Comets, Derwent Park Stadium	22.00 (Friday / Saturday / Sunday / Bank Holidays)
Newcastle Diamonds, Brough Park	*21.30 (Sunday)
Redcar Bears, South Tees Motorsports Park	22.00 (Thursday)
Scunthorpe Scorpions, Eddie Wright Raceway	*21.30 (Friday)
Sheffield Tigers, Sheffield Speedway, Owlerton Stadium	22.00 (Thursday)
Belle Vue Aces, Bell Vue Stadium, Manchester	21.30 (Monday) – Once new stadium is built and operational, will be 22.30 (Wednesday, Friday, Saturday)
Buxton Hitmen, Buxton Speedway Stadium, Derbyshire	17.00 (Sundays)
Stoke Potters, Chesterton Stadium, Chesterton	*21.30 (Saturday)
Kings Lynn Stars, The Stadium, King's Lynn	22.30 (Thursday)
Peterborough Panthers, East of England Showground	22.00 (Thursday)
Wolverhampton Wolves, Monmore Green Stadium	22.00 (Monday)
Coventry Bees, Coventry Stadium, Coventry	22.00 (Friday)
Mildenhall Fen Tigers, Mildenhall Stadium	18.30 (Sunday)
Ipswich Witches, Foxhall Stadium	22.30 (Weekday) 18.30 (Sunday/Bank Holiday)
Rye House Rockets, Rye House Stadium, Hoddeson	*21.30 (Saturday)
Lakeside Hammers, Arena-Essex Raceway, Thurrock	22.00 (Friday)
Kent Kings, Central Park Stadium, Stittingbourne	Existing time 20.30 (Monday) Proposed time 21.30 (Friday)
Eastbourne Eagles, Arlington Stadium, Hailsham	*21.30 (Saturday)
Isle of White Islanders, Smallbrook Stadium	21.00 (Tuesday) – except when meeting is delayed, then may operate until 21.30
Poole Pirates, The Stadium, Poole	22.00 (Wednesday)
Plymouth Devils, St Boniface Arena, Plymouth	21.45 (Thursday to Saturday), 20.30 (Bank Holidays)
Somerset Rebels, Oak Tree Arena	22.00 (Friday)
Swindon Robins, Abbey Stadium, Swindon	22.00 (Thursday)
Dudley Heathens, Ladbroke Stadium	*21.30 (Tuesday)
Leicester Lions, Beaumont Leys Stadium, Leicester	22.30 (Saturday)

Source: Speedway GB (The Official British Speedway Website) and individual speedway race operator websites, accessed December 2014. Link: <http://www.speedwaygb.co/wherearethecubs.html>

Note: *A search of the individual speedway race operator websites and the relevant planning histories (where available) on the respective local authority websites has identified all the start times and main race days of the speedway race meetings, and in most cases, the permitted finish times. However, when finish times were not available, it has been assumed that the meetings will finish two hours from the start time, based on the average length of speedway race meetings lasting approximately two hours. Therefore in some cases (*) the stadia may actually have a later curfew than indicated in this table.

7.10 The stadium is licensed to host greyhound racing after 10pm, football every evening of the week past 10pm and music concerts five times a year. The speedway use at the stadium is appropriately located on the outskirts of Sittingbourne, adjacent to the Eurolink industrial estate and surrounded by employment uses to the north, west and east and therefore is in accordance with the NPPF which seeks to ensure an integrated approach to the location of economic uses.

7.11 It is contended that the principle has been established and a finish time of 2130 on Fridays only as proposed in this application is entirely reasonable particularly given the conclusions of the noise assessment report which conclude that there would be no demonstrable harm to residential amenity even in the most irregular wind direction, which is occasional, not typical.

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Impact on the living conditions of nearby residents by virtue of noise and disturbance

- 7.12 Swale Borough Local Plan 2008 (SBLP) Development Control Policy E1 sets out the general development criteria by which the Borough Council expects all developments proposals to comply with. Criterion 8, relevant to this application, states that proposals should “*cause no demonstrable harm to residential amenity and other sensitive uses or areas*”.
- 7.13 Development Control Policy E2 states that “*all development proposals will minimise and mitigate pollution impacts and that proposals will not be permitted that would, individually or cumulatively, give rise to pollution significantly adversely affecting the following: [inter alia] residential amenity*”
- 7.14 Para. 3.6 of the SBLP states that the Council seeks to “*minimise the impact of noise between new and existing uses...The Council requires adequate details to be submitted with planning applications to identify noise intrusive uses, noise sensitive sites as well as the measures needed to reduce noise. By considering noise exposure at the time of the application, and any increases that may be reasonable expected, a judgement will then be made on the potential noise impact in accordance with Government Planning Policy*”.
- 7.15 The National Planning Policy Framework 2012 (NPPF) sets out the following:
- Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by inter alia “*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 explains that “*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*”.
 - Paragraph 123 stipulates that 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.*

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7.16 The National Planning Practice Guidance (March 2014) (NPPG) states that local planning authorities' 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.*

7.17 The NPPG also provides a noise exposure hierarchy, based on the likely average response, which is set out in paragraph 006 of the NPPG. To clarify, the difference between the two perception definitions 'intrusive' and 'disruptive' is that the noise effect level perceived to be 'intrusive' is an adverse effect which can be acceptable in noise terms with appropriate mitigation, whereas the noise effect level perceived to be 'disruptive' is a significant adverse effect which is unacceptable in noise terms regardless of mitigation.

7.18 In the absence of any specific guidance for assessing motorsports, some consideration could be given to the guidance in the now defunct PPG24 "Planning and Noise" issued by the Department of the Environment in 1994. PPG24 comments on noise from recreational and sporting activities in paragraph 22 (of Annex 3), stating:

'For these activities (which include open air pop concerts), 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. Partially open buildings such as stadia may not be in frequent use. Depending on local circumstances and public opinion, local planning authorities may consider it reasonable to permit higher noise emission levels than they would from industrial development, subject to a limit on the hours of use, and the control of noise emissions (including public address systems) during unsocial hours. A number of sports activities are the subject of Codes of Practice, and further details of these can be found in Annex 7.'

7.19 In light of local policy requirements and the concerns raised with regard to past submissions, Hill Engineering Consultants Ltd were commissioned to undertake an environmental noise investigation, the report of which was submitted with previous planning application ref. SW/14/088 and with this application. The Hill Engineering report (dated July 2013) confirms that the acoustic barrier is operating effectively so as to safeguard the residents from the adverse effect of noise emissions. Measurements were taken on a day with strong north-easterly winds which is not a typical wind direction, and as such speedway noise levels of 52.8dB(A)_{Leq} were slightly higher than the 52dB(A)_{Leq} predicted in the previous report (ref. E15073/05), dated July 2008) but were still well within the parameters agreed at the public inquiry and below WHO evening guidelines of 55dB_{Leq}. Notwithstanding, with a south-easterly wind, it is expected noise levels would be reduced by a further 5-7dB(A). Given that winds in the UK are from a south or south-easterly direction 70% of the time, speedway noise levels will on average be lower than

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those recorded in 2013. The evidence presented is a worst case scenario and is therefore robust, and it is concluded that there would be no demonstrable harm to residential amenity even in the most irregular wind direction.

- 7.20 The acoustic barrier has been constructed in accordance with the approved design and specification of which the Council has endorsed as a suitable form of acoustic fencing to adequately attenuate the sound emission from the race track (as per planning permission ref. SW/09/0274). The fence complies with the approved design and specification and provides sufficient sound attenuation and does not exceed the noise limits agreed with the Council as verified in the Nicholas Hill report. Therefore the key issue in this application is whether or not a later start time of 21.30 on Fridays compared to 20.30 is considered to be a materially significant change in respect of potential harm to residential amenity.
- 7.21 Planning application (ref. SW/14/0088), as tabulated in Section 6 above, sought to amend the start and finish times on weekdays and bank holidays to between 15.00 and 22.00, but was refused at Committee on the grounds of perceived harm to the living conditions of nearby residents by virtue of noise and disturbance. This current application proposal is similar in nature but only seeks to extend the finish time by one hour so that race meetings on Fridays only will finish no later than 21.30 instead of the authorised time of 20.30. All other restrictions relating to the use of the site would remain unchanged.
- 7.22 Policy tests within local policy and national policy guidance stipulate that planning decisions should aim to avoid noise from generating a significant adverse impact on quality of life. The guidance contained within the NPPG sets out a noise exposure hierarchy which categorises various levels of noise impacts with corresponding actions, such as mitigation. In the Officers' report relating to application ref. SW/14/0088, the Council considered that the current use of the site up to 20.30 gives rise to 'noticeable and *intrusive* noise' which is defined in the NPPG as causing small changes in behaviour and/or attitude, e.g. turning up television, speaking more loudly and closing windows, but is capable of being reduced to an acceptable level with appropriate mitigation. However, the Council considered that if the use was extended to 22.00 (as previously proposed) this would lead to noise levels becoming 'noticeable and *disruptive*' which is defined as causing a material change in behaviour which should be avoided and cannot be mitigated, e.g. avoiding certain activities during periods of intrusion, potential for sleep disturbance, having to keep windows closed, premature awakening.
- 7.23 In response to this, the applicant now proposes a finish time of 21.30 on Friday, which would be sufficient to meet the needs of the business. It is considered that the use of the site up to 21.30 is not materially different from 20.30 and would not create significant adverse noise impacts. The Council's concern that the previously proposed 22.00 finish time would adversely impact those local residents looking to go to bed at that time is now overcome – most residents would

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not be going to bed at 21.30 on a Friday and also younger children would not be going to school the next day, so there would be no disruption to sleep as a result of this proposal.

- 7.24 In light of national policy guidance, the noise impacts resulting from the proposed additional hour may give rise to 'noticeable and *intrusive*' effects, as the Council have suggested is the case with the existing situation i.e. finishing at 20.30. However, the noise effects as a result of the application proposal would not be 'noticeable and *disruptive*' given the conclusions of the noise assessment report and the successful implementation of an effective acoustic barrier which fully mitigate and reduce noise emissions to an acceptable level. It is considered that the infrequent use of the speedway use would not be demonstrably harmful to the amenities of residents in the area.
- 7.25 Condition 7 was originally imposed (and supported at appeal) to offer protection against an unknown noise environment or potential impact, given the lack of supporting technical information available to the Inspector at the time. This is reflected by the numerous references in the Appeal Decision (ref. 2114712 / 2115416) to 'likely' impacts as opposed to thoroughly identified and assessed impacts. Noise from the speedway race meetings has since been proven not to be a significant adverse impact. The technical surveys and analysis contained within the Hill Engineering Report support this conclusion.
- 7.26 In the Appeal Decision (dated 25 May 2010), the Inspector stated that "*the introduction of new silencers is likely to further reduce the predicted noise levels...and despite the limited testing to date, I consider it reasonable to have some regard to the benefits of the new silencers*" (p.62). Following this decision, homologated silencers for speedway use were made compulsory by the Speedway Control Bureau (SCB) on 1st January 2011 and have since attenuated noise considerably. A technical noise report prepared by Hill Engineering Consultants Ltd (ref. 2010/02985/PA, dated 24 April 2010) was submitted with the Birmingham Perry Barr Stadium application (see para. 6.4 above) and assesses the extent to which the new silencers reduce noise levels. It concludes in section 5.0 that "*noise reduction from Speedway due to use of the improved silencer shows a 4-5dB(A) reduction during the course of the heat...[and] the improved silencer additionally results in reduced rasp in the exhaust noise, considered to be a further benefit to local receptors*".
- 7.27 There have been a number of recent planning permissions related to speedway racing at other comparable stadia in the UK, with residential properties closer to the racing track than this application proposal (for details, see paras. 6.2 to 6.4 above). Whilst it is acknowledged that each stadium is different, both topographically and relative to sensitive users, these comparables should be given some weight in gauging potential harm by virtue of noise on local residents near to Central Park Stadium.

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**8.0 CONCLUSION**

- 8.1 To conclude, there are a number of important factors which mean that it is reasonable to consider the extension to the finishing time for speedway race meetings at Central Park Stadium. An extension in the operating hours by one hour on Fridays so that the racing would not take place beyond 21.30 compared with 20.30 is not considered to be a material change from the existing situation and would not give rise to demonstrable or substantial harm to nearby residents by virtue of noise or disturbance, as corroborated by the Hill Engineering noise assessment report. The proposal should be considered in light of the potential benefits to be derived from approving this application and the fact that speedway noise levels are lower than at other speedway stadia at which residential properties are located closer to the track.
- 8.2 Speedway racing is very important to the community of Sittingbourne which is demonstrated by the significant levels of support substantiated in the online petition. There is no other speedway track in the country that operates with such restricted hours and this significantly hampers the ability of Cearnsport Ltd to attract the Elite teams to compete from Central Park Stadium. If the speedway meetings continue to operate in accordance with the existing restrictions, it would fail to compete with other speedway racing leagues which would be detrimental to the viability of the use of the site. The approval of this application would help to offset the downturn in revenue from greyhound racing and would help to secure the future of the stadium. There would be significant benefits to the local economy and to the community within Sittingbourne, helping to promote speedway racing at this location and to encourage young people to participate in the sport.
- 8.3 Speedway race meetings would remain at the same length and would not exceed 2 hours. A maximum of 8 minutes of racing is expected to take place between 20.30 and 21.10, with the additional 20 minutes (up to 21.30) to be used less often only in the case of a delay. Given the short duration of the races, the noise impacts of the speedway (as set out in the noise assessment report), whilst being noticeable to adjacent residential properties, are predictable and will not reach harmful or disruptive levels due to mitigation measures, particularly the acoustic fence.
- 8.4 It has been satisfactorily demonstrated that under normal conditions residential amenity is not adversely affected. In balancing the likely harm against the likely benefits, we conclude that the benefits of these proposals are significant as to outweigh the minimal impact on the living conditions of the nearby residents. For all of the reasons set out above, it is considered that the application proposals should be permitted given the conformity with national and local planning policies.