



**Forest Heath**  
District Council

**DEV/FH/17/032**

## **Development Control Committee 6 September 2017**

### **Planning Application DC/16/0866/VAR – Motocross Circuit, Hayland Drove, West Row**

**Date Registered:** 25.04.2016      **Expiry Date:** 25.07.2016 (EOT until 04/08/2017)

**Case Officer:** Gary Hancox      **Recommendation:** Approve Application

**Parish:** Mildenhall      **Ward:** Eriswell and the Rows

**Proposal:** Variation of Conditions 5 and 6 of F/2001/768 to extend the opening hours (as per Planning Statement submitted with this application) to allow for continued use of land as motocross track on a permanent basis and variations to conditions

**Site:** Motocross Circuit, Hayland Drove, West Row

**Applicant:** Mr Terry Waters

#### **Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

#### **Recommendation:**

It is recommended that the Committee determine the attached application and associated matters.

#### **CONTACT CASE OFFICER:**

Gary Hancox

Email: gary.hancox@westsuffolk.gov.uk

Telephone: 01638 719258

## **Background:**

1. The Site has a long and complex planning history and currently operates under a restricted planning permission granted in 2002 (Ref: F/2001/768) for the 'continued use of land as motocross track on a permanent basis'. This included conditions that restricted the noise of the motorbikes used, as well as the hours the track could operate. Since 1992, the motocross track has been used subject to a personal permission, and this was renewed on several occasions, subject to conditions.
2. Located just outside the site's boundary, but relevant to the Site's history, is a stadium used for speedway racing. This was originally granted planning permission in 1975. This permission allowed the stadium to be used for speedway racing and associated facilities for a period of ten years. A permission retaining this use was granted in 1985. Use as a greyhound track was permitted in 1989, and stock cars followed in 1997.
3. A bungalow, named 'Fenland', was built in the 1950s, and is located approximately 560m from the speedway stadium and 860m from the motocross circuit. In January 2006 the property was purchased and occupied. By April 2006, the occupiers had become concerned about the noise coming from the stadium and motocross events on the circuit. Following complaints made to the Council, noise abatement notices were issued and attenuation works were carried out in January 2009. However, the appellants pursued their contention that both the stadium and the circuit were not being used in such a way to constitute a nuisance. In early 2008, following discussions held with those owners and leasers of the stadium and circuit, the owners of Fenland issued legal proceedings against the stadium owners in the High Court for an injunction to restrain the nuisance. This contention was maintained following the noise attenuation works carried out in January 2009 and it was contended that the activities at the stadium and the circuit, both individually and cumulatively, constituted a nuisance.
4. The High Court judge issued his decision on 4th March 2011 which stated that when the stadium was being used for speedway, stock car and banger racing (which began post 1984), and also when the circuit was being used for motocross (from 1992), the noise was 'sometimes sufficiently intrusive to generate complaints' and therefore remedies in the form of an injunction to restrain the activities at the stadium or the track which emitted more than a specified level of noise, were required and implemented. These noise levels were fixed by reference to the quantum of noise emitted from various motor racing circuits across the UK. A sum of money was also required to compensate for past disturbance. The owners of the stadium and motocross track appealed against this decision and the Court of Appeal reversed the judge's decision, holding that the owners of Fenland had failed to establish that the activities at the stadium and the track constituted a nuisance. The owners of Fenland then appealed to the Supreme Court, which upheld the High Court judge's injunction to restrain noise levels. At some point during the protracted legal proceedings, Fenland was destroyed in a fire. The injunction would therefore take effect when and if the property was rebuilt and re-occupied.

5. The application is before Members of the Forest Heath Development Control Committee as the views of the Parish Council are contrary to that of the Officer recommendation of approval. The applicant is also related to a Forest Heath District Councillor.

**Proposal:**

6. The application proposes the variation of Conditions 5 and 6 of planning permission F/2001/768 to extend the opening hours to allow for continued use of land as motocross track on a permanent basis, along with appropriate variations to conditions.

Existing operation of motocross track:

7. Presently, the motocross track operates in accordance with the following restrictions:
- From April-October inclusive, the track is used every other Sunday only. Six of the Sundays during this period are for event days. The hours of operation for events during this period are from 10.00am to 18.00pm. On other Sundays when the track is used during this period, the hours of use are from 10.00am to 16.00pm;
  - From November to March inclusive, the track is used every Sunday from 10.00am to 16.00pm. This will include 5 event days to be completed by 16.00pm;
  - Every Tuesday as training/practice/nursery days from 10.00am to 16.00pm; and
  - Every Thursday for practice days (10.00am till 16.00pm).

Proposed operation times of the motocross track (as amended):

- i) Two year temporary permission.
- ii) All Saturdays and Sundays throughout Jan-May (inclusive), 09:00 - 18:00. Every other Sunday throughout June-Aug (inclusive), 09:00 - 18:00. Three Saturdays can be requested during June-Aug; the date will be previously agreed in writing with the local planning authority and not less than one months prior notice shall be given.
- iii) All Saturdays and Sundays throughout Sept - Dec (inclusive), 09:00 - 18:00. (no lighting to be installed)
- iv) Every Tuesday and Thursday practise days 09:00 – 16:00 Jan-Dec. With no restriction of riders (unlimited).
- v) As per ACU (Auto Cycle Union) and HSE guidance group riders will be restricted to 45 riders for the main track.
- vi) Limit on events held at the motor cross track(s) as currently restricted to 12 per annum.

vii) On request, as per current approval, sound reports will be supplied to ensure the db. levels are kept to a minimum. (i.e. no more than 85db per hour average).

viii) Removal of 1 hour lunch break (hours rest bite) currently imposed on the track.

ix) Should Pear Tree farm be sold and/or separated from the same ownership of the motocross track, the temporary permission will end and the use of the motocross track will revert back to the restrictions as per previous planning permission F/2001/768.

### **Application Supporting Material:**

8. Following a screening process, the Council issued a Screening Opinion that concluded that the proposed development constituted EIA development. Consequently the application is now accompanied by an Environmental Statement (ES) in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 & 2017. In accordance with Parts 1 and 2 of these Regulations, the ES includes the following information:

- a description of the Development comprising information about its nature, size and scale;
- an outline of the main alternatives studied and an indication of the main reasons for the choices made taking into account the environmental effects
- a description of the aspects of the environment likely to be significantly affected including population, fauna, flora, soils, water, air, climatic factors, material assets including architectural and archaeological heritage, landscape, and the inter-relationship between the above factors;
- a description of the likely significant effects of the Development on the environment covering, direct and indirect, secondary, cumulative, short, medium, long term, permanent, temporary, positive, and negative;
- a description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects;
- a non-technical summary of the information specified above.

9. The proposed development is considered to generate non-significant effects on the following subject areas:

- Socio-economic;
- Landscape and Views;
- Ecology and Nature Conservation;
- Water Resources and Flood Risk;
- Air Quality;
- Transport & Access;
- Cultural Heritage;
- Land Contamination;
- Wind Microclimate;
- Agriculture;
- Daylight, Sunlight & Overshadowing;
- Waste; and
- Vibration.

## Site Details:

10. The site extends to approximately 7.4ha and is located to the north west of Mildenhall adjoining Hayland Drove, a narrow road leading from the village of West Row. This road forms the western boundary of the Site, which adjoins Cook's Drove to the north east. Further north of Hayland Drove is open countryside. Mildenhall Stadium is located immediately north of the site where various forms of motorsport takes place, including speedway, banger racing and stock car racing. Greyhound racing also takes place within the stadium. Cook's Drove is located to the east of the Site which leads to the village of Thistley Green and West Row in the south east. Pear Tree Farm is also located further east off Cook's Drove, with agricultural land and Mildenhall airfield located beyond. Land to the south and west of the Site is currently undeveloped and used for agricultural purposes. The River Lark is also located approximately 1km to the south of the Site.
11. It is estimated that in a single calendar year, the current planning permission allows the track to be used for motocross for up to 141 days.

## Planning History:

Reference	Proposal	Status	Decision Date
DC/16/0313/FUL	Planning Application - Construct a new children's (85cc) motocross track adjacent to the existing motocross track	Pending Decision	
DC/16/2630/EIASCO	Request for Environmental Impact Assessment Scoping Opinion under Regulation 13 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) - following submission of DC/16/0866/VAR	EIA Screening/Scoping Opinion Issued	22.12.2016
F/2008/0173/FUL	Erection of straw bales to form an acoustic barrier, a 5 metre earth bund, stationing of shipping container to form an acoustic tunnel and erection of a 2.7 metre close-boarded fence	Approve with Conditions	02.05.2008
F/92/111	Change of use from agricultural land to use as	Approve with Conditions	28.05.1992

	off-road motorcycle track (motocross).		
F/97/001	Continued use of land as motocross track stationing of three portacabins and retention of earthbanks/fencing		25.04.1997
F/2001/573	Removal of condition 9 of planning permission F/97/001 - requiring all vehicle tests to be kept by the track operator for examination by the Local Planning Authority if required.	Application Withdrawn	10.04.2002
F/94/356	Use as motocross track; extension of operating hours until 6pm on specified Sundays; siting of three portable buildings to provide offices, refreshments and toilets; resiting of motocross bridge		22.08.1994
F/2003/0499/FUL	Retrospective Application - erection of a two-storey portable cabin	Application Approved	01.08.2003
F/95/328	Use of motocross track, siting of 3 portable buildings and bridge for further two year period; use to include organised events and operating hours as specified in letter received by local planning authority on 19/09/1995	Refuse	12.10.1995
F/95/573	Use of land as motor cross track. Stationing of three portacabins with associated works to earthbanks and additional fencing of site as amended by letter received 27.12.95.	Approve with Conditions	12.02.1996
F/2001/768	Continued use of land as motocross track on a permanent basis, and variations to conditions as specified in letter accompanying the application, received by the Local Planning	Approve with Conditions	22.07.2002

Authority on 10th  
December 2001.

F/92/612

Proposed motocross track  
layout toilets control  
building and landscaping  
as amended by plans  
received 07/01/93 and  
11/02/93

Approve with  
Conditions

06.05.1993

### **Consultations:**

12. Mildenhall Parish Council – Object. Any increase in hours and days will cause disturbance to the local residents close to the Motocross, plus the extra pollution.
13. East Cambs. District Council - have concerns regarding the intensification of use and potential noise impacts on our residents due to this. I note from the noise report that whilst Isleham Marina has been considered, properties within our district have not. Request that no decision is made until the Environmental Health Officers of both our Council's have discussed this matter or that the developer has provided more evidence to demonstrate that this proposal will definitely not harm the residential amenity of the residents of Isleham. (Officer Note – West Suffolk Environmental Health Officers have discussed the impacts of the development with East Cambs. Environmental Health Officers resulting in amended operational restrictions being agreed with the applicant. No comments have been received in respect of the amended proposals.)
14. Isleham Parish Council (East Cambs.) – Our village already experiences significant noise from the circuit and although we have no choice but to accept the current opening times and conditions, we would deem any increase on this disturbance to be totally unacceptable. We do not have any confidence in the suggested noise levels.
15. Environment Agency – no comments.
16. SCC Highways – No objection.
17. SCC Environment Team – No comments (in respect of air quality and land contamination).
18. Natural England – no comment.
19. Public Health and Housing – Consider that the amended operational conditions are acceptable, subject to the permission being temporary until March 2019 to allow for suitable monitoring to take place. For clarity, practice days should only be between the hours of 9am and 4pm.

### **Representations:**

20. A significant number of objections have been received, mainly from residents of Isleham Marina.

Original plans and documents – 41 objections

21. The following grounds of objection have been raised:

- Motocross bikes generate a large amount of intrusive noise
- The noise from the track impacts on the existing tranquillity of Isleham Marina
- Intrusive noise breaches the rights of property owners to enjoy the peace and quiet
- The additional use of the track will harm existing tourism businesses in the area
- Noise will impact on local wildlife
- Expansion of the facility is unrequired
- Noise survey is not accurate or reflective of actual noise impact
- Increase in traffic on a poor access road

(Note: the above is only a summary of the key objections to the development from local residents. The full objections can be viewed on the Council's website.)

22. *Isleham Marina Lodge Owners Association* - All lodge owners and residents are members of the association and we are writing on their behalf to OPPOSE the applications to increase the hours of use and proposed new track on the grounds of noise, potential damage to environment, health and safety risk, potential impact to local businesses and tourism. In summary:

- The noise on the island during track events is already unacceptable and anything that adds to the amount of noise or number of days or hours we have to endure it is totally unacceptable.
- We don't believe the EIA submitted with the application has taken sufficient account of the islands unique environment and lack of manmade noise. The figures they have used are taken from the monitors at the track which includes noise from planes taking off and landing at Mildenhall and Lakenheath. However, the island is not on the flight path and so a baseline should have been taken of the noise level on the island to give a meaningful result.
- The method of calculating the possible impact of the noise on the island in the EIA has been produced by a computer program using baseline levels from the track. As we have shown in this document the suggested levels in the EIA of the LOAEL and SOAEL are not appropriate for the island.
- The figures in the EIA for the increase in noise on the island would suggest that they will at a minimum be between the revised WHO LOAEL 50 dB and SOAEL 55 dB if an adjustment is made for the type of noise.
- We are concerned about the possible pollution or contamination of the River Lark and surrounding land from oil, fuel, waste water (especially from the jet washing of the bikes) and general waste.
- Potential increase in noise from the increase in the number of people visiting the track and overnight camping.
- Potential risk of the storing a large amount of fuel and LPG in such small area.
- We are concerned about the potential impact the noise nuisance will have on the sustainability of local business, pubs and tourism.



(Note: the above is only a summary of the objection to the development from the Lodge Owners Association. The full objection can be viewed on the Council's website.)

**Policy:**

23. The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

24. Joint Development Management Policies Document:

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM5 Development in the Countryside
- Policy DM10 Impact of Development on Sites of Biodiversity and Geodiversity Importance
- Policy DM13 Landscape Features
- Policy DM34 Tourism Development
- Policy DM42 Open Space, Sport and Recreation Facilities
- Policy DM43 Leisure and Cultural Facilities

25. Forest Heath Core Strategy 2010

- Policy CS3 - Landscape character and the historic environment
- Policy CS5 - Design quality and local distinctiveness
- Policy CS6 - Sustainable economic and tourism development

**Other Planning Policy:**

26. National Planning Policy Framework (2012)

**Officer Comment:**

27. The issues to be considered in the determination of the application are:

- Principle of Development
- Environmental Impact Assessment
- Planning Balance

Principle of Development

28. For decision making purposes, as required by Section 38(6) of the Planning & Compulsory Purchase Act 2004, the Development Plan comprises the Adopted Core Strategy and Development Control Policies Development Plan Document, together with the Site Specific Allocations DPD. Material considerations in respect of national planning policy are the NPPF and the more recently published National Planning Policy Guidance. The starting position for decision taking is therefore that development not in accordance with the development plan should be refused unless material considerations indicate otherwise. The Courts have re-affirmed the primacy of the Development Plan in Development Control decisions.

29. In this case, the proposed development accords with the strategic spatial objective ECO7 and Core Strategy Policy CS6, which both seek to support the growth of the visitor economy in the District and to allow sustainable economic development. Development Management Policy DM42 allows for the enhancement or expansion of amenity, sport or recreation facilities, subject to compliance with other relevant Local Plan policies. The further development of the existing site, as opposed to the development of a 'greenfield' site accords with a key principle of the NPPF (par. 17) and also represents an investment in the local area by a local business. The principle of the development is supported by both National Policy and the Development Plan.

#### Environmental Impact Assessment

30. Following the issue of the Screening Opinion, Officers also undertook a scoping exercise which identified that the main subject area for inclusion in the Environmental Statement (ES) should be 'noise'. The scoping opinion also identified both air quality and ecology as areas which could be affected, although not significantly. Although scoped out of the main ES, separate reports have been prepared by the applicant assessing the Development's impact on both ecology and air quality.
31. Other non-significant impacts of the development include socio-economic, landscape, water resources and flood risk, transport and access, cultural heritage, land contamination, agriculture, and waste. These are considered below.

#### Socio-economic impact

32. The ES indicates that the site currently employs two fulltime employees and 12 part-time employees. It is expected that the increase in usage of the track will result in the requirement for additional part-time employees (estimated to be an increase of 18 part time staff.) There will also be limited benefit to the local economy in terms of increase spend from visitors to the area.
33. The development is considered to accord with Core Strategy Policy CS6 as well as paragraph 28 of the NPPF in this regard.

#### Landscape impact

34. As the nature of the land use is not changing and the proposal only seeks to change how the track operates, significant landscape and visual effects are not anticipated and therefore this topic has been scoped out of the ES. The scheme is considered to accord with Development Management Policies DM2 and DM5 in this regard.

#### Water resource and flood risk

35. The Site is located within Flood Zones 2 and 3 and is therefore at a medium/high risk of flooding. However, the Environment Agency has identified that the proposal will have a minimal impact on flood risk in the area as the Site already benefits from flood defences present along the River Lark to the south, along with multiple drains in the area with sufficient free board to cope with any excess drainage capacity required in small scale events. The proposal does not propose any change in land use, and no

objection to the development is raised by the Environment Agency or Suffolk County Council's flood risk team. This topic was therefore scoped out of the ES. The scheme is considered to accord with Development Management Policy DM6 and paragraph 103 of the NPPF in this regard.

#### Transport and access

36. The increase in the use of the track will cause an increase in traffic using the local highway network throughout the course of a year. However, this increase is not likely to be significant, and will not intensify traffic on any particular day. The site also has sufficient parking capacity to accommodate the additional use of the track. No objection has been received from the Local Highway Authority. The transport impact is therefore considered to be negligible and in accordance with Development Management Policy DM2 in this regard.

#### Cultural heritage

37. There are no built heritage features in close proximity to the site that could be affected by the proposed development. The proposal does not propose any built development or change in land use and therefore the impact on the cultural heritage is considered to be negligible.

#### Land contamination

38. No development is proposed that could give rise to new or additional sources of contamination and no works are proposed that could mobilise existing contamination. The risks to human health are therefore likely to be negligible and the development is considered to be in accordance with Development Management Policy DM2 in this regard.

#### Agriculture

39. The proposal relates to an existing motocross track which is already in operation and located on brownfield land. There is to be no loss of previously undeveloped, agricultural land as part of the Development. Impacts on existing agricultural land are likely to be negligible.

#### Waste

40. As the Development seeks to change the conditions of an existing planning application, no construction waste is anticipated and no demolition is required. Operational waste is unlikely to be significant or complex and will be managed in accordance with local disposal systems and all applicable legislation. No likely significant impacts are expected.

#### Ecology and Nature Conservation

41. During the scoping of the application in accordance with the EIA regulations, ecology was an area where it was felt there could be some impact from the increased use of the motocross track. Consequently, an Ecological Appraisal of the site was undertaken, which concluded that the mature trees which border the site have high ecological importance at a local scale, as well as having the potential to support nesting birds and foraging/commuting bats. A

waterbody was also identified adjacent to the site, which was found to have the potential to support water vole and amphibian species.

42. As there are no physical development works that would affect the trees surrounding the site, or the nearby adjoining water course, the impact on these features and their supported species is considered to be insignificant. Furthermore, there are no nationally or internationally designated sites such as Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Site of Special Scientific Interest (SSSI's) in the wider area, on or directly adjacent to the Site. Natural England has been consulted on the proposals and no do object. Significant impacts on ecology and nature conservation are not therefore considered likely. The scheme accords with Development Management Policies DM2 and DM10 in this regard.

#### Air Quality

43. Again, during the scoping of the application in accordance with the EIA regulations, air quality was an area where it was felt there could be some impact from the increased use of the motocross track. A desk top study of the potential air quality impact on the local environment from the development has been undertaken by the applicants. The ES concludes that *'Using the guidelines set out in the Land-Use Planning & Development Control: Planning for Air Quality, the Development is not expected to generate a significant traffic impact which would impact on air quality. The Site is not located within or close to an Air Quality Management Area (AQMA) and likely significant effects from the operation of the Development are not anticipated.'*
44. The Council's Environment Team concur with this conclusion, and the proposal is considered to accord with Development Management Policies DM2 and DM14 in this regard.

#### Noise

45. The noise impact from the proposed increase in the use of the track is considered to be the main issue for consideration within the ES. An assessment of this impact is set out in detail below.
46. As referred to in the ES it is useful to first set out the background to the site in respect of noise issues. The site is the subject of a considerable history in relation to noise emissions, but in summary, noise emissions, both cumulatively and individually, from the motocross circuit and the adjacent Speedway stadium were found to be a nuisance in a Civil noise nuisance case taken by a nearby resident. The outcome of the noise nuisance case was that the court imposed a noise limit (an injunction) on both the Speedway Stadium and motocross track, individually and cumulatively. This has the effect of limiting noise emissions to 45 dB LAeq (15mis) when measured at the property "Fenland". This is a very strict and low limit and is below the World Health Organisations Guidelines for Community Noise values for moderate annoyance during daytime (50db). The injunction only comes into force as and when "Fenland" (which is currently empty and derelict) is re-occupied by the complainants in the nuisance case.
47. The Council has in the past however, concluded that a statutory noise nuisance did not exist under the Environmental Protection Act. Accepting that

the use of the site for motocross is deemed to be a civil 'noise nuisance', it is appropriate to assess any proposed increase in the operation of a noisy activity, and to what extent and significance any additional harm may be demonstrated.

48. The applicants have submitted a detailed noise assessment within the ES, which has been carefully considered by Officers, and the baseline data and impact thresholds used (referred to below) are accepted by Officers.

*Noise Policy Statement for England (May 2010)*

49. Paragraph 123 of the NPPF requires decision makers to '*avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.*' This paragraph also refers decision makers to the 'Noise Policy Statement for England' (NPSE). The NPSE contains the current Government policy aims in relation to noise and its impact.
50. Inter alia, the NPSE aims to "*avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.*" Impacts to quality of life can include annoyance and sleep disturbance.

51. However, at paragraph 2.18 the NPSE states that;

*'..there is a need to integrate consideration of the economic and social benefit of the activity or policy under examination with proper consideration of the adverse environmental effects, including the impact of noise on health and quality of life. This should avoid noise being treated in isolation in any particular situation, i.e. not focussing solely on the noise impact without taking into account other related factors.'*

52. The NPSE refers to lower and upper threshold noise levels (LOAEL – 'low observed effect level' and SOAEL – 'significant observed effect level'), the latter within which mitigation may be required to reduce the overall impact. This concept is reinforced in the National Planning Practice Guidance – Noise (PPG-N) where it states:

*"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.*

*At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring."*

53. Included in the ES is a table taken from the PPG-N, which usefully summarises the above, and also provides the basis for a subjective assessment of noise impacts to be made. This is reproduced below.

<b>Perception</b>	<b>Outcome Examples</b>	<b>Increasing Effect Level</b>	<b>Action</b>
Not noticeable	No effect	No observed effect	No specific measures required
Noticeable and not intrusive	Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly effect the acoustic character of the area but not such that there is a perceived change in the quality of life.	Observed Adverse Effect	No specific measures required
		<b>Lowest Observed Adverse Effect Level</b>	
Noticeable and intrusive	Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.	Observed adverse effect	Mitigate and reduce to a minimum
		<b>Significant Observed Adverse Effect Level</b>	
Noticeable and disruptive	The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most	Significant Observed Adverse Effect Level	Avoid

	of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting back to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.		
Noticeable and very disruptive	Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory.	Unacceptable adverse effect	Prevent

54. The applicant's ES also includes an objective assessment of noise impact based on relevant policy and available guidance. The approach taken in the noise survey was to apply the World Health Organisation's (WHO) LOAEL value of 50db as the lower threshold, with the 'significant' impact threshold (SOAEL) being 10db higher. The Council's Public Health and Housing team consider this approach and the methodology used in the ES (including modelling undertaken using computer software taking into account of source noise levels, local topography, wind direction and screening to reduce noise), appropriate in this case.
55. The noise survey tested 10 receptor locations, ranging from closest residential property to the track, Pear Tree Farm (570 metres distant to the east), to the property known as Canham, (1100 metres distant ESE). Isleham Marina was also included as a receptor location. The existence of aircraft noise was also taken into account, as was the most recent information published by the Ministry of Defence, which indicates that the site and the majority of the identified noise receptors are located within a 66 db noise contour, and could therefore be exposed to aircraft noise in excess of 60 db on a regular basis).
56. The ES survey results show a variable noise climate, ranging from quiet periods to very high levels of noise from aircraft on approach and on take off from RAF Mildenhall, as well as from jet aircraft taking off from RAF Lakenheath and/or undertaking manoeuvres at RAF Mildenhall. This concurs with the conclusions of Officers following a visit to the site and Isleham Marina during a Tuesday practice day. This varied noise climate exists with or without the motocross track operating, although when the wind is blowing from the NE, bikes on the motocross track (and it is assumed the stadium if also operational) can be heard over and above the ambient noise climate.
57. The objective survey results for a race day event indicate that only at the site boundary and Pear Tree Farm do noise levels exceed LOAEL, although Spring Hall Farm and Fenland come quite close to the threshold. Results are lower

for practice days, again with LOAEL threshold being breached at the site boundary and Pear Tree Farm. Again this concurs with the noise heard at Isleham Marina during a site visit where bike noise could be heard over the ambient climate, but not excessively so.

#### Cumulative impact with stadium

58. As already stated there will be occasions when the stadium and the motocross track will operate at the same time, albeit under two separate planning permissions. Evidence suggests that the stadium has up to 22 speedway events between May and October, and up to 24 Stock Car racing events on Sundays between March and October. The noise survey within the ES suggests that this combined impact will be at worst 'moderate adverse' overall, and 'major adverse' at the property Pear Tree Farm. Generally the noise levels from the stadium are higher than those at the motocross track and would occur irrespective of whether or not the motocross track is operating. Indeed, it is likely that on many occasions, noise heard some distance from the track (e.g. Isleham Marina and Isleham itself) is actually noise being generated by stadium activities and not the motocross track.

#### Summary of likely effects

59. The track currently operates under conditions that allows it to be used for a maximum of 141 days per year. The amended proposals increase this use to a maximum of 193 days per year, or a potential 37% increase. The amended proposal does not propose to increase operational conditions during the months of June, July, August, which will remain as currently restricted (i.e. every other Sunday). However, it has to be remembered that due to unfavourable weather conditions in the autumn and winter months, the usage of the site is likely to be less than the proposed maximum.
60. Subjectively, the table at paragraph 44 above indicates that for the most part, noise emissions are within the '*Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly effect the acoustic character of the area but not such that there is a perceived change in the quality of life*' threshold. However, given prevailing weather conditions, noise emissions are on the cusp of the threshold where noise is sufficient to change behaviours or attitudes (e.g. such as going inside or putting on quiet background music). The magnitude of the impact, although variable, is considered to be low. However, it is acknowledged that whilst the proposed development does not increase the magnitude of the impact, it does increase its frequency throughout the year. Breaking this proposed operational increase down further indicates that the application (as amended) only represents an increase in the use of the site on Saturdays between October and May (inclusive) as the site is already used on Sundays (Oct to May inclusive) and every other Sunday (June to September inclusive). Sunday operations during June, July and August shall continue every other week as existing. Limited harm can be attached to this increase in operation, and this needs to be considered in the planning balance.

#### Local resident's comments



61. The significant level of comments from local residents (mainly Isleham Marina) is acknowledged, and their grounds for objection to the development have been taken into account in the assessment of this application. The comments of Isleham Parish Council have also been considered. It is accepted that the noise from the motocross track can be intrusive, but in terms of impacts on specific properties in the area, the intrusive nature of this impact is often dependant on certain variables with the ambient climate. This can include wind direction, aircraft movements and stadium events (i.e. speedway, stock car racing, banger racing and greyhound racing.) These events also often occur during more anti-social hours (e.g. later into the evening), something that the motocross does not do as it is restricted to a 6pm finish. Impacts on tourism and businesses in the area, both positive and negative will be taken into account in the planning balance below.

#### Injunction

62. In the background throughout all of the above assessment is the 'Fenland' court injunction. It is acknowledged that the noise limits for the operation of the track set out within it will be exceeded by the existing and proposed operation of the track. The applicant has accepted that as and when the derelict bungalow is rebuilt and re-occupied, they will comply with the requirements of the injunction. However, it has to be remembered that the injunction is in place as a result of a private civil action, and is separate to the planning process and any statutory considerations under the Environment Protection Act 1990.

#### **Conclusion and planning balance**

63. Having considered the ES as a whole, Officers are satisfied with the conclusions and assessments undertaken in that the operational development the subject of this application would not give rise to significant environmental impact. Specifically, the conclusion of the noise survey within the ES is that the noise levels from the motocross track are at or just below the threshold which will bring about a very low magnitude of effect resulting in negligible impact. Officers can find no evidence, either subjective or objective, to form a different view. The impact on Pear Tree Farm would, on occasion, be major adverse, and this is acknowledged by the applicants. Although this property is currently owned and occupied by the applicant, this may not be the case in the future, and the separation of the ownership of the property away from the motocross track could result in future noise complaints (the legal case brought by the owners of 'Fenland' being an example of this.) The applicants are agreeable to this property being tied to the business use at the site, thereby removing potential future conflict. This can be secured by a Unilateral Undertaking.
64. The proposed operational conditions set out in paragraph 7 above will result in an approximate 37% increase in the potential number of days that the track can be used in any one year. However, it has been adequately demonstrated that the existing noise levels from the motocross activity at the site (taking into account the operation of the adjoining stadium) are not significantly harmful to the amenity of local residents. Subject to appropriate planning conditions, it is considered that that the impact of the proposed development on the amenity of the vast majority of receptors is acceptable having regard to Development Management Policy DM2 and paragraph 123 of the NPPF.

65. Taking into account that the noise survey within the ES uses computer modelling within its assessment, and the sensitivity of the noise impact to variable background noise levels and wind direction, it is not considered appropriate to accept a full permanent permission without the opportunity for further noise monitoring. Therefore, whilst the Council is confident that the additional harmful impact will not be significant, taking a precautionary approach, it is considered appropriate that any such grant of planning permission should be for a limited period. In this case a period of 20 months from the date of permission (to March 2019) will allow for a full winter and summer season to be monitored.
66. It is noted that the properties known as 'Fenland' and 'Pear Tree Farm' would be subject to a major adverse impact during periods when both the motocross track and the stadium are operating. However, 'Fenland' is derelict and unoccupied and should it be re-built and re-occupied, a separate Injunction will be come in to force restricting the use of the track anyway. 'Pear Tree Farm' is owned and occupied by the applicant, and this relationship can be legally tied together by legal agreement following any future permanent grant of planning permission for the proposed development.
67. The further development of the existing site, accords with a key principle of the NPPF (par. 17) and also represents an investment in the local area by a local business. The motocross track is nationally recognised and is an established business that contributes to the economy of the area. The principle of the development is supported by both National Policy and the Development Plan.
68. The environmental impact of both the existing and proposed operating conditions of the track have been found not to be significant and conditions can be applied to any permission to restrict the use of the track to that as applied. Importantly, the use of the track during the summer months; June, July, August, will continue as existing (i.e. every other Sunday). A temporary permission (20 months) will allow for the noise conditions to be monitored and any such future application for permanent planning permission will be considered in light of these monitoring results.

### **Recommendation:**

69. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. Temporary planning permission to March 2019
2. Permission shall be for Mildenhall Moto-Cross Limited only, and shall not enure for the benefit of the land.
3. Development restricted to the use of the land as an off-road motor cycle track only
4. Events and practises on site to be supervised at all times either by Mildenhall Moto-Cross Limited, or by their nominated representative, in accordance with the Auto Cycle Union code of practice and/or handbook

5. The motocross track shall only be used in accordance with the following restrictions
  - (i) All Saturdays and Sundays throughout Sep-May (inclusive), 09:00 - 18:00. Every other Sunday throughout June-Aug (inclusive), 09:00 - 18:00. Three Saturdays can be requested during June-Aug (the date will be previously agreed in writing with the local planning authority and not less than one months prior notice shall be given.)
  - (ii) Tuesday and Thursday practise days 09:00 – 16:00. Jan-Dec.
  - (iii) As per ACU (Auto Cycle Union) and HSE guidance group riders will be restricted to 45 riders for the main track.
  - (iv) On request, as per current approval, sound reports will be supplied to ensure the db levels are kept to a minimum. (i.e. no more than 85db per hour average).
6. Other than to call emergency services or to announce the commencements of a race, no tannoy system shall be used on the site.
7. All vehicles using the track shall comply with current Auto Cycle Union noise regulations.
8. Random testing of individual motorcycles shall be undertaken on all days that the track is in use and test results shall be kept by the track operator and produced for examination by the Local Planning Authority if so required.
9. The level of noise emitted from the site shall not exceed Leaq85db over a time period of 1 hour at the boundary of the site.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O5XEUDPD05L00>