
Appeal Decision

Site visit made on 29 October 2019

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2019

Appeal Ref: APP/Z2260/W/19/3234621

**Site of former Go-Kart Track, also known as the Manston Raceway,
Ebbsfleet Lane, Ramsgate, CT12 5DN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ovalsport Ltd against Thanet District Council.
 - The application Ref F/TH/19/0600, is dated 3 May 2019.
 - The development proposed is application for change of use from go-kart track (useclass D2) to a stock car racing track with sui generis useclass.
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Decision

1. This appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The Draft Local Plan is referred to in the appeal submissions. However, I am not provided with evidence that these policies will be adopted in the form that they are presented to me and as such I afford them limited weight in my consideration of this appeal.

Main Issues

The main issues are:

- The effect of the proposed development on the character and appearance of the area.
- Whether the proposed development would make adequate provision for sustainable transport.
- The effect of the proposed development on highway safety with particular regard to the Sevenscore level crossing.
- The effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to noise.
- The effect of the proposed development on biodiversity with particular regard to slow worms.
- The effect of the proposed development on groundwater conditions.
- The effect of the proposed development on assets of archaeological interest.

Reasons

Character and appearance

3. The appeal site is within the countryside for the purposes of the Thanet Local Plan 2006 (The Local plan). It is generally surrounded by open rural land and I saw relatively large, flat open fields in the surrounding area, albeit that the site is bounded by the A256 on one side and a railway line to the northern side. The site is within the Former Wantsum Landscape Character Area which is characterised by a vast flat open landscape which provides wide and long views amongst other things.
4. At my site visit I saw that the appeal site was mainly cleared and included raised areas, bunds close to the boundaries and an excavated oval track. The site is open and does not include any buildings. As such it makes a positive contribution to the open undeveloped nature of the surrounding countryside and in this respect to the Former Wantsum Landscape Character Area.
5. The development before me includes space for structures for storage, toilets, refreshments and race control marked on the plans. I have not been provided with any detail of the size or detailed design of these buildings, albeit it is put to me that they would be in muted and natural tones. Consequently I am not satisfied that they would not have a harmful effect on the positive open undeveloped characteristics of the site, nor that they would not be visible in long distance views. I understand that these structures are proposed to be temporary, however I am not presented with any mechanism to secure how and when buildings would be removed from the site.
6. Consequently, for the reasons set out above, the proposed development would have a harmful effect on the character and appearance of the area. As such, in this respect, it would be contrary to Policies D1, CC1 and CC2 of the Local Plan and Paragraphs 127, 130 and 170 of the National Planning Policy Framework (the Framework) which together seek to ensure that new developments in the countryside respect or enhance the character or appearance of the local area and protect and enhance valued landscapes amongst other things.

Sustainable Transport

7. The proposed access to the site would be from Ebbsfleet Lane North. Other than a short stretch of Ebbsfleet Lane North, nearby roads are generally relatively narrow and unpaved. There are also footpaths close to the site however these are unmade. As such the proposed development would not provide safe and satisfactory conditions for pedestrians to access the site directly.
8. I understand that bus stops and railway stations are located some distance from the site in Minster and Cliffsend. Given my comments above, notwithstanding the frequency and times of these services, pedestrian access from the closest bus stops and stations would not be attractive and as such the development would not facilitate access to public transport.
9. Consequently, for the reasons set out above, the proposed development would not make adequate provision for sustainable transport. As such, in this respect, it would be contrary to Policy D1 of the Local Plan and paragraph 110 of the Framework which, in part, require that new development should provide safe

and satisfactory means of pedestrian access with priority to pedestrian and cycle movements and also access to public transport, amongst other things.

10. The Council refers to paragraph 109 of the Framework in their suggested reason for refusal. However, this relates to highway safety and severe impacts on the road network, and I am not presented with substantive evidence that satisfies me that these would occur in relation to this main issue.

Highway safety

11. I agree that travel to the site is likely to be 'tidal' to coincide with start and finish times of race days. However, I am not provided with evidence of the expected visitor numbers, nor how access into the site would be ticketed or controlled. Consequently I am not satisfied that there would not be a queue of vehicles waiting to access the site.
12. The Sevenscore level crossing is in relatively close proximity to the site entrance and I note that there are safety concerns as a result of the increase in traffic which would be associated with the proposed development, including the risk of cars queueing back across the level crossing. The appellant has indicated that they could provide a Marshall and increase the size of the cross hatched area close to the level crossing. However, I am not presented with detail of how any marshalling would operate nor any mechanism to secure these measures.
13. As such I am not presented with substantive evidence that satisfies me that there would not be an unacceptable impact on highway safety. Consequently the proposed development would be contrary to paragraphs 108 and 109 of the Framework which require that safe access to the site can be achieved and that there should not be an unacceptable impact on highway safety.

Living Conditions

14. There are residential properties on Ebbsfleet Lane North, close to the site. The main parties are in agreement that this motorsport would generate some noise. It is put to me that cars would be required to meet the ORCi silencer and exhaust guidelines, and that the background noise levels at this site are influenced by its location close to the transport network. Also that comparisons with other race tracks are not relevant due to different track surfaces and racing practices.
15. Nevertheless, I am not presented with any substantive evidence of the noise that would be generated from this specific proposal, either in terms of operational noise or noise from visitors, nor an assessment against background noise levels. Consequently I am not satisfied that the amount of noise generated would not be harmful to the living conditions of the neighbouring occupiers. Nor that mitigation measures such as increasing the height of the bunds would be sufficient to mitigate the harmful effects of any noise generated.
16. Therefore, for the reasons set out above, the proposed development would have a harmful effect on the living conditions of neighbouring occupiers with particular reference to noise. As such, in this respect, it would be contrary to Policy D1 of the Local Plan which, amongst other things, requires that new development should not lead to unacceptable noise to neighbouring buildings.

17. The Council refers to Policy 170 of the Framework in its suggested reason for refusal. However, in the main this paragraph relates to conserving and enhancing the natural environment, therefore I consider the policy set out above to be more relevant to this main issue.

Biodiversity

18. The submitted Preliminary Ecology Appraisal confirms that the site supports slow worms. Therefore on the basis of the evidence submitted, there is a reasonable likelihood that protected species are present at the site. I am not presented with any mechanism to secure any mitigation for reptile presence. I note that there is no objection from Natural England, however the response from the Kent County Council Ecological Advice Service advised that additional information is required prior to the determination of the application.
19. It is essential that the extent that protected species may be affected by the proposed development is established before planning permission is granted, otherwise all relevant material considerations may not have been taken into account. In the absence of any evidence that indicates otherwise, it is not possible to be certain that protected species would not be harmed by the proposed development, or the extent of any such harm.
20. Therefore I am not satisfied that the proposed development would not be harmful to biodiversity. Consequently the proposal would be contrary to paragraphs 170 and 175 of the Framework which, in part, aim to protect sites of biodiversity value and avoid significant harm to biodiversity.

Groundwater

21. I understand that the site is located in a sensitive groundwater area. I note the concerns from the professionals at the Environment Agency and the Council's Environmental Protection Manager that the use of septic tanks/cess pits to deal with foul sewerage could result in harm to groundwater. Also that the operational use may result in any contamination from activities such as refuelling.
22. It is put to me that septic tanks on site would be cleaned and emptied by a reputable company and that hired toilets would be used at this site. However I am not provided with any details of this arrangement nor mechanism to secure that this would take place. Nor am I provided with a mechanism to ensure that the operational use would not result in a risk of contamination of groundwater sources.
23. Consequently, based on the evidence before me, I am not satisfied that the proposed development would not have a harmful effect on groundwater. As such, the proposed development would be contrary to Policy EP13 of the Local Plan and paragraph 170 of the Framework which together require that adequate mitigation measures should be incorporated into proposed development where there is a risk of contamination of groundwater sources and that new development should not contribute to unacceptable levels of pollution, amongst other things.

Archaeology

24. The evidence before me suggests that there have been some archaeological finds close to the site, and the professional advisors at Kent County Council

state that the site is within a sensitive archaeological landscape. I am not provided with professional advice or assessment to dispute these findings and as such it is likely that archaeological remains are present. However, I am not presented with any evidence to suggest that the remains would be of particular significance.

25. There are concerns that the racing activity would involve erosion of the track area. However, this would be limited to a relatively small area of the site and due to its nature, and having regard to the likely significance of the remains, the effects of the development on any potential archaeological remains would be likely to be relatively limited.
26. I note that paragraph 189 of the Framework suggests that a desk based assessment should be submitted and this has not occurred. However, I am also mindful of the advice in the Planning Practice Guidance that a proportionate response is required. Consequently, based on the evidence before me it is unlikely that any remains would require preservation in situ. As such, I consider that any relevant archaeological works could be secured via a suitable condition.
27. Therefore, for the reasons set out above, the proposed development would not have a harmful effect on assets of archaeological interest. As such the development would not be contrary to Policies HE11 and HE12 of the Local Plan which requires that adequate assessment of archaeological implications is carried out and that satisfactory archaeological investigations and recording will take place, nor paragraph 198 of the Framework which relates to the loss of a heritage asset or paragraph 189 for the reasons set out above.
28. Paragraphs 195 and 196 of the Framework relate to designated heritage assets. As such, the policies listed above are more relevant to this case.

Other Matters

29. It is put to me that the use of the track for motor racing for 14 days per year would be permitted development, and that a go kart track is the lawful use of the site. However, it is not my role as a S78 Inspector to conclude on matters of lawfulness. Nevertheless, this application seeks motor racing for 30 days. Albeit that the appellant also suggests that they would be prepared to consider fewer days and shorter race times or permission over a temporary period. Nonetheless, given my conclusions above, particularly those in relation to highway safety and living conditions where harm would predominantly occur on race days, any increased use of the track for motor racing would be harmful and as such this does not weigh in favour of the proposed development.
30. It is put to me that participating in motorsport can improve health and wellbeing, can provide an alternative to anti-social behaviour and that the proposed development would provide a sporting and recreational use to this site. Also that the proposed development would attract visitors and would contribute to the local economy. I also understand that the number of race tracks in the South East area are declining. Furthermore, the proposals indicate that they would include races for young people which can provide a route into professional motorsport. These are benefits of the proposed development. However they are generally not unique to this particular site. Given the harm identified above in relation to character and appearance, highway safety, sustainable transport, biodiversity and groundwater, all of which are specific to

the proposed development at this particular site, I do not find that these benefits outweigh the harm identified above.

31. Whilst I do not find harm in relation to archaeology, the lack of harm in this regard is a neutral factor and as such it does not outweigh my finding in respect of the unacceptability of the scheme's effect on the other main issues set out above.
32. My attention has been drawn to an application for a change of use to a racing track at South Kesteven. However, I have not been provided with the full detail of this case and as such I attach limited weight to these specific circumstances. In any case, I note that this is in a different Local Authority Area and therefore would be subject to different development plan policies.
33. While I have noted the appellant's concerns regarding the Council's handling of the planning application, that does not alter my assessment of the planning merits of the proposal.

Conclusion

34. For the reasons set out above, this appeal should be dismissed.

H Miles

INSPECTOR