
Appeal Decisions

Hearing Held on 28 July 2021

Site visit made on 30 July 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

Appeal A: Ref: APP/A1910/W/20/3248338

**Land at Runways Farm, Upper Bourne End Lane, Hemel Hempstead
HP1 2RR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the refusal to grant the approval to details required by a condition of a planning permission.
 - The appeal is made by Ms Cathy Leahy/Runways Farm Partnership and Drift Limits against the decision of Dacorum Borough Council.
 - The application Ref 4/02759/18/DRC, dated 2 November 2018, sought approval of details pursuant to conditions Nos 6 and 7, of planning permission Ref 4/03028/16/ROC granted on 7 September 2018 by appeal decision APP/A1910/W/17/3192066.
 - The development proposed is the use of the site for motorcycle and motor vehicle activities and associated storage and parking.
 - The conditions in dispute are Nos 6 and 7 which are reproduced in the main issues below.
 - The reason for the condition is to ensure an acceptable noise environment and safety of users of the right of way.
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Appeal B: Ref: APP/A1910/W/20/3257756

**Land at Runways Farm, Upper Bourne End Lane, Hemel Hempstead
HP1 2RR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant subject to conditions of a planning permission.
 - The appeal is made by Ms Cathy Leahy/Runways Farm Partnership and Drift Limits against the decision of Dacorum Borough Council.
 - The application Ref 20/00559/ROC, dated 5 March 2020, sought to vary conditions to Ref 4/03028/16/ROC granted on 7 September 2018 by appeal decision APP/A1910/W/17/3192066.
 - The development proposed is the use of the site for motorcycle and motor vehicle activities and associated storage and parking.
 - The conditions in dispute are Nos 6, 7, 10 and 11 which are reproduced in the main issues below.
 - The reasons given for the conditions are to ensure an acceptable noise environment, safety of users of the right of way and the removal of temporary buildings.
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Decision

1. Appeal A is dismissed.
2. Appeal B: the conditions pertaining to Ref 4/03028/16/ROC granted on 7 September 2018 by appeal decision APP/A1910/W/17/3192066 on land at

Runways Farm, Upper Bourne End Lane, Hemel Hempstead, HP1 2RR, are varied as set out in the conditions annexe at the end of this decision.

Procedural Matters

3. The two appeals are on the same site. I have considered each proposal on its particular merits. However, to avoid duplication I have dealt with the two proposals together, except where otherwise indicated.

Main Issues

4. Condition 6 states: Within two months of the date of this decision a Management Plan, including noise management, shall have been submitted to for approval in writing by the local planning authority. The Noise Management Plan shall provide details including, but not limited to: details of noise limits and operating restrictions, including where drifting will take place; details of how these limits and restrictions will be monitored and policed: details of the noise equipment to be installed; details of the vehicles noise emissions test and the frequency in which these are to be carried out; how the results are recorded and made for viewing whilst those vehicles are on site, and the method for recording any modifications to the vehicles undertaken since the noise emission tests; measures to be put in place to ensure no sounding of alarms, horns or sirens in connection with the uses hereby permitted; the means of conveying the recorded information to the local planning authority; provision for access to the site by the local planning authority's representative without advanced warning; details of external lighting; and details of how drifting may take place. When approved the development shall be carried out in accordance with the approved details.
5. Condition 7 states: Within two months of the date of this permission, details of methods to protect users of the public rights of way Bovingdon 029 and Bovingdon 0321 shall be submitted to the local planning authority. When approved the approved scheme shall be fully implemented.
6. Condition 10 states: Within 18 months of the date of this permission all buildings, containers or other facilities previously approved pursuant to the "Storage and Facilities Plan for Runways Farm Controlled Document No.2 Version 4, dated 22 September 2016" shall be permanently removed and the land restored to its former condition.
7. Condition 11 states: Unless within two months of the date of this decision a scheme for the protection of the footpaths and the Management Plan, is submitted in writing to the local planning authority for approval, and unless the approved scheme and Management Plan are implemented within two months of the local planning authority's approval in each case, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. If no scheme or Management Plan in accordance with this condition are approved within 18 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. Upon implementation of the approved scheme and Management Plan specified in this condition, that scheme and Management Plan shall thereafter be maintained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this

condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

8. The main issues are therefore whether or not the management plan confirms the details for an acceptable noise environment and whether the time required for the re-submission of details by conditions should be extended.

Reasons

The appeal site and surroundings

9. The appeal site is approximately one third of a former Second World War airfield. The remainder is used as an open-air market, outdoor film set, indoor television studio and a prison. To the north, is a scatter of houses whilst more houses are to the east and south of the appeal site in Bovingdon and Whelpley Hill villages. I took the opportunity at my site visit of experiencing the ongoing activities from various properties to the north and east of the appeal site.
10. Motorsport and various motoring activities have been ongoing since 2012. Enforcement action was taken in January 2014, which led to an appeal¹, at which a 2 year temporary permission was allowed in January 2015 as a trial run. The uses were then the subject of a further appeal², which granted permanent permission in September 2018 albeit with certain conditions, the most pertinent being the submission and approval of a Management Plan.
11. The appellants' operation includes the driving of 'super cars' and a 'drifting' (skid) area, on distinct parts of the runway and offshoots. There are several parking areas and various temporary buildings which provide facilities including an office, briefing area, toilets, a viewing platform, and storage. The site is used by Harrow Car Club and Drift Limits in a supervised experience available to the general public on payment. The site is also used by the emergency services for their training. The 2018 permission restricts the various activities to a range of particular times.
12. The airfield is slightly elevated and there is a scattering of woodland around its boundaries. There are two public rights of way which cross through and past the appeal site, one of which traverses the runway and is adjacent to the track used by the cars. The site is within the Green Belt and the Inspector concluded in 2018 that the 'very special circumstances' of the operation justified the development.

The drifting (skid pan) noise implications

13. The last appeal decision gave much consideration to the drifting activity. This had the potential to produce tyre squeal, which was audible and disturbing to surrounding residential properties. The Inspector in 2018 concluded that traditional drifting was unacceptable but that plastic 'overshoes' on the tyres or the wetting of the surface would produce an acceptable result. The plastic 'overshoes' were initially used but it was found that wetting the surface with oil or water was operationally easier.
14. Both main parties confirmed at the hearing that this wet surface was resolving the tyre squeal and noise from the drifting operation. I came to the same conclusion on my site visit.

¹ APP/A1910/C/14/2213612

² APP/A1910/W/17/3192066

Noise /intrusion from driving supercars and other vehicles

15. At my site visit I was able to observe a range of the driving activities, and aside from the drifting, these produce noise from the engines accelerating and their exhausts. The resulting noise varied at different parts of the track according to whether straights and bends were involved. Additionally, different cars produce different noise tones.
16. At the hearing both parties indicated that tyre squeal (on the track surface away from the skid pan), can arise from the vehicles skidding particularly at a corner or on breaking. This will depend upon the individual's particular driving style and is unpredictable. Vehicle failure can also result in noise, although the vehicles are checked for their roadworthiness, and indeed most belong to Drift Limits.
17. Both parties agreed that even within a sound pressure level, different types of noise will be perceived differently in terms of potential nuisance. The duration may well vary from a short instant to a more prolonged noise. The pitch and frequency will vary, for example a squeal will be different to a roar. The wind strength and direction will be a major influence of noise impact. Similarly, rain will influence perception. Additionally, at the hearing it was agreed that some noise from vehicles using the adjacent public roads could mask that from the appeal site.
18. Therefore, there are variations here to the types of noise and impacts. The Inspector for the 2018 appeal, at paragraph 54 of the decision, felt that the uses and the resulting 'the noise environment' were acceptable, subject to a management plan (MP).

The adequacy of the management plan (MP)

19. I saw on my site visit that 3 noise meters were set up at specific points close the track, which provide live readings displayed on computer screens in the Drift Limits office. Thus, potentially the noise can be monitored. The 2018 Inspector at paragraph 56 notes the noise recording devices but felt that they needed to be the subject of a MP.
20. Whilst the Council acknowledge the trackside noise monitoring, they advocate that the noise needs to be derived by the assessment of its impacts in the community. However, the appellants argue that the trackside noise was experienced by the Inspector and that verification of levels within the community is not needed, which I find more likely by the phrasing of his paragraph 54: 'as regards engine noise, given the other authorised uses I consider that, subject to a Management Plan, the noise environment was acceptable'. Moreover, in the earlier paragraph 47 he notes 'that the representations, both oral and written, emphasised that it was not, of itself, the level (volume) of noise that was the issue, but rather the character of the noise'.
21. Therefore, the MP must provide the basis to oversee and safeguard the character of the noise and maintain an acceptable noise environment, which the 2018 Inspector foresaw as its role, in paragraphs 56 and 57 of the decision letter.
22. Both parties agreed that a subjective assessment is helpful to judge whether the type of noise would be disturbing. The MP makes reference to subjective

judgements which a trackside supervisor would monitor. However, it does not provide any guidance or criteria against which the supervisor or site manager would make such judgements. Additionally, it also does not state when and how they should take remedial action. Consequently, I find that the MP would not provide sufficient clarity to allow effective subjective judgements.

23. At the hearing, it was confirmed that the wording of the MP would allow for tyre squeal three times by each driver before being stopped. However, this could well be repeated three times during the day by each driver, which accumulatively would be substantial. Furthermore, the action to remedy such driving was also not stated in the MP.
24. Also as discussed at the hearing, there is also inconsistency in the various paragraphs of the MP about the necessity to operate all or any of the 3 noise monitors and the implications for failure. Such inconsistency and indeed some of its wording would allow activity to take place without their operation.
25. The local residents and Council highlighted that the MP does not require the manager or delegated supervisor to be on the site during the event. I find that an on-site presence would allow the noise to be readily experienced and therefore remedial action would be more likely to be achievable.
26. As discussed at the hearing, the MP does not provide a dedicated phone number for effected residents to contact the operators. Such a phone line would be effective for immediate assessment and corroboration of the sound, to help deal with the potential problem at the time and broaden experience for the future.
27. The MP also states that the ongoing processes need to be reviewed. However, no mechanism is stated about the review process and how the measures would be capable of being enforced as the condition would already have been discharged. This also contributes to the uncertainty in the document.
28. Therefore, I find that the MP is too vague and needs clear measures on how to maintain an acceptable noise environment, reflecting the reason for the condition. Indeed, the planning permission in 2018 is not personalised to any specific operator. The MP would go with the permission for the use and could be inherited by another operator, who may not have the same experience or approach as Drift Limits.
29. The Council questioned whether the MP should specifically include the Met Police as a named operator. They are subject of a particular permission which overlaps with the permitted uses in condition 2 for the emergency services. The 2018 Inspector stated in paragraph 17 of his decision that it was not his place to conclude on the lawful use of the site and I similarly consider that it is not essential here, since the condition merely requires an MP for uses set out within condition 2. In any event, a conclusion on the lawful use of the site would be beyond an approval of details.
30. Both parties agreed at the hearing that the MP has evolved considerably since its initial submission. The concerns described are capable of being addressed without prejudicing the existing operations. Therefore, the MP is capable of being amended and clarified which would then offer reassurance to the operators, the Council and local residents.

31. The decision notice does not refer to any Development Plan policies, nonetheless policy CS12 of the Core Strategy requires that development should avoid disturbance to the surrounding properties. Policy CS32 also precludes any development which increases noise. Paragraph 185 of the National Planning Policy Framework (the Framework) seeks to avoid noise giving rise to significant adverse impacts on health and quality of life. The MP fails to provide clear details to maintain an acceptable noise environment and the proposal conflicts with the above policies.

The timing for submission of revised details (Appeal B)

32. Appeal B concerns the necessary timings for the submission and approval of details by condition including the MP and footpath details and removal of temporary buildings (prior to more suitable permanent facilities).
33. The 2018 Inspector granted the operation permanent permission, noting its employment and economic merits and social benefits, to the extent of finding 'very special circumstances' in the Green Belt. Thus, the merits of the operation are recognised, and it should so continue.
34. The timescales in the suggested conditions in the appellants statement have either expired or were about to expire at time of the hearing. This means the operation would be in breach of those conditions. To allow for the operation to continue in the spirit of the 2018 permission and for the required details to be re-submitted and approved, these timescales need to be extended.
35. As I have found in Appeal A the MP warrants review and an appropriate re-submission is wholly achievable with all parties working in co-operation. The 2018 Inspector considered that 2 months for submission was reasonable. Moreover, all the parties now have more experience of the detailed issues, which would help in the revision of the MP. Accordingly, I repeat this timescale.
36. Conditions 10 and 11 refer to the removal of temporary buildings. It is understood that the appellants would be willing to replace them with more permanent and better designed buildings but want the security of the approval of details before making such an investment. Extending the timescales of these conditions would allow this opportunity. However, this would also prolong the time that the buildings and containers are impacting on the Green Belt.
37. Paragraph 137 of the Framework states that the Government attaches great importance to Green Belts. Paragraph 148 requires that when considering any planning application, substantial weight should be given to any harm to the Green Belt by way of inappropriateness and to its openness and the above paragraph confirms that the essential characteristics of Green Belts are their openness and permeance. Balanced against that are the continued operations here and this would only be a short temporary extension of time and justified to allow for the MP to be resolved and particularly so as 'very special circumstances' were found by the previous Inspector. These benefits clearly outweigh the temporary harm to the Green Belt.

Other matters

38. The footpath fencing needs to protect walkers and drivers as well as respecting the character of the Green Belt. Stacked tyres to form a wall was found to be the safest measure, but the Council felt that this had an unsatisfactory appearance.

39. To screen the tyre wall, metal fencing with pieces of timber attached into the wire framework have been proposed and agreed by both parties. I saw this on my site visit and conclude that it would be acceptable having muted, naturalised shades and texture.

Conditions

40. Paragraph 56 of the Framework and the Planning Practice Guidance (PPG) provide the tests for the imposition of conditions.

41. As I have found above, conditions would allow for the continued operations here as well as the timely submission of a revised MP for approval. In the spirit of the 2018 decision, I have replicated the original conditions.

42. The 2018 permission included other conditions, which I have also repeated here in the interest of clarity.

Conclusion

43. I therefore conclude that Appeal A should be dismissed, and in Appeal B the conditions are varied as worded in the annexe below.

John Longmuir

INSPECTOR

Conditions annexe

1) The development hereby permitted shall be carried out in accordance with the following approved plan: Location Plan.

2) The permission enures solely for:

- the use of vehicles owned and operated by the emergency services and other government agencies;
- the use of vehicles by media organisations for the purpose of photography or display; • the use of go-karts and Harrow Car Club; and
- the use of vehicles which are operated for the purposes of corporate entertainment/experience days/drifts and use of the site by motorcycles. Within this permission "drifts" is defined as "deliberately initiating a controlled skid and attempting to maintain that skid, driving the car using opposite steering input and throttle control around a circuit or series of obstacles"

3) The use hereby permitted, including any preparatory/warming up/winding down vehicle uses, shall only be carried out during the following times: • emergency services - no restrictions; • driver tuition for pupils under 17 - 0900-1800 hours Monday to Sunday; • all other forms of driving tuition - 0900-1800 hours Monday to Friday and 0900-1330 hours Saturday and at no time on Sundays and Bank Holidays; • media, go-karts, corporate entertainment/experience days/drifts, motorcycling - 0900-1800 hours Monday to Friday and 0900-1330 hours Saturdays and at no time on Sundays or Bank Holidays.

4) No drifting shall take place except in accordance with methods approved in writing by the local planning authority in accordance with the Management Plan pursuant to condition 6.

5) All motor vehicle uses approved under this planning permission shall be recorded within an operational log diary, setting out the activity taking place, the time of the event, location on site and the users. The up-to-date operational log diary and noise monitoring records should be made available for inspection by the local planning authority within ten working days of receipt of a written request from the local planning authority.

6) Within two months of the date of this decision a Management Plan, including noise management, shall have been submitted to for approval in writing by the local planning authority. The Noise Management Plan shall provide details including, but not limited to:

- details of noise limits and operating restrictions, including where drifting will take place;
- details of how these limits and restrictions will be monitored and policed;
- details of the noise monitoring equipment to be installed;
- details of the vehicles noise emissions test and the frequency in which these are to be carried out; how the results are recorded and made available for viewing whilst those vehicles are on the site, and the method for recording any modifications to the vehicles undertaken since the noise emission test;
- measures to be put in place to ensure no sounding of alarms, horns or sirens in connection with the uses hereby permitted;
- the means of conveying the recorded information to the local planning authority;
- provision for access to the site by the local planning authority's representative without advanced notice;
- details of external lighting; and
- details of how drifting may take place.

When approved the development shall be carried out in accordance with the approved details.

7) Within two months of the date of this decision, details of methods to protect users of the public rights of way Bovingdon 029 and Bovingdon 0321 shall be submitted to the local planning authority. When approved the approved scheme shall be fully implemented.

8) There shall be no racing of vehicles or competition, with the exception of go-karts and Harrow Car Club. Any such racing by the Harrow Car Club shall take place in accordance with the RAC Motorsports Association Regulations.

9) No external lighting other than that agreed in the Management Plan shall be erected.

10) Within 18 months of the date of this decision, all buildings, containers or other facilities previously approved pursuant to the "Storage and Facilities Plan for

Runways Farm Controlled Document No.2 Version 4, dated 22 September 2016” shall be permanently removed and the land restored to its former condition.

11) Unless within two months of the date of this decision a scheme for the protection of the footpaths and the Management Plan, is submitted in writing to the local planning authority for approval, and unless the approved scheme and Management Plan are implemented within two months of the local planning authority’s approval in each case, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme or Management Plan in accordance with this condition are approved within 18 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme and Management Plan specified in this condition, that scheme and Management Plan shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of conditions annexe

LIST OF APPEARENCES:

For the appellants:

Mr Guy Williams Counsel, Landmark Chambers

Mr Robert Davies, BSc (Hons) MPhil MRICS MRTPI Partner Gerald Eve

Mr Thomas Leach MSc BSc MIA Director Sol Acoustics

Mr Jonny Barden Drift Limits

Ms Cathy Leahy Runways Farm

For the Council

Mr Jack Parker Counsel Cornerstone Barristers

Mr Andrew Parrish MA Lead Development Planning Officer, Dacorum BC

Mr Neil Polden BSc Dip Acc Lead Environmental Officer Dacorum BC

Interested parties

Mr Alexandre Soignon Local resident

Ms Emma Haffenden	Local resident
Mr Brad Gunn	Local resident
Ms Anne Bacon	Local resident
Mr Gary Cullum	Local resident