

APPLICATION: MA/11/0325 Date: 3 March 2011 Received: 5 September 2011

APPLICANT: Park Valley Leisure Ltd.

LOCATION: LAND SOUTHEAST OF RUNHAM LANE, SANDWAY ROAD, LENHAM,  
KENT, ME17 1HT

PARISH: Lenham

PROPOSAL: Use of site for motocross with associated engineering works to create a formal motocross circuit, together with the provision of an ancillary parking area and the stationing of ancillary portable office and tool store units as shown on drawing nos. 1792-LP-100, 1792-GA-100, Arboricultural survey, Tree survey schedule and Tree Constraints Plan (TCP-01), Noise Impact Assessment, Preliminary Ecological Appraisal and Risk Control Report received 28/04/2011, Great Crested Newt Survey and Great Crested Newt Mitigation and enhancement strategy received 15/06/2011 and additional information as to the hours of operation, frequency and intensity of the proposed use of the site received 05/09/2011.

AGENDA DATE: 15th December 2011

CASE OFFICER: Steve Clarke

The recommendation for this application is being reported to Committee for decision because:

- It is a major/controversial development

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV49, T6, T13, T21
- South East Plan 2009: SP2, SP3, CC1, CC6, T4, NRM1, NRM4, NRM5, NRM7, NRM10, C4, S5, AOSR7
- Government Policy: PPS1, PPS7, PPS9, PPG17, PPG24

## **2. HISTORY**

2.1 There is no directly relevant previous planning history on this site.

## **3. CONSULTATIONS**

3.1 **Lenham Parish Council:** Object to the application and wish to see it refused. They have made the following comments since it was submitted.

### 3.1.1 Comments received 13/04/11

'Wish to see the application refused and request that the application is reported to Planning Committee;

Lenham Parish Council feels this is an inappropriate use of countryside land. Noise pollution and disruption of the natural habitat, which is environmentally destructive, will harm both flora and wildlife species.

The surrounding approach roads are narrow and unable to take high volumes of traffic. The tranquillity of the area would be adversely affected and local residents would be disturbed by noise, especially at weekends.'

### 3.1.2 Comments received 19/05/2011

'Thank you for the additional details and reports relevant to MA/11/0325. My council would like to make the following observations on these reports:-

**1: Doodson: Risk Control.** Basically this report is about the future if planning permission is given, however there is little details included in it i.e. Parking for how many and where on site? Venue access: very vague and Marshall probably required? Again no detail:

Our view: Construction should not go ahead on this basis.

**2: KRAG Report:** It has been known for some time (since previous surveys for the M20 and CTRL that Great crested newts are in the area. What concerns the Parish Council is that the areas around the ponds where the newts would have colonised have already been decimated by the sand tracks now built. These areas should be reinstated so that further decimation cannot take place.

**3: Ecological appraisal:** a) This report states 'it is difficult to assess the impact of the works'. With due respect to KB Ecology it is blatantly obvious there must have been a major impact on most species and further noise and disturbance will impact further on the wildlife still present. b) Great crested newts are most frequently found within 250m of ponds these area now consist of sand track for motocross. c) TN3 on the map has been levelled by Hymac digger. It was previously covered in wetland species, reeds and nettles between two quiet streams and as such was an important habitat for wildlife. To use this area as a car park is a total loss in ecological terms. If the land had been assessed before work started we believe it would not have been considered suitable. The plates clearly show a huge area of complete devastation of grass/wetland habitat.

**4: Noise impact survey:** Firstly the so-called illegal use of motorbikes since 2000 is grossly overstated. Any local resident will tell you that most have not seen anything at all. The noise assessment was totally inadequate and should not be used as a judgment on what the sound impact will be. There were too few bikes being used at low speed which is obviously not the nature of motocross. The noise created on Sunday in early March was its own noise assessment. It was heard everyone from Platt's Heath to Harrietsham absolutely horrendous and completely overrode railway and motorway noise. That was the reason there have been so many complaints. The noise on that Sunday was all-pervading and totally intrusive to all the surrounding residents.

**Conclusion:** This Parish Council is of the opinion that in general these reports have been hurriedly conceived and put together and are inadequate for the purpose. When the motorway and railway were built ecological assessments were carried out over all seasons of the year. Residents were paid compensation for the noise and loss of amenity

caused. The noise created by the motocross event on the opening Sunday was far worse than either of the above and will cause huge loss of amenity and house value for any householder living in the area. The noise impact survey refers to PPG24 and PPG17. Paragraph 20 of PPG17 states that 'in identifying where to create new areas of open space, sports and recreational facilities, local authorities should avoid any significant loss of amenity to residents, neighbouring uses or biodiversity.' We strongly believe that this application falls down on all three aspects, and for this reason the application should be turned down.'

### 3.1.3 Comments received 05/07/11

'Lenham Parish Council has studied the latest KB Ecology report on the proposed motocross site and makes the following observations:-

1. The report confirms that the site has numerous great crested newts. We infer from this that the extensive works that have already taken place have decimated a vast area of their habitat and probably many newts. We note that the great crested newt is afforded full legal protection under schedule 5 of the Wildlife and Countryside Act (1981), and is a European Protected Species, and as such is also listed as a species of principal conservation importance. We respectfully ask should not the developers be prosecuted for what damage they have already done?
2. New proposals for grid mesh in the car park cannot be construed as creating wildlife habitat or crossing places when 50 vehicles will be running over it, parking on it and polluting it.
3. The 'future mitigation aims' are unachievable in practice with the proposed activity. NB. The motorparc has over 1600 Facebook 'friends'. The site will be covered with hundreds of spectators and riders who will spread over the area. Machines will break down and have to be accessed from off the race track. The top-soiled, reseeded areas will not be the quiet wildlife sanctuaries as suggested.

The site has been decimated as a wildlife area and if motocross takes place in the manner envisaged it will never recover. To restore and promote wildlife as it was before the decimation, it would have to be top-soiled, replanted and left to recover.

4. We firmly believe that the site should be restored to what it was 6 months ago, remembering that it was designed and agreed in the Bill to be a buffer of landscaped ground between the high speed railway and the surrounding countryside.'

### 3.1.4 Comments received 26/09/11

'Lenham Parish Council Planning Committee wishes for the following comments to be taken into consideration;

#### TRACK CAPACITY

The maximum-stated 30 bikes at a time on the track would give the same noise that was produced on the 6th March, which was witnessed by many locals as absolutely horrendous. This fact has been stated time and time again by local residents, and is one

of the over-riding reasons why we believe the application should be turned down. The noise assessment carried out by the applicant's agent could not be called a true assessment, and should be deemed worthless in comparison with 30 bikes revving up and down continuously.

#### VEHICLE MOVEMENTS AND PARKING

We believe the total number of movements is drastically understated by the applicants, especially on event days, which will attract many spectators.

#### OPENING HOURS

These latest figures only convince us that the consequences of opening this site to motocross would be drastic for the area. To say that Sundays are resident's chief concerns is only trying to cloud the issue. 156 days of unnecessary noise in the countryside will destroy not only resident's quality of life, but also reduce the value of their properties in one fell swoop.

#### TEMPORARY PERMISSION

To give temporary permission for this activity would, in the light of what has been brought out, be very dangerous indeed and cause much antagonism in the area. We understand that government policy advises that a clearly unacceptable proposal cannot be made acceptable by granting it for a temporary period. The evidence already available in this case rules out the need for a 'trial run'. We sincerely hope the Council will not go down this route.

#### PREVIOUS USE FOR MOTOCROSS

This is a totally unsubstantiated claim and to the Parish Council's knowledge and local residents knowledge is not true.

#### PREVIOUS HISTORY

After the CTRL was built this land was landscaped with ponds and trees as a buffer with the surrounding countryside, after long consultation with Maidstone Borough Council and Lenham Parish Council, as part of the mitigation proposals. It is our categorical view that the site should be returned to that state which had been agreed in good faith.

#### THE ECOLOGY REPORT

We reiterate our concerns about the ecology report done by the applicant's agent, and refer to the report by George Whelan Bsc. Produced on behalf of the CPRE, which confirms our beliefs.

#### OBJECTORS

This Parish Council is dismayed by the applicant's statement that objections to the proposals have been generated as a result of an intensive campaign by a few individuals with regularly presented misinformation and scaremongering. Again, this is simply not true. Our previous chairman of planning stated that in the week following March 6th he had more phone calls and objections to the illegal motocross event than he had received on any planning issue in the 20 years he had been on the Council. The objections are widespread in the Parish.

#### SUMMARY

We thus formally object again to the proposal, coupled with these late amendments, for the reasons here given and those in our original letter of objection.'

**3.2 Harrietsham Parish Council:** Object to the application and wish to see it refused. They have made the following comments since it was submitted.

### 3.2.1 Comments received 13/04/2011

'From the documentation submitted and a subsequent meeting with the applicant and agent it was concluded that there is insufficient details in determining this application. There are no proposed mitigation measures to reduce the adverse impact this development and change of use would have on local residents. We accept that this rural location is adjacent to both the High Speed Rail Link and the M20, but the high revving motorcycles for 7 days a week will be detrimental to the environment of local neighbouring residents.

There are no plans for the management of traffic and parking on the site. It was established from the applicant that the nearest alternative similar site was at Colchester, Essex, and that a large motocross community did exist locally but no plans have been submitted on the numbers of intended users, dealing with overflow or proposed travelling methods to the site. As you are aware, Sandway Road is a narrow road with passing points and already subject to weight restrictions. Large numbers of vehicle movements along East Street, the most direct route to the A20, will have a detrimental effect on local residents and those living within the conservation area.

No details have been submitted regarding the impact that this development would have on the environment of the local wildlife and ecosystem. Considering works have already commenced without any consideration to the ecosystem one would have to question the applicant's long term commitment to our local environment. No proposals have been included for the control of pollution and the Health and Welfare of site users, particularly as it is proposed to open the site for more than 8 hours a day.

The site has been open for trial periods and Harrietsham Parish Council has received complaints from local residents regarding noise, the construction of fencing in a rural area the destruction of the local habitat and the parking of vehicles in the narrow access road which is the only way to approach the site.

Due to the points highlighted above, Harrietsham Parish Council is left with no alternative but to recommend refusal to this application and recommend it be reported to the Planning Committee of it is contrary to your view.'

### 3.2.2 Comments received 18/05/11

'With reference to the above application, Harrietsham Parish Council wishes to make the following comments;

From information submitted regarding the Tree Report, it does conclude that an impact assessment and method statement should be produced. As detailed on the Tree Constraints Plan, it clearly shows areas of the track over the root zones of the trees.

The Parish Council feels, due to the design layout and the close proximity of the proposed track, an impact assessment for this application should have been provided.

Regarding the noise impact survey, this still shows an increase in noise due to the nature of the development, and it recommends that the local authority consider varying the usage times to allow neighbouring properties to enjoy the amenity of their gardens (Paragraph 4.7). This clearly demonstrates that this application has a negative impact on local residents. In this paragraph it states that physical mitigation measures may be difficult to implement as there appears to be little scope for increased screening, so we can conclude this is the wrong site for this type of application.

To date, there have still been no details submitted for dealing with health and welfare of site users. It is recommended in the Risk Control Report as food and drink will be available on site and there is a need for suitable toilets and washing facilities, but no details of these appear on the site plan.

From information submitted in the Ecological Appraisal, the presence of protected species were observed and it is concluded that entrapment and movement would have to be implemented and licences obtained prior to development. As this site is not a designated leisure site, and is in a rural location, we conclude that it should still be refused

Our initial correspondence and comments regarding vehicle movements still remain unchanged for this application.'

### 3.2.3 Comments received 29/09/2011

'Harrietsham Parish Council wish to see the above application **refused** for the reasons set out below:

- There will be too much noise generated from the site
- There will be a safety issue with the amount of traffic using the small lanes
- There is already an existing motocross course at Broomfield and Kingswood
- There will be an adverse impact on the existing flora and fauna

The Parish Council also requests that this application be reported to the Planning Committee.'

### 3.3 **Environment Agency:** Commented on 7 April 2011 and have no objections to the proposals subject to conditions and informatives being imposed on any permission.

'Thank you for your letter dated 16 March 2011. We have no objection to the proposal provided that the condition/s within this letter are imposed on any planning permission granted:

#### **Land contamination**

Although there is no objection in principle to the proposed development at this site, we would wish to make the following comments:

The application documents state that the surface water run-off from this site is to discharge to a watercourse. Although there is no objection to this from a groundwater protection perspective, we are not aware of any specific watercourse in the immediate area, other than some drainage ditches which cross the site. If, therefore, the surface water drainage plans change, then the applicant must be aware that we would object to any discharge to ground at this location.

As noted within the application documents, this development site was previously a landfill. The waste mass was removed to enable construction of the Channel Tunnel Rail Link (CTRL), and placed in a purpose built landfill to the immediate north of Sandway Road. The historic landfill did not benefit from any basal engineering, and as such the groundwater beneath the site is known to be impacted by a plume of contamination. It will therefore not be acceptable for there to be any discharge to ground at this site as this could help mobilise the plume. Any proposals to discharge run-off to ground must therefore not be accepted by the Local Planning Authority.

The applicant should make contact with CTRL if it is proposed to discharge the site run-off to their drainage runs.

### **Flood Risk**

The application site lies within Flood Zone 1 defined by Planning Policy Statement 25 as having a low probability of flooding. However the proposed scale of development may present risks of flooding on-site and/or off-site if surface water run-off is not effectively managed. Paragraph E9 of PPS25 requires applicants for planning permission to submit a FRA when development on this scale is proposed in such locations.

In the absence of a FRA, the flood risks resulting from the proposed development are unknown. The absence of a FRA is therefore sufficient reason in itself for a refusal of planning permission. This reflects the precautionary approach to development in flood risk areas set out in paragraphs 10 and E9 of PPS25.

However, in this instance, given the nature and scope of the application, and the hydrogeology of the site, we are confident that a suitable scheme can be realised and are happy to recommend a Condition of Planning:

#### Condition

The development hereby permitted shall not be commenced until such time as a scheme to manage surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

#### Reason

To ensure that surface water is appropriately managed.

### **Informatives:**

Any watercourse within the boundary of the site would be classified as an ordinary watercourse and would not be maintained by the Agency or by an Internal Drainage Board. In the absence of any express agreement to the contrary, maintenance is the responsibility of the riparian owners.

Any culvert, diversion, weir, dam, or like obstruction to the flow of the watercourse

requires the consent of the Agency and/or Internal Drainage Board, under the Land Drainage Act 1991. For nature conservation reasons, the Agency seeks to avoid culverting and will not normally consent such works except for access.'

### 3.4 High Speed One

#### 3.4.1 Comments received 06/05/11

'Further to your letter regarding the above planning applications, I can confirm the following comments on behalf of HS1 and our maintainers Network Rail (CTRL):

**Condition 1:** Further details as listed shall be submitted in writing for approval by the Local Planning Authority in consultation with HS1. The development shall then be carried out only in compliance with the approved details unless previously agreed in writing by the Local Planning Authority in consultation with HS1 -

- types of vehicles other than solo motor cycles
- use of the track in conditions other than in full daylight
- number of vehicles that will be practicing simultaneously

**Reason:** No such details have yet been provided and the information is required in order to identify potential effects upon the integrity, safety, security, operation, maintenance and property interests of HS1

**Condition 2:** Arrangements for monitoring by HS1 of the management arrangements for the activity shall be submitted to and approved by the Local Planning Authority in consultation with HS1. The activity shall be carried out in compliance with these arrangements unless otherwise agreed in writing by the Local Planning Authority in consultation with HS1.

**Reason:** No information about the management of the activity has been provided and the nature of the activity represents an ongoing risk to the safety, security and integrity of HS1.

**Condition 3:** No development shall take place/no further use of the land for motocross shall take place until the Developer has provided Maidstone Borough Council evidence that it has entered into discussions with HS1 and agreed the nature and management of the activity.

- types of vehicles other than solo motor cycles
- no amendment to the alignment, location or profile of the track
- no use of the track in conditions other than in full daylight
- no more than the 30 vehicles will be practicing simultaneously
- accidents or incidents
- evidence of unauthorised use of the track
- obstruction to HighSpeed1 infrastructure
- evidence of a lax attitude to safety of the railway.

**Reason:** HS1 cannot agree to the approval of this activity in this location unless it has better information about the nature of the activity and how it will be managed. Direct

discussion will be most effective. The planning application does not contain all the detail needed to quantify risks to the safety and operation of HighSpeed1 railway. The consequence and likelihood of hazards are not fully understood at present.'

#### 3.4.2 Comments received 26/07/2011

'Further to our previous correspondence we have been liaising with the developer to mitigate any risks to the railway and now have the following comments to make:

We have no comments - The development has already been discussed with HS1 and Network Rail (CTRL) at length and our request for a legal agreement dealing with risks to HighSpeed1 railway has been satisfied.'

#### 3.4.3 Comments received 30/09/2011

'We have looked at the above planning application and can confirm that we have no further comments to add to this planning application.'

### 3.5 **Network Rail (CTRL):**

#### 3.5.1 'I write in regards to the above mentioned planning application and, in particular, the unacceptable risks this development poses to a fully operational High Speed Railway running so close to an adjacent motocross track.

My immediate concern is that there appears to be no proposals for any additional errant vehicle protection along our boundary. As such any incidents involving a manned, or unmanned, motocross vehicle running into our fence could, we feel, result in that vehicle breaking through our fence and getting onto the operational railway with potentially catastrophic results. Also there is considerable risk of on track collisions resulting in components or debris from vehicles detaching and becoming a missile crossing our fence and landing in the path of oncoming trains or, worse still, striking a passing train. As you can understand as an operator and maintainer of the High Speed railway we could never condone this kind of activity so close to our boundary fence.

As you will see from the proposal documents there are two long straights and four corners where vehicles can gather speed and lose control prior to a turn, or lose control whilst coming out of a turn. These machines can gather considerable pace on any terrain and our fence in this area will definitely not be one designed to withstand or deflect such forces.

We would consider this as a more reasonable proposal had there been some evidence forthcoming of a detailed risk assessment having been undertaken, highlighting risk ratings and mitigation measures specific to the railway which could have been proposed and agreed with NR (CTRL) Ltd.

We would therefore request, if possible, that these risk assessments and mitigation measures (agreed by all parties) should form part of the planning application or be a condition of the planning permission itself, if granted.'

3.5.2 *Officer comment: These comments were submitted in advance of detailed discussions between the applicants and High Speed One and their Maintenance Contractors. Members will have noted the comments of High Speed One set out in paragraph 3.4.2 above that states that concerns have been addressed.*

### 3.5 **Kent Highway Services**

Additional information has been supplied by the applicant which indicates that the traffic generation associated with this site will be restricted by the car parking spaces due to the management of the facility. 37 parking spaces are to be provided for participants and spectators, therefore the maximum number of LGV's and trailers attracted to this site would be 37 per day of which the vast majority would be transits as opposed to trailers. These vehicles would arrive before opening and leave the site throughout the day up until the time the site closes.

I am satisfied that the additional traffic generated by this proposal - 37 vehicles plus staff, can be accommodated on the highway and I therefore have no objections to the proposals in respect of highway matters subject to the following condition(s) being attached to any permission granted:-

Access to this main parking area is from the existing access at the south eastern side of the site. A vision splay of 2.4 x 90m minimum is required and this will require some trimming back of vegetation to the south east of the site access.

Additional parking is to be provided for staff and safety vehicles from a separate access from Sandway Road. Clarification is required as to how the use of this access is to be restricted. The intensification of use of this access will require improvements to allow a vision splay of 2.4m x 90m and a suitable surface provided. A gradient no steeper than 1:10 should be provided for a distance of at least 10m into the access from the edge of the highway.

1 As an initial operation on site, adequate precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to, and agreed in writing by the Local Planning Authority. Such proposals shall include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

2 The area shown on the submitted layout as vehicle parking space or garages shall be provided, surfaced and drained to the satisfaction of the Local Planning Authority before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of, and visitors to, the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.

3 Before the use hereby approved is brought into use a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

4 Any entrance gates erected shall be hung to open away from the highway only and shall be set back a minimum distance of 5.5m from the carriageway edge.'

### 3.6 **KCC Biodiversity**

#### 3.6.1 Comments received 11/05/11

'We are satisfied that the Ecological Scoping Survey report has adequately considered the potential for impacts on protected species as a result of the proposed development; the potential for impacts on reptiles and great crested newts have been identified and the report makes several recommendations (discussed below).

##### *Great Crested Newts*

The Ecological Scoping Survey report confirms the presence of great crested newts within pond 1.

The Great Crested Newt surveys must be carried out prior to determination of the planning application. The survey results must inform the mitigation and compensation strategy, ensuring that the proposals are adequate for the species present. The mitigation and compensation strategy must be submitted for comments.

This advice adheres to the Natural England Standing Advice recommendations and would ensure compliance with the Government Circular: Biodiversity and Geological Conservation (as quoted above).

##### *Reptiles*

The precautionary mitigation detailed in paragraph 4.5 must be carried out prior to any works starting on the proposed development.

##### **Enhancements**

The key principles of PPS9 are not only to avoid, mitigate or compensate for harm to biodiversity but also to incorporate ways to enhance and restore it.

Paragraph 4.4.3 recommends several enhancements which must be considered and incorporated in to the development. In addition further consideration should be given to enhancing the vegetation around the pond area for reptiles and great crested newts.

A management plan must be produced and submitted for comments detailing the proposed management for the site.

#### 3.6.2 Comments received 23/06/11

'We are satisfied with the proposed mitigation and enhancements detailed in the GCN Mitigation and Enhancement strategy – the implementation of the enhancements must be a condition of planning permission, if granted.

The report has only provided limited information with regard to the methodology proposed to carry out the trapping. A detailed methodology must be produced and submitted – this must be a condition of planning permission.'

### 3.7 **Kent Wildlife Trust:**

#### 3.7.1 Comments were originally dated 5 April 2011 and were as follows

'The Trust has no objection to the grant of planning permission for this development. Indeed, the introduction of an active use to this abandoned mineral site represents an excellent opportunity to realise significant gains for wildlife as required by government policy.

"Plan policies and planning decisions should aim to maintain, and **enhance, restore or add** to biodiversity and geological conservation interests" (PPS9).

Many former sand pits in the Lenham area are being managed to re-create lowland heath – a National and Kent Biodiversity Action Plan (BAP) priority habitat. This emerging network of valuable nature conservation assets could be enhanced further by the careful adaptation and appropriate management of the land within and surrounding the motocross track. The presence of woodland and water bodies elsewhere on same site promises the prospect of a particularly rich mosaic of related habitats.

This landscape-scale approach to building biodiversity is endorsed in the recently-published review of England's wildlife sites (*Making Space for Nature, 2010*) by Prof Sir John Lawton and further information on the methodology for and examples of such habitat creation is available from the "Nature After Minerals" project. ( <http://www.afterminerals.com/habitatadvise.aspx?p=Heathlands1> ) Neil Coombs, the Trust's Land Management Adviser would also be willing to offer advice. Neil has been actively engaged on such initiatives in the vicinity. He can be contacted on 01622 357865 or at [neil.coombs@kentwildlife.org.uk](mailto:neil.coombs@kentwildlife.org.uk) .

If the Council is mindful to grant planning permission in this case, therefore, I urge it to require the developer to prepare, implement and maintain a suitable conservation management plan – the details of which should be submitted for approval within 3 months of the grant of permission.'

#### 3.7.2 Further comments were dated 30 June 2011.

'Thank you for the opportunity to comment on the Great Crested Newt Surveys and the Mitigation and Enhancement Strategy submitted in support of this application.

The surveys have been undertaken by an experience ecologist and I have no reason to question the findings.

Whilst the strategy appears to be appropriate, it lacks some ambition. For the reasons given in my letter dated 5th April 2011, I would much prefer to see the areas of ground (outside the track) currently not supporting much grassland growth being managed for heathland.

Introducing topsoil and wildflower seed would represent a missed opportunity to strengthen the considerable recent heathland 'gains' realised locally. Indeed, I had hoped that the applicant may have been persuaded (if not required) to create heathland habitat across most of the open areas of the site. It's the Trust's experience that creating heathland habitat on sites such as this does not require an excessive initial investment in ground preparation or seeding/plugging. Follow-on management can be considerably less resource intensive than grassland.

The applicant should be required to confirm the findings of a suitability study and, as appropriate, submit details of techniques and material to be used to achieve and retain heathland across most of the open areas of the site.

I welcome the proposal to create a new pond and manage both this and the established large pond for Great Crested Newt. However, given the threat of harm to the animals in this population of protected species from the close proximity of motocross activities, the endorsement of Natural England must be sought.'

### 3.7.3 The following further comments were received on 10 August 2011.

'I should like to supplement my letters of representation dated April and June 2011.

I concluded my last letter with the following advice. "Given the threat of harm to the animals in this population of protected species (Great Crested Newts) from the close proximity of motocross activities, the endorsement of Natural England must be sought". However, in the last few weeks, it has been suggested to me that the motocross activity might be more intensive than I inferred from the application. It has been said that it may take place all day, every day. If this were to be true, I have my doubts that the site can continue to support successfully the existing population of Great Crested Newts.

The developer's survey confirmed the presence of Great Crested Newts but it is not clear that exclusion fences were installed during construction of the circuit. In the absence of such mitigation measures, newts may have been harmed.

In these circumstances, the views of Natural England on this matter have now assumed much greater significance.'

### 3.8 **MBC Environmental Health:** Now object to the application and wish to see it refused. The section's comments received since the application was submitted are set out below in chronological order:

#### 3.8.1 Comments received 11/04/11

'This site has a long-standing noise issue from the use of this site as a motor cross venue, with complaints having been made to both Environmental Enforcement and Planning Enforcement. I am told that there are as many as thirty bikes at any one time using this site. I was contacted by an acoustic consultant who said he would be measuring noise levels and submit his report, but I have yet to see it. This application is likely to be very contentious from a noise perspective, despite the fact that it is situated

close to the M20 motorway. In the absence of this acoustic assessment and because of the contentious nature of the proposal, I would recommend that it is refused, until I can be convinced that sufficient regard for local residents has been taken into account.

This could take the form of reduced numbers of machines, shorter meetings and/or fewer meetings.'

### 3.8.2 Comments received 02/06/11

'Following my memo of 11<sup>th</sup> April 2011, an acoustic assessment has finally been submitted. It is a comprehensive report which basically describes the methodology adopted and comments on readings taken on Sunday 20<sup>th</sup> March 2011 and compared them with background levels for the site in question. The methodology was broadly agreed in advance of the measurements, and this appears to have been followed. It was known that the numbers of riders on this date would be lower than the anticipated maximum. However, to compensate for the lower numbers, readings were taken closer to the site than at the properties concerned; these positions were predicted to be at noise levels equivalent to predicted noise levels of the larger number of bikes.

Though I cannot disagree with the readings taken, there appear to be some inconsistencies with them. It appears that only a 2 minute reading was taken at site 1 on Sandway Road and thus this reading is less representative than the other two sites, where a measurement period of at least 10 minutes was recorded – though even these time periods are arguably too short.

The conclusion to the report is vague and indicates that these levels are 'marginal' or 'moderate' – that noise from this activity would be heard, but would not amount to a problem when compared with the high background levels already in existence. If local residents do not want to hear *any* noise from this activity, this conclusion will disappoint.

My view is that the readings are not surprising at this locality. The highest readings were recorded near the property at Runham Lane, not surprising as this is the closest locality to both the site in question and the M20. Amongst the mitigation measures suggested are varying any permission in terms of times and/or frequency. These are perhaps the most important two factors, rather than the actual noise levels themselves. Physical screening of the site is not deemed realistic. Having visited the site, the topography plays an important role. The site is basically in a bowl with land north and south of the site being higher in elevation. This has the effect of shielding some nearby residences from the worst of the noise, including that of the major noise source, the M20 motorway.

The highest reading of 69 dB, expressed as a 12 minute LAeq with bikes running, is approx 7 decibels higher than when bikes are not running – into the 'marginal' significance category of complaints being made, as described in BS 4142, but this standard is not strictly relevant in this case.

#### **Recommendations:**

Though satisfied with the methodology, this report states and demonstrates the obvious, i.e. that the noise from these bikes will be heard, but it is concluded not to be too intrusive compared with the adjacent M20 motorway.

I would, however, like some further information from the applicant concerning their intentions over the numbers of events planned over this period. There is no denying that this is a noisy site regardless of this proposal, being close to both M20 and CTRL. The author makes the point that the site has allegedly been used illegally for the same activity over the past few years, apparently without complaints being received. Also, there is a lack of available noise criteria for use with these types of situations.

Taking all these factors into account, my recommendation is that there is insufficient evidence to refuse this application on noise grounds. I would therefore recommend granting planning permission for a period of, say, 12 months, and review the situation after that period of time has elapsed.'

### 3.8.3 Comments received 29/09/2011

'I have been made aware of updated information from the applicant in support of this application. In my last comments, dated 2<sup>nd</sup> June 2011, I said that there was insufficient evidence from an acoustic viewpoint to refuse this application, but that I still had concerns over the lack of information concerning times and frequencies of operations, and on this basis recommended that a trial period of 12 months be put into operation. However, more concrete information has now been submitted by the applicant's agent concerning these issues. It now appears that the maximum number of riders allowable will be 30 and the maximum number of events per year will be 156 between 10.00 and 18.30. The information also states that it is anticipated that the majority of these events will be during the winter period. The applicants are aware that the most contentious events would be those on a Sunday during the summer months and consequently they would restrict meetings to just one per month during this period.

My previous comments were based purely on the acoustic assessment, due to a lack of information about these other factors I have mentioned above. Now that we are aware of the full extent of this operation, I am concerned about the impact on local residents of this number of events, even during the winter periods. I am aware of the adverse reaction to my previous comments, but I did explain that they were based on the information provided at the time and that there were only a small number of riders present when the noise measurements were taking place. I did also say that there were some incomplete and misleading measurements in that assessment. Having now considered all the information now submitted, I consider that this number of events are excessive. It is very likely that if permission is granted, the popularity of this venue amongst riders will increase, compounded by there being less diversion of interests during this period. I accept the argument that it is less likely that residents will be outside on their property to be affected by noise during this period, but there is still nothing to prevent them from complaining. When complaints are made during the winter period, they are normally more serious as the noise is sufficient to be heard within someone's property, as it is usual for windows and doors to be closed. Even if during some of these events other factors such as wind direction and topography come into play to reduce the impact on residents, the sheer number of events being described would ensure that there will still be plenty of events that have the potential to cause noise disturbance to these residents. Even if permission is granted for this application, I would anticipate a number of complaints being made to the Environmental Enforcement team; it is possible that sufficient evidence of a statutory nuisance may be obtained during

these investigations. There are, of course, other issues, such as the numbers of vehicles parked in and around this venue which will also no doubt cause concern for local residents.

#### Recommendation

I feel better informed to make a more balanced judgement with this updated information than previously. There are simply too many events planned that have the potential to cause noise nuisance and disturbance to local residents, despite the mitigating factors described above. There is still likely to be one event per month on a Sunday during the summer months that will provide even more noise disturbance. A noise assessment that has actually measured the effect of a maximum of 30 riders has not been submitted and this, coupled with my other comments, leads me to conclude that this application should be refused on noise grounds.'

## **4. REPRESENTATIONS**

### **4.1 HUGH ROBERTSON MP**

'As the constituency Member of Parliament, I am totally opposed to the application. This is a rural area unsuited to such activities and the noise and disturbance inflicted upon local residents would be, in my view, unacceptable.'

### **4.2 Cllr T. Sams**

If you are minded to approve this application, please report it to the planning committee for the reasons set out below;

'The application has attracted significant interest locally. I have received many calls and emails from residents affected by the impact of this proposal. Issues around noise, traffic, landscaping, hours of operation etc need to be examined in detail, and residents given the opportunity to make representation directly to committee members.'

**4.3** A considerable number of representations have been received in relation to this application, in support of and objecting to the development. The total number of representations received is approximately **435**.

**4.3.1** Some **245 letters of OBJECTION** including from Protect Kent CPRE (both at County and Maidstone branch level), a firm of surveyors acting on behalf of a number of local residents in the area and a recorder for the British Trust for Ornithology (BTO), have raised the following (summarised) concerns over;

- Excessive noise and disturbance
- Public nuisance and detrimental impact upon residential amenity
- Animal welfare (particularly horses)
- Decrease house values
- Air pollution
- Inadequate parking available

- Highway safety issues (in particular inadequate access and narrow lanes, impact upon horse riders and pedestrians)
- Overall visual impact
- Unsuitable location, given near-by existing facilities
- No proof of demand or justification of need
- Hours of operation considered excessive
- Over intensification of site/urbanisation of countryside
- Site was never previously used for motocross and is currently in use illegally
- Impact upon bio-diversity of area – including impact upon wildlife and pollution into near-by watercourse
- Excessive noise
- Impact upon surrounding landscaping/trees
- Unsociable behaviour
- Risk of flooding
- Increased security risk
- Inconsistency within the application
- Inadequacy of the acoustic assessment work submitted on behalf of the applicant

In support of the objections a DVD has been submitted of the riders on the site on the day that the noise assessment was undertaken. Supporting statutory declarations from three local residents who visited the site on the day that the assessment took place certifying as to the activity and numbers of riders on the site during the test have also been submitted.

A petition signed by 277 persons against the application has also been submitted.

4.3.2 Some **190 people in support** of the application have commented and made the following (summarised) points;

- Facility is needed
- Creates jobs
- Will increase number of visitors to the area, tourist attraction
- Benefits local community
- Regularises the sport, safe and controlled conditions
- Good community facility, keeping the youth of the streets
- Reduced illegal riding on unauthorised sites
- Well placed by the motorway and rail line with no significant increase in noise/disturbance

A petition signed by 517 people in support of the application has also been submitted. The petition states that the site will provide somewhere safe and stop illegal riding taking place elsewhere.

In addition a further petition signed by 23 riders who patronise a motorbike shop in Swanley has also been submitted in support of the application citing the benefits that a facility like this brings to the sport.

- 4.3.3 The supporters tend to be drawn from a wider area (across much of Kent and South East London), than the objectors although there are some supporters who live locally and have children that carry out motocross activities. The objectors are on the whole more locally based in Harrietsham, Platt's Heath, Sandway and south of the M20 on Runham Lane.

## **5. CONSIDERATIONS**

### **5.1 Site Description**

- 5.1.1 The site is located on the south side of Sandway Road immediately to the east of its junction with Runham Lane. The High Speed 1 Railway Line (CTRL) forms the southern boundary of the site running immediately adjacent to the site. The eastern boundary of the site is a maintenance access road serving the CTRL.
- 5.1.2 The site amounts to some 5.6ha in area and is roughly rectangular in shape. The site was part of a former landfill site that was cleared of waste material when the CTRL was constructed. Being in a basin, the track itself has been formed on land that is between 6-10m lower than Sandway Road and Runham Lane and there is planted banking along both Sandway Road and Runham Lane around the north western corner of the site. The site falls away to the south towards the CTRL. The boundary to the CTRL is open and has no landscaping. The M20 motorway further to the south is visible from the site.
- 5.1.3 The track is located towards the western end and southern sides of the site in an area largely free from existing trees and woodland. The north east corner of the site is on higher ground and is wooded. A hardstanding area of approximately 2300m<sup>2</sup> in area has been formed in this area accessed directly off Sandway Road via a track that was newly created and which climbs steeply uphill between trees. The material to create the hardstanding has been imported onto the site and it would appear that some trees and scrub planting have been removed to allow its creation. A metal portacabin-type marshal's hut (8.6m x 2.5m and 2.45m high) and metal storage container (3.1m x 2.46m by 2.5m high) have been positioned at the centre of the site overlooking the track at its highest point. A childrens' play area has been provided adjacent to these structures and is fenced off from the track area for safety purposes. The spectator viewing area is also located adjacent to the marshal's hut.
- 5.1.4 A close-boarded fence has been erected along the western boundary of the site with Runham Lane to preclude views into the site from Runham Lane.

- 5.1.5 The northern part of the site adjacent to Sandway Road and the area to the eastern end of the site is more wooded than the western end of the site. This was prior to the works being undertaken, grassed. There are two existing ponds in this area which have been retained despite the construction of the track.
- 5.1.6 The site is in open countryside and has no specific designation on the Maidstone Borough-wide Local Plan 2000 Proposals Map, other than the safeguarding designation for the CTRL, which has now been constructed.

## **5.2 Proposal**

- 5.2.1 The application is partially retrospective in that the track has been formed, and the central hardstanding area and access track from Sandway Road leading to it created. The childrens' play area has been provided and the storage container and marshal's hut have been sited on the site. The application seeks permission for the use of the site as motocross practice and racing facility. This is a sui-generis use.
- 5.2.2 The entire track has already been formed by the undertaking of engineering operations involving the movement and re-grading of existing soil within the site. Extensive areas of sand lie under the topsoil and as a result of the works that have taken place the track is composed of sandy material. A new access road has been created from Sandway Road that serves the central hardstanding area (approximately 2300m<sup>2</sup> in area) formed in an area beyond the north east corner of the track.
- 5.2.3 The proposed car park located at the eastern end of the site has not yet been constructed. This area is currently naturally planted and consists mainly of scrub and ditches/streams run along both the western and eastern boundaries of the area. The area of this proposed car park amounts to approximately 2000m<sup>2</sup>. A new access road would be required for the High Speed Rail maintenance access which would require a vehicular bridge over the ditch/stream on the site's eastern boundary to be built. A new footpath link to the central hardstanding area through existing woodland and trees with a new footbridge over the western ditch/stream is also proposed. Preparations for the construction of this have started.
- 5.2.4 The applicants have confirmed that the peak capacity of the track is 30 riders at any one time with the facility being able to handle up to 3 groups per day, a maximum of 90 riders on the site on any one day. The applicants intend to run the track with a membership scheme and riders would need to book in advance. Control on numbers would be monitored by a log book which is required for insurance and health and safety purposes.

- 5.2.5 It has been confirmed that the track would operate 156 days a year within the hours of 10am until 6.30pm. Weekend riding would be between 10am and 4pm and weekday riding would be from 12.30pm to 6.30pm in the spring/summer and 10am until 4pm in the winter months. It is stated that this is 18 hours of riding per week.
- 5.2.6 Given the concerns of local residents and whilst the weekends are times of peak demand, the applicants state that during June, July and August, they are prepared to further restrict the open hours so that riding would only take place on one Sunday in each of those months.
- 5.2.7 It is also stated that given the nature of the track which has been formed on sand, that the track is likely to be more used in the winter months due it being one of the few tracks where practice can occur. These months are stated to be times of the year when residents are less likely to use their gardens and when daylight means reduced hours of operation in any event. The applicants state therefore that is likely that the majority of the 156 days of operation are likely to be between September and May.
- 5.2.8 Some of the 156 days will be days when the track is hired on a private basis which will be limited to 10 bikes/10 people or training days which will be limited to between 10-20 riders depending on their riding skill level.
- 5.2.9 In terms of vehicle movement most riders use Transit-type vans rather than trailers. These vehicles are used because they can accommodate spares and tools and provide a mobile workshop and a more vulnerable to theft. Most carry more than one bike, sometimes up to three or four. The booking system will enable the organisers to ascertain how many bikes competitors will be bringing and thus enable them to ration the parking spaces accordingly and to know how many spaces will be needed. It is unlikely that 90 vehicles will visit the site typically it is expected that 30-40 spaces would be required. The proposed car park is approximately 2000m in area.
- 5.2.10 It is stated that the track which will be run on an organised basis will bring a much needed facility to the area and that it will help to reduce illegal riding elsewhere.
- 5.2.11 The application is supported by an arboricultural survey and phase one ecological survey and a Great Crested Newt survey and mitigation strategy, an acoustic assessment and a risk control report.
- 5.2.12 No detailed landscaping plan has been submitted as part of the application. The most recent planting on the site was undertaken as part of the approved landscaping packages for the construction of this section of the High Speed Rail Line.

### **5.3 Principle of Development**

- 5.3.1 In terms of the principle of development, the site is an open air recreational use which under the terms of criterion (3) of policy ENV28 of the Borough-wide Local Plan 2000 may be acceptable if it is considered that the development does not harm the character or appearance of the area or the amenities of surrounding occupiers.
- 5.3.2 Policy ENV28 allows for open air recreational uses to have ancillary buildings providing operational uses only. I do consider that the marshal's hut and storage container are of a size to be ancillary to the activity. They are also demountable and can be removed from the site as required.
- 5.3.3 The impact of the development on the character and appearance of the area and amenities of surrounding occupiers are considered below.

### **5.4 Visual Impact**

- 5.4.1 This is one of the key determining issues in relation to this application and includes within its consideration the impact of the development on landscaping and ecology.
- 5.4.2 Notwithstanding the fact that the application site has no specific landscape designation, it is long standing Government and Development Plan policy to protect the countryside for its own sake. The application site extends to some 5.6ha overall representing the loss of a sizeable area of land and open countryside. The development has significantly changed the character and appearance of the area.
- 5.4.3 Prior to the construction of the track, the area outside the woodland was predominantly grass with two ponds within it, having been successfully and sensitively restored as part of the works to construct the high speed railway. Now the form and character of the open areas of the site have been significantly changed through the engineering works which have changed the overall topography of the site and which have exposed the sand underneath leading to the visual scarring that the track layout has caused. The form of the land is alien to that surrounding it.
- 5.4.4 The engineering works to create the track are visible from outside the site, from land to the east along Sandway Road. The site could also formerly be easily seen from Runham Lane which is at a higher level than the site as it crosses the High Speed Line, and the M20. Views are now however, restricted by the close boarded fence that has been erected. This is a jarring feature and is alien to the rural character of the area. The site would be clearly visible from Runham Lane

in the vicinity of the railway bridge if the fence was removed. More appropriate landscaping to screen the site boundary at this point would take time to mature.

- 5.4.5 When in regular use and at the time it was formed, the highest sections of the track as they run up the banking alongside Sandway Road and Runham Lane could be seen from the M20 motorway some 280m to the south. These were fleeting glimpses as one passed the site at speed, but nevertheless the site is visible and is a form at odds with its general surroundings. Land on the south side of the M20 rises as you travel southwards along Runham Lane. Limited views of the site are possible, due to intervening woodland and the topography of the area, from public rights of way on this higher land.
- 5.4.6 Given recent inactivity at the site, the track has begun to partially 'green-over' but this situation would be reversed quickly if it was brought back into active use to the extent proposed in the application. Despite this partial re-growth, the track and its alien form in the landscape can still be seen from further eastwards along Sandway Road.
- 5.4.7 A significant amount of material has been imported onto the site to create the central hardstanding area surrounded by the trees. This too has changed the former character and appearance of the site. Some previously existing planting has been lost and some of the existing trees affected principally by the works to form the steep access track from the existing site entrance in Sandway Road. There is evidence of limb removal and root exposure and severance.
- 5.4.8 I am also concerned as to the potential visual impact of the proposed car park area that has not yet been constructed on the character and visual amenities of the area. This area is currently regenerating naturally and also has additional planting and landscaping undertaken at the time the High Speed Rail Line was constructed.
- 5.4.9 It too is an extensive area at around 2000m<sup>2</sup> and would be accessed by a new roadway that would lead to the removal of landscaping alongside the maintenance access to the railway line. When the car park is in use, due to the numbers and type of vehicles likely to be using it, it would be a visually prominent and an alien feature in this area of countryside. New bridges over the ditches and streams would also be needed, no details have of these have been supplied and in particular the proposed access road bridge would need to be substantial enough to take the weight of the transit-type vans that would be visiting the site.
- 5.4.10 Many of the objections refer to the potential destruction of protected species and their habitat that has taken place at the site to enable the formation of the track. If protected species have been affected this is a criminal matter which falls under the Wildlife and Countryside Act and European Protected Species

Legislation. I am aware that the Kent Constabulary Wildlife and Rural Crime Coordinator initiated an investigation following complaints he received.

- 5.4.11 I have been advised by the Wildlife and Rural Crime Coordinator, that he has visited the site and taken photographs. He noted that the pond was there and found no evidence of disturbance to it. He has confirmed that without any further evidence he will not be continuing with this investigation. He did state however, that should any evidence of an offence be revealed he will consider this for further development.
- 5.4.12 The site has been subjected to a phase one ecological assessment since the works were undertaken and the application submitted. Subsequently a Great Crested Newt survey was undertaken and submitted along with a mitigation and enhancement strategy for the site.
- 5.4.13 The surveys and the mitigation strategy have been assessed by the Kent County Council Biodiversity Team, the Council's retained ecological advisors. Their views are set-out earlier in the report at paragraphs 3.6.1 and 3.6.2.
- 5.4.14 The proposed mitigation and enhancement seeks to ensure no net loss of habitat for the newt population, the maintenance of habitat links and ensuring long-term management of the site for the benefit of newts.
- 5.4.15 One new pond would be created on site by deepening and lining an existing hollow, additional refuges and resting places provided (minimum 20 log piles and 5 small hibernacula within 50m of the pond). The new car park and access tracks would be formed using grid mesh and would be top-soiled and seeded with a wildflower species mix. Areas of ground outside the track will either be turned into Heathland or top-soiled and re-seeded including drought resistant wildflowers to attract invertebrates with logs used to retain and stabilise the soil. The development will not sever habitat links as the populations will be able to cross the car park and track. In the long-term, the ponds will be managed to ensure that open water stays and a third of the reed bed will be removed every five years and no fish introduced.
- 5.4.16 Members will note that views of the KCC biodiversity team that the mitigation and enhancement proposed is considered appropriate and acceptable for the site and should be secured by condition if permission is granted. A licence would be required to enable the car park and access road to be constructed as it would be necessary to enclose and trap any translocated any species found within the area affected by this element of the development.
- 5.4.17 I note in particular however, that it is proposed to use a web material to form the surface of the additional car park and its access and to seed this with grass and wildflowers to reduce its impact and enhance biodiversity as part of the

suggested mitigation scheme. Given the intended frequency of the use of the site I question whether in reality this proposal would come to fruition.

5.4.18 Whilst I consider that on balance no objections can be raised to the development on ecological grounds given the advice set out in report, it remains the case that the form appearance and character of the site has significantly and unacceptably changed. This has resulted in an unacceptable visual impact on this area of countryside.

## **5.5 Residential Amenity**

5.5.1 The nearest dwellings are located in excess of 300m to the west of the site towards Harrietsham, approximately 230m to the south in Runham Lane beyond the railway and the M20 motorway, some 350m to the north east to the north of Sandway Road and in excess of 550m to the east/south east along Sandway Road again on the other side of the railway.

5.5.2 It is clear from the representations received that the use of the site for motocross did result in noise disturbance to residents some distance away from the site on the south side of the M20 in Runham Lane at Sandway, East Street Harrietsham and in Platt's Heath. This is despite the relatively high background noise levels of the M20 and the CTRL.

5.5.3 In this regard I have taken into account the final comments of the Council's Environmental Health Section made once the precise extent of the level of intended use of the site was made clear. These are set out in paragraph 3.8.3 of the report. Environmental Health Officers are now satisfied that despite the submitted acoustic report, the level of information supplied as to the intensity of use of the site is considered to be such that complaints and unacceptable disturbance are likely to result.

5.5.4 In his comments the Environmental Health Officer concludes as follows:-

'I feel better informed to make a more balanced judgement with this updated information than previously. There are simply too many events planned that have the potential to cause noise nuisance and disturbance to local residents, despite the mitigating factors described above. There is still likely to be one event per month on a Sunday during the summer months that will provide even more noise disturbance. A noise assessment that has actually measured the effect of a maximum of 30 riders has not been submitted and this, coupled with my other comments, leads me to conclude that this application should be refused on noise grounds.'

5.5.5 Given this conclusion, I am satisfied that if approved, the development would be likely to cause unacceptable harm to local residents.

5.5.6 I do not consider it would be appropriate to grant a temporary permission to enable the effect of the use to be assessed over a defined period of time because the application proposes works of a more permanent nature, such as the new car park and it would be unreasonable to require these to be constructed and then potentially removed after only a short period.

## **5.6 Highways**

5.6.1 Members will have noted the views of Kent Highway Services set out in paragraph 3.5 of the report. They have considered the further information supplied by the applicants relating to the intended operation of the site and the potential impact on the local highway network.

5.6.2 No objections have been raised to the development on highway grounds as it is considered that the type and level of trips generated can be accommodated on the highway. Visibility splays at the two site access points can be provided, although some trimming or loss of vegetation will be required. To provide these,, particularly the improvement of the existing site access to Sandway Road that serves the Marshall's Hut and staff parking area may cause additional visual harm.

## **5.7 Other issues**

5.7.1 The original concerns of Network Rail and High Speed One in relation to the safety of the High Speed Line have been addressed following negotiation between them and the applicants.

5.7.2 The comments of the Environment Agency regarding surface water drainage and the potential residual contamination are noted. Details of surface water drainage and measures to prevent run-off to ground could be secured by means of an appropriate condition.

## **6. CONCLUSION**

6.1 The use of the site and the formation of the motocross track and the ancillary structures that have been stationed on the site are open air recreational uses. Such uses may be acceptable in countryside areas under the criteria of policy ENV28 of the Maidstone Borough-wide Local Plan 2000, unless it is considered that the development causes harm to the character or appearance of the area or the amenities of surrounding occupiers.

6.2 The comments of the Council's Environmental Health section are set out earlier in the report. It is considered that the stated scale and intensity of the use is likely to cause harm to the amenities of residents in the area and refusal is

recommended in this basis. It is clear from the representations received that when the use was in operation when the track was first created, that the noise from it was audible over a considerable distance, notwithstanding the presence of the M20 Motorway and the High Speed Rail Line as major generators of background noise. I consider that the development is likely to cause unacceptable harm and would therefore be unacceptable and contrary to the provisions of Policy ENV28.

- 6.3 The development that has taken place covers a significant area of countryside and has changed its character and appearance. The engineering works have changed the landform in the site. Extensive amounts of material have been imported onto the site to create the central hardstanding area changing the nature of this part of the site. The landform and topography of the site is now alien to its immediate surroundings as is the scarred appearance the site. The loss of the landscape remediation secured as part of the Channel Tunnel Rail Link project is also highly regrettable.
- 6.4 I also consider that the proposed car park area would be harmful to the visual amenities of the area. It is an extensive area currently edged by trees and in itself is part scrub and part grass and is unmanaged and natural in its appearance. The car park would in any event be a prominent and to my mind alien feature in the surrounding landscape particularly when in use by the numbers and type of vehicles likely to be using it.
- 6.5 The access track created from Sandway Road through to the hardstanding area is also harmful to the site's appearance. As stated earlier a close boarded fence has been erected along Runham Lane. This is an urban feature out of character with its surroundings. It does require permission in my view as the use of the land on which it is sited is currently unlawful and has no permitted development rights and in any even it is over 1m in height adjacent to a highway. If the fence was removed the track would be a visible and harmful feature form Runham Lane.
- 6.6 There are no highway objections to the development.
- 6.7 I have considered whether it would be appropriate to grant a temporary permission to enable the impact of the use of the site to be more fully assessed. The views of the Environmental Health Section as to the unacceptability of the site in terms of its likely impact on residents living on the locality due to the extent of the use are however clear. In addition, the construction of the additional parking area which would be necessary to provide sufficient off-road parking to render the development acceptable in highway terms would involve the applicants in further expense which at the end of the day may need to be removed if the trial period proved the development to be unacceptable.

- 6.8 I have also noted the many representations in support of the application which cite a general lack of such facilities and the need for further provision. However, for the reasons set out above I do not consider that this site is an appropriate one for such a facility to be provided. In this case the potential harm outweighs any benefit that may accrue from the provision.
- 6.9 I consider that the development does cause harm to the character of the area and is likely to result in unacceptable disturbance to local residents and that the following recommendation is appropriate.

## **7. RECOMMENDATION**

REFUSE PLANNING PERMISSION for the following reasons:

1. The development by reason of the frequency, extent and level of activity associated with the use of the site as proposed, is likely to result in unacceptable noise and disturbance that would be harmful to the amenities of residents in the locality and the character and amenities of the surrounding countryside in general and as such would represent unacceptable development in the open countryside. To permit the development would be contrary to policy ENV28 of the Maidstone Borough-wide Local Plan 2000 and policies CC6, NRM10 and C4 of the South East Plan 2009.
2. The development by reason of the alterations to the topography and form of the site, to provide the track and the access to the central parking area, together with the visually intrusive and urban nature of the fence along Runham Lane and the likely visual impact of the proposed car park accessed from Sandway Road is considered to cause unacceptable harm to the character and appearance of this area of open countryside. To permit the development would be contrary to policy ENV28 of the Maidstone Borough-wide Local Plan 2000, policies CC6 and C4 of the South East Plan 2009 and the advice in PPS1 and PPS7.