



COMMITTEE REPORT

Item Number:
Application Number:
 S/RES/18/0027/JABU

Ward: St Andrews
Parish:
 St Andrews

Proposal: Reserved matters application (following outline planning permission S/07/1365) for the demolition of existing stadium and construction of a new stadium, racing building, training kennels, new stands, acoustic barrier, car parking and associated development including minor access works to western access and laying out of open space/linear park. (Modification to reserved matters approval reference S/RES/16/0036)

Site Location: Abbey Stadium, Lady Lane, Swindon

Case Officer: Mrs Janet Busby

Agent: N/A

Applicant
 George Edwards
 Abbey Stadium
 Lady Lane
 Swindon
 SN2 4DN

Officers Report

Background:

1 This application for the approval of reserved matters, relates to revised proposals to re-develop the Abbey Stadium on its existing site; it seeks approval of the access, the appearance, the landscaping, the layout and the scale of the development. The proposals are to modify to the existing track for greyhound and speedway racing, to construct a new stadium building, customer facilities, a new acoustic barrier, car parking and include the laying out of part of the open space/linear park, the equipped play area and multi-use games area (MUGA). The application is before the Planning Committee for determination as it has been referred by Cllr G Sumner Cabinet Member for Strategic Planning and as the Head of Planning, Regulatory Services and Heritage considers that the matters raised by the application should be debated.

Summary of Recommendation:

That the Head of Planning, Regulatory Services and Heritage be authorised to APPROVE the reserved matters, subject to the conditions set out in the report, together with any amended, omitted or additional conditions, upon the completion of a Section 106 agreement to mitigate the impact of the development and to ensure the satisfactory completion of the

stadium development and the other strategic infrastructure, including the open space and play areas and the construction of the necessary drainage infrastructure. In the event that the applicant fails to enter into an agreement or fails to agree to an extension of time for the determination of the application to enable the Council as Local Planning Authority to deal with these matters, then the Head of Planning, Regulatory Services and Heritage be authorised to refuse the approval of reserved matters.

2 It is recommended that the section 106 agreement should include the following matters;

- a) No additional housing is to be developed until the new stadium is operational and substantially complete. (The definition of operational and substantial completion are to be agreed.)
- b) Other extant permissions and approvals previously granted for alternative proposals (the revised outline S/OUT/14/0833 and subsequent reserved matters approval S/RES/16/0036 for the new stadium) will cease to have effect.
- c) A full application for an alternative re-development of the stadium that includes an area of land owned by the Council (S/16/0959) is to be withdrawn.
- d) The outstanding drainage details that are to be agreed by the Council and Lead Local Flood Authority to be constructed and implemented by an agreed long stop date.
- e) The changes to the laying out of the open space/linear park, including the equipped play area and multi-use games area (MUGA) consequent to the revised stadium proposals to be laid out and constructed by the applicant by an agreed long stop date.
- f) Replacement clauses/provisions are agreed to provide a site for the Dorset and Wiltshire Fire and Rescue Service and enacted.

3 At the time of writing the applicant had submitted a draft section 106 agreement in connection with a new timetable for the development; this was based on obtaining planning approval before the end of October 2018 and envisaged works commencing on site in November with completion of the new stadium by June 2019. Although it is anticipated that rapid progress could be made to agree the above Heads of Terms, as the application has been called to Planning Committee for determination at the time of writing, the above matters have not yet been agreed.

Planning history

4 The planning history of the Abbey Stadium is lengthy and complex. The first outline planning permission was granted in 2011 for the demolition of the existing stadium and construction of a new stadium, with youth training facilities, business floor space (16,745sqm) a care home and 450 dwellings with the means of access not reserved.

5 Subsequently, before any applications for reserved matters approval were submitted, a further outline application, made under section 73 of the Town and Country Planning Act 1990 (as amended) (reference S/12/1826) was granted in 2013. Principally this application modified some of the original outline planning permission conditions, to enable the development to be implemented in phases or sub-phases. Both of these permissions were linked to a section 106 agreement for the payment of developer contributions to mitigate the impact of the development and to control the phasing and implementation of the development. A planning condition set the time limit for the submission of applications for the approval of reserved matters before the expiration of 5 years, which was 8th August 2018.

6 In 2014, 2015 and 2016 several applications for reserved matters approval were granted for residential development at the site and for the construction of roads and strategic drainage. Two applications reference S/RES/13/0951 and S/RES/13/1188 were granted for residential development of 66 houses and 120 houses for Persimmon Homes/Charles Church. An application reference S/RES/14/1539 was approved for Barratt Homes for 121 houses together with a later application for 16 houses (reference S/RES/16/1050). A separate reserved matters application was approved for a 73 bed care home (S/RES/13/1656) and this was developed by the Milestones Trust. All these developments are completed and occupied apart from a final few plots on the Barratt Homes development.

7 A third outline planning permission was granted in April 2015, pursuant to application S/OUT/14/0833 to modify the original development for a mixed use development comprising up to 100 dwellings, car parking for stadium events, a fire station, access, landscaping and open space. This permission replaced the former employment element with additional housing and made a new provision for a site for a new fire station for the Dorset and Wiltshire Fire and Rescue Service (DFWFRS). This new permission was subject to a Deed of Variation to link to the existing s106 agreement and included triggers to control the implementation and delivery of the new stadium together with a revised phasing programme for the construction and laying out of the open space.

8 In August 2016 reserved matters approval, reference S/RES/16/0036 was granted for the demolition of the existing stadium and the construction of a new stadium, racing building, training kennels, market, new stands, car parking and associated development on land to the east of the existing site. This development has not been implemented.

9 Later in 2016 a modified proposal for full planning permission was submitted to re-develop the stadium on land located slightly to the east of the above proposals, including an area of land owned by the Borough Council. This application, reference S/16/0959 has not been determined, partly as the sale of the Council owned land did not proceed. The applicant was advised to withdraw this alternative proposal in advance of the current reserved matters application being determined, but at the present time the application remains current.

10 More recently another application for reserved matters approval for an additional 56 dwellings was approved for Persimmon Homes (reference S/RES/16/0357). Reserved matters approval was also granted for the laying out and construction of the open space/linear park. Both of these applications were submitted pursuant to the later 2016 outline planning permission S/OUT/14/0833. The additional 56 dwellings have been constructed, completed and are occupied, but the other reserved matters approval for the open space has not been implemented and this area has not been laid out. Overall 379 dwellings have been permitted at the site and the majority of these are built and occupied.

11 An application for the discharge of planning conditions relating to drainage was approved at the end of 2016, but the works to implement this drainage scheme have not been carried out. In August 2018 just in advance of the expiry date for any further reserved matters applications to be submitted, a final application for the approval of reserved matters for the construction of an additional 127 dwellings on land to the east of the existing stadium was made; this application is pending consideration and determination. A further discharge of condition application for the drainage scheme modified to reflect this application has been

submitted and this is pending consideration.

The Proposal:

12 The proposal is to demolish the existing stadium building and to build a replacement stadium building and to construct speedway and greyhound racing tracks within the current stadium site. The proposals include new racing facilities and kennels located within the ground floor of the new stadium building, together with offices and other ancillary facilities and new customer facilities on the first floor, including hospitality areas. The building design includes an external viewing platform located on the northern side of the new stadium building facing towards the tracks, together with new stands, a speedway pits building and maintenance compound, a new acoustic barrier, car parking, including disabled car parking spaces, space for taxi and bus drop off, motor cycle and cycle parking and associated development.

13 The market hall which was part of the original outline permission no longer forms part of the proposals, as the market use at the site ceased earlier this year. The access for the development is from Lady Lane on the northern side. The new stadium has been designed with an acoustic barrier located around the perimeter of the stadium to attenuate noise from speedway events to an agreed Race Noise Level. The application further includes details of part of the linear park and public open space, including the centrally located equipped areas of play; the location and form of the open space has been modified from that previously approved.

14 The proposals continue to make provision for the transfer to the Council of a site for the Dorset and Wiltshire Fire and Rescue Service (DWFRS), albeit in a modified location and of a different configuration. The transfer of this land is controlled through the existing section 106 planning obligation completed in 2015 and relates to 0.8 hectares. The applicant has confirmed that the site area for the DWFRS is the same as that previously proposed to be provided. The application drawings indicate that this area of land would be used by the stadium operator as a temporary car park until such time as it is required by the DWFRS for a new fire station north.

The Site and Surroundings:

15 This brownfield site is located on the northern edge of the Swindon urban area adjacent to St Andrews Ridge and Abbey Meads, within the former northern town expansion area. Salzgitter Drive is to the south and Lady Lane to the north and these two roads define the external boundaries of the original stadium site. The existing stadium is located towards the north and north-east part of the site and the former Motorola (now the Vygon) premises are to the east. The constructed and occupied new residential development and the care home are to the south and to the west and the St. Andrew's Ridge residential area and local centre, the public house, retail units and a nursery are located to the south of Salzgitter Drive.

16 The Abbey Stadium has been in continuous operation for more than 60+ years as a recreation and leisure site; it is home to the Swindon Robins speedway team and greyhound racing and other events.

17 For completeness full details of the applications, including those for the approval of reserved matters previously determined are listed below.

- a) S/RES/13/0344 for the construction of roads and strategic drainage (part of the site) pursuant to outline permission S/12/1826 was granted in April 2014 and this approval has been implemented.
- b) S/RES/13/0951 for the erection of 66 dwellings (Persimmon/Charles Church) pursuant to outline permission S/12/1826 was granted in December 2013 and this approval has been implemented and all the dwellings are occupied.
- c) S/RES/13/1188 for the erection of 120 dwellings (Persimmon) pursuant to outline permission S/12/1826 was granted in July 2014 and this approval has been implemented and all the dwellings are occupied.
- d) S/RES/13/1539 for the erection of 121 dwellings (Barrett Homes) pursuant to outline permission S/12/1825 and has been implemented and the majority of the dwellings have been implemented.
- e) S/RES/13/1656 for the erection of a 73 bed care home (Castle Oak) pursuant outline permission S/12/1826 was granted in July 2014 and this reserved matters approval has been implemented and the care home constructed and is operational.
- f) S/OUT/14/0833 new outline planning permission for a mixed use development of up to 100 dwellings, car parking in association with stadium events, a fire station and associated facilities including landscaping/open space was granted in April 2015 subject to a new section 106 agreement. This new outline permission replaced the business/employment development with additional housing and included a site for a new fire station for the Wiltshire Fire and Rescue Service. This section 106 agreement included provisions for the delivery of the new stadium and other strategic elements, including the open space/linear park and young person's training facility; the main provisions of the 2015 agreement are summarised below.
 - i) To transfer to the Council a site for the (former) Wiltshire Fire and Rescue Service (WFRS) a site for a new fire station;
 - ii) To vacate the "fire station site" once transferred to the Council; the site may be used temporarily by the stadium as car parking until it is required by the WFRS.
 - iii) Alternative provisions should the Council not serve notice within 5 years on the owners for the fire station site to be transferred;
 - iv) Not to submit further reserved matters applications unless and until the owners submit a reserved matters application for the new stadium. (This clause was complied with by the submission of this reserved matters application.
 - v) Not to occupy any additional residential units (granted pursuant to the new outline S/OUT/14/0833) unless and until practical completion of the new stadium. (This clause has not been complied with).

vi) The owners to use their "reasonable endeavours" to ensure and procure practical completion of the stadium by a "long-stop date" defined in the agreement as April 2017. (This clause has not been complied with.)

vii) The delivery of the open space and associated management plan. (This clause has not been complied with.)

g) Application reference S/RES/16/0272 for the development of open space/linear park; this reserved matters approval was granted on 26th August 2016, but has not been implemented.

h) Application reference S/RES/16/0357 for the development of 56 houses (Persimmon Homes); this reserved matters approval was granted in 26th August 2016 and has been implemented and these dwellings are occupied.

i) Application reference S/RES/16/1060 for the development of 16 dwellings (Barratt Homes); this reserved matters approval was granted on 9th September 2016 and is being implemented.

j) Application reference S/RES/16/0036 for the demolition of existing stadium and construction of a new stadium, racing building, training kennels, market, new stands, car parking and associated development; this reserved matters approval was granted on 26th August 2016. This approval has not been implemented.

18 Various applications to discharge of planning conditions relating to the original and subsequent outline planning permissions and the reserved matters approvals have been approved. Two applications to discharge surface water drainage conditions, reference S/COND/16/0270 and S/COND/16/0271 were discharged on 19th December 2017. The works to construct the permitted drainage scheme and the construction and laying out of the open space have not been implemented.

Representations:

19 St Andrews Parish Council; no objections.

20 Highways England - no objection

21 Dorset and Wiltshire Fire and Rescue Service (DWFRS);

i) Recommend a planning condition in relation to fire safety recommendations, including recommending commercial sprinkler protection.

ii) The application has not assessed future access and egress for emergency vehicles and requests an assurance from the Council as local highway authority that an additional access junction for 24 hour emergency response vehicles would be feasible. The DWFRS also refer to the need to ensure that the highway verge and any pedestrian path that is construction along the frontage would be able to report accommodate the weight of larger goods vehicles (20 tonnes).

iii) The DWFRS have commented in relation to the proposed change to the site for a new fire station, noting that the shape of the site has changed from a more desirable quadrilateral profile to a "restrictive narrower boundary" which the DWFRS state would impact on the movement of operational vehicles, the ability to conduct community safety

activities, the provision of a training environment and the capacity to facilitate future operational requirements. No further comments have been received from the DWFRS.

23 Transport Development Management Officer; no objection, subject to conditions.

24 Urban Design Officer; no comments.

25 Landscape Officer; the following concerns have been raised.

- i) The acoustic barrier will appear stark, substantial and potentially unattractive, however it is sited internally near to the stadium building and there will be planting to screen the east and west sides. Additional tree planting should be carried out on the north side of the car park.
- ii) The revised landscape and open space layout has affected the quality of the open space, particularly the extent of flat open usable areas.
- iii) The Neighbourhood Area of Equipped Play (NEAP) is the same as proposed previously and is unaffected by the changes.
- iv) The location of paths within the open space should be carefully considered if the area adjacent is developed for housing.
- v) Further details are required of the hard landscape details, boundary treatment, lighting and seating proposed.

26 Environmental Health Officer; no objection to the acoustic mitigation measures, subject to conditions.

Neighbours and Third party representations

27 A letter was received from Solicitors acting for Barratt Homes in February 2018, who have developed an area of land adjacent to the site for residential development. In summary the letter expresses concern about the proposed siting of the stadium and that it will have a detrimental effect on local residents who have recently purchased properties and future occupiers. The letter further queries the status of the application and its scope as a reserved matters application and to the change to the layout and the mix of uses. Further Barratt Homes expressed concern regarding the noise attenuation measures proposed. Barratt Homes did not make any further comments in response to the additional technical noise attenuation details that were submitted by the applicant in March 2018 and no further comments have been received.

Planning Considerations:

Policy:

28 The Swindon Borough Local Plan 2026 provides the strategy to deliver sustainable development and economic growth to 2026. In accordance with the development plan policies and the National Planning Policy Framework (NPPF 2018) the main considerations in the determination of this application for reserved matters approval are:

- The principle of the development.
- The layout, scale, external appearance and landscaping of the development.

- Highway safety, the access for vehicles and pedestrians and car parking; and
- The phasing and delivery of infrastructure, including the delay to the provision of open space, the equipped areas of play and the drainage proposals.

The National Planning Policy Framework

29 The NPPF (2018) refers to the presumption in favour of sustainable development and advises that where development accords with an up-to-date development plan, it should be approved without delay.

30 Local Plan policies SD1 (sustainable development principles), SD2 (the sustainable development strategy and SD3 (managing development) are relevant and these policies refer to delivering sustainable development in accordance with a number of key criteria. These include a high quality design, promoting healthy, safe and inclusive communities, accessibility including by walking/ cycling and public transport and the efficient use of land and resources (policy DS1). When considering development proposals the Council will take a positive approach reflecting the presumption in favour of sustainable development (policy SD3). Local Plan policy SD3 states that reserved matters submissions should be guided by an overarching design approach, including management strategies to secure the long term maintenance of infrastructure.

31 Policy DE1 (High Quality Design) refers to four key criteria and that high standards of design are required for all types of development; these criteria are firstly the context and character with respect to existing built characteristics, acknowledged features of importance and existing site conditions; secondly to layout form and function including accessibility, siting, orientation, scale, massing, materials and detailing; thirdly amenity with respect to light, outlook, privacy, noise/disturbance, pollution and lastly the quality of the public realm.

32 Policy TR2 (transport and development) refer to a number of criteria including providing access appropriate to the scale, type and location without detriment to highway safety and local amenity, promoting sustainable travel choices and providing parking including for cars and cycles in accordance with the Council's adopted standards.

33 Policy CM2 "Active, healthy and safe lifestyles" is relevant referring to sporting participation and improving the cultural offer in Swindon.

The principle of the stadium re-development:

34 The re-development of the Abbey Stadium was established through the grant of outline planning permission in 2011, to ensure the continued operation of stadium events, including racing facilities for the Swindon Robins speedway team, for greyhound racing and other events. Therefore the principle of the development is well established and this proposal seeks to re-develop the premises on its current site rather than moving the stadium to a new location on land to the east. There is no objection therefore to the principle of the development.

Layout and design:

35 In terms of the layout and the design, as previously proposed the main stadium building will be located on the southern side of the site and will provide the main entrance for visitors

and spectators. This layout is very similar to the arrangement previously approved for the earlier reserved matters approval in 2017 to re-develop the site to the east. The site layout includes a small ancillary building (WCs and refreshment kiosk) located on the track side, on the northern side. Adjacent to the main stadium building are stands for spectators to either side, together with changing rooms, car parking for competitors, the speedway pits and compound area.

36 The layout for car parking and access is very similar to the arrangement approved previously, including a designated area for bus/coach and taxi drop-off, cycle and motor cycle parking and accessible car parking spaces for the disabled.

37 The previous proposals included a separate building for dog racing, together with race kennels, paddock, speedway pits and racing workshop for speedway and greyhound racing. The race facilities are now located within part of the ground floor of the stadium building with the pits, changing rooms and competitor's car parking located to the east of the stadium building.

38 In terms of the layout and arrangement, the main stadium building has a similar design and appearance to the previous proposals and includes facilities for competitors and racing greyhounds, race veterinary facilities, a meeting room that could be made available to the local community and a garage workshop for the young person's training centre (the Wheels Project).

39 The design and visual appearance for the main building and the ancillary buildings are the same as previously approved and have a contemporary appearance using cladding, with areas of glazing with a grey metal roof. It is considered that the palette of materials, the visual appearance, the scale and the layout of the buildings are appropriate to their functional use whilst providing new facilities within the retained and re-developed site.

Access for All:

40 The buildings have been designed to ensure access for all, including the ancillary facilities and the area designated for disabled car parking is located immediately outside the entrance to the Stadium building. The drawings indicate that flush thresholds are proposed to the buildings for accessibility and the floor plan drawings show that a lift will be installed within the main reception area to provide access to the first floor. The application includes provision for the young person's training facility to take forward the existing "Wheels" project that currently operates from the stadium.

Landscape impact and public open space

41 The application proposes to modify and alter part of the linear park due to the change in location of the stadium and the area and the layout differs from that previously permitted in 2016 (pursuant to reserved matters approval S/RES/16/0272). The linear park is to provide for the open space needs for all the occupiers living within the residential development already completed and occupied on land at the stadium site and this element was a key component of the original Design Brief and original master plan proposals.

42 The open space is been affected by the location of 4 drainage basins and works to partially construct these basins were undertaken in 2015 in advance of the drainage design

being approved. However, the drainage scheme and these basins will require further modification as a result of the changes proposed in this application for the stadium, including to provide the drainage system for the development. The basins are linked together and discharge into a larger drainage basin that was constructed in 2014, located to the south-east adjacent to Salzgitter Drive. The depth, extent and gradient of the 4 basins has affected the amount of the land available as flat usable open space and the safety of users, due to the close proximity of the proposed pedestrian paths which are required to provide access to the development and to link with the surrounding area.

43 Revised details for the attenuation basins located within the open space have been submitted to the Council to discharge the drainage conditions and these revised proposals are being assessed by the Drainage and Landscape Officers. In terms of the impact on the usability of the open space, the Landscape Officer has assessed the modifications to the configuration and layout of the open space proposed in this application. The Landscape Officer has expressed concern that the application drawings do not show the full extent of the basin's footprints, and that basins 1 and 2 will occupy a greater area and land-take within the open space than has been indicated on the detailed drawings and that consequently these basins will adversely affect the usability of the linear park and will compromise its usability as public open space.

44 In response the applicant has indicated that the actual area of land proposed to be provided for open space is similar to that previously approved but has not revised or increased these areas of open space. The Landscape Officer has advised that additional flat land within the "residual/remaining" residential parcel should be made available to supplement the flat areas available for informal recreational use within the linear park as this would compensate for the loss of usable flat areas and the harmful impact on the quantity and quality of open space due to the location of the drainage basins. Proposals for the management and the maintenance of the open space have been submitted as part of this application, but some minor amendments are required before this element of the proposal which is required to be submitted for approval through the original section 106 agreement, can be agreed.

45 However, given the importance to Swindon to deliver the new stadium and ancillary facilities and taking account of the national planning policy in the NPPF (2018) and the delays that have affected overall scheme and the provision of open space for the new residential occupiers, it is considered that although the original design and layout of the linear park has been adversely affected by the drainage basins, in the planning balance this should be considered against the need to deliver some recreational open space, the equipped play area and MUGA to meet the needs of existing occupiers. Whilst Officers will be seeking to negotiate some improvement and will seek some additional land to be made available for open space within the residential layout (for the application pending consideration for an additional 127 dwellings) this can only be achieved by agreement with the applicant. Therefore in terms of ensuring that the stadium re-development takes place without further delay and taking account of the exceptional and complicated circumstances that have affected this development, it is considered that the open space element of the proposals could be accepted, provided that the space is laid out and constructed within a reasonably short timescale, that there are no further delays and that this is controlled through a timetable within the new section 106 agreement.

Highways:

46 In terms of the transport and highway safety implication of the development, the Transport Development Management Officer has raised no objection, on the basis of the additional and supplementary details provided that has demonstrated that a safe and suitable means of access will be provided and that appropriate arrangements are in place, in accordance with the section 106 planning obligation for the Travel Plan and transport arrangements for stadium events. The Stadium Events Travel Plan has been updated to reflect the changes that have occurred since it was originally secured as part of the original outline permission and this element will be controlled and delivered through the section 106 agreement.

47 Pedestrian routes through the site have been included to provide safe routes for customers visiting the stadium, including routes to avoid traffic within the car park to reduce the risk of conflict. A pedestrian link to the site from the open space is provided and the application has demonstrated that coaches can be accommodated within a coach parking area to the south of the main entrance. The proposals also include a taxi drop-off point and dedicated car parking for the disabled (13 no. spaces) which is located close to the main entrance.

48 A planning condition (number 33 of the outline permission) restricts the number of parking spaces on site to 290 and the car parking provision accords with the previously approved layout for the re-development of the stadium, on land to the east. The deficit of spaces below the maximum permissible number of car parking spaces (controlled through the outline planning condition) is addressed within the updated Travel Plan. On this basis it is considered that the transport and highway safety elements of the proposal accord with policies DE1 and TR2 of the Swindon Borough Local Plan 2026 and will provide an appropriate means of access to the development including for pedestrians.

Noise attenuation

49 The application includes proposals to attenuate noise. During the speedway season from April to September racing typically starts at 19.30 finishing at 23.00, although racing is generally completed by 21.30. Although bike noise has reduced gradually due to measures to improve the environmental impacts of motor sport, speedway racing is a noisy activity. The previously approved proposals to re-build the stadium on the new site, to the east of the current site and at a different orientation, included similar noise attenuation measures and this design follows the previous proposals incorporating the same noise mitigation measures. These have been assessed by the Council's Environmental Health Officer who has previously monitored noise from speedway events at the site. The impact of noise from motorcycles has been considered in terms of the frequency of the noise, the direction and any variability around the race track. Detailed noise modelling has been carried out to assess the impact of an agreed target racing noise level and the measures to attenuate noise from speedway events includes the construction of a 3.5m high acoustic barrier to surround the race track circuit. The barrier has a visual appearance similar to a high fence, but is provided by a specialist acoustic contractor. The Environmental Health Officer has indicated that the proposed noise mitigation measures and target racing noise level are acceptable to provide an appropriate level of amenity for occupiers of neighbouring residential occupiers, including the new residential occupiers. This assessment is subject to a number of planning conditions, including a condition to requiring future monitoring and reporting to the Council of both noise levels and noise sources.

50 Whilst the acoustic barrier will be screened to some extent by proposed new landscaping, it will have a visual impact, but this impact has to be considered in the context of the mitigation and the overall improvement of the existing noise environment during speedway racing events. Whilst policy DE1 requires a high standard of design, this needs to be considered in the context of the functional need of the development and the existing site conditions, where there is currently no noise attenuation. The proposed noise mitigation measures will result in a reduction in noise disturbance and at or below the agreed target race noise levels across the existing and proposed residential areas. It is considered that the provision of the new noise attenuation barrier will be an important public benefit to ensure that speedway racing can co-exist alongside the new residential occupiers, enabling new facilities for Speedway racing to be provided whilst mitigating the impacts on residential amenity. On this basis it is considered that the proposals are acceptable in terms of noise and the impact on living conditions and accord with policy DE1 of the Swindon Borough Local Plan.

Section 106 agreement

51 The original section 106 agreement and subsequent Deeds of Variation required that part of the open space be laid out before the occupation of 100 dwellings; this included the construction of the equipped areas of play, with the remaining space and facilities, within 6 months of the practical completion of the new stadium. The Deed of Variation agreed in 2014 between the Council, the applicant and other parties with an interest in the land, inserted replacement clauses for the phasing and delivery of the open space that increased the number of houses that could be occupied to 307 dwellings before the open space was laid out; this was agreed to allow additional "enabling" development to come forward and to be carried out before the open space was constructed. However, despite this additional flexibility that was provided for additional residential occupations to take place the open space has not been constructed.

52 In 2015 the new s106 agreement agreed alongside the new 2015 outline planning permission sought to further safeguard the delivery of the new stadium, amongst other planning considerations and included the following requirements;

- a) To submit an application for reserved matters approval for the new stadium before the defined "long stop date" and to use their reasonable endeavours to obtain planning consent for the new stadium on or before the new stadium reserved matters planning application long stop date; this was defined as 12 months after completion of the agreement, namely before April 2016.
- b) That the applicant use "their reasonable endeavours to ensure and/or procure Practical Completion of the New Stadium" on or before the defined stadium construction "long stop date", defined as 18 months after the completion of the agreement in April 2015, namely before October 2017.
- c) Not to occupy any additional residential units constructed on land identified within the agreement (described as the "restricted zone" that is occupied by the existing stadium) until the practical completion of the New Stadium.
- d) To make provision for a site for the Wiltshire Fire and Rescue Service (now the

Dorset and Wiltshire Fire and Rescue Service) for a new fire station north.

53 As described above at paragraph 15 above, although an application for reserved matters approval for the new stadium was approved in August 2016, the works to carry out the development did get underway and the new stadium was not completed in accordance with the agreed "long stop date" of October 2017. The Borough Solicitor formally notified the applicant and other parties with an interest in the land, that the failure to provide the open space and to complete the new stadium was in breach of the s106 agreement.

54 In response the applicant and other parties have referred to delays to the implementation of the approved drainage works and to other delays resulting from the subsequent change to locate the stadium development on the existing site. Therefore in view of the time that has elapsed since the outline planning permission was first granted in 2011 and the overall delay that has been caused to the delivery of the open space and the new stadium, Officers recommend that approval of this reserved matters application should be linked to a new section 106 agreement to address the following matters;

- a) No additional housing is to be developed until the new stadium is operational and substantially complete. (Definition of operational and substantial completion to be agreed.)
- b) Other permissions and approvals (the revised outline S/OUT/14/0833 and subsequent reserved matters approval S/RES/16/0036 for the new stadium) are to fall away.
- c) The full application for an alternative re-development of the stadium on land owned by the Council (S/16/0959) is to be withdrawn.
- d) The outstanding drainage details to be agreed by the Council and Lead Local Flood Authority are to be constructed and implemented by an agreed long stop date.
- e) The changes to the laying out of the open space/linear park, including the equipped play area and multi-use games area (MUGA) consequent to the revised stadium proposals are laid out and constructed by the applicant by an agreed long stop date.
- f) Replacement clauses/provisions are agreed to provide a site for the Dorset and Wiltshire Fire and Rescue Service and enacted.

55 As described above, at the time of writing the applicant has submitted a draft s106 agreement, but the above Heads of Terms have not been agreed or finalised pending consideration of this application. Therefore as the matters raised are complex and have been difficult to resolve, it is recommended that Members consider and determine this application on this basis, in light of the conflicting planning considerations and legal issues set out above.

Concluding Comments:

56 The design and layout of the development is appropriate for the proposed use and the form and function of the development generally acceptable, apart from the harmful impact to the open space, it is not considered that there are significant adverse design impacts that outweigh the benefits of the development as a whole. The National Planning Policy Framework (NPPF 2018) advises that "decision-makers at every level should seek to

approve applications for sustainable development where possible." (para 38 NPPF 2018).

57 Taking account of all of the above material planning considerations, the new NPPF and the relevant policies in the Local Plan set out above, it is considered that provided that a new section 106 agreement is concluded with appropriate time limits and triggers for delivery, the proposals will secure the re-development of the stadium to provide new facilities for speedway and greyhound racing, whilst also mitigating the noise impacts and providing for the construction of the open space, the equipped areas of play and the drainage infrastructure in a timely manner without further delays or uncertainty.

Recommendation

58 That the Head of Planning, Regulatory Services and Heritage be authorised to APPROVE the Reserved Matters, subject to the planning conditions set out in the report, together with any amended, omitted or additional conditions, upon the completion of a Section 106 agreement to mitigate the impact of the development and to ensure the satisfactory completion of the stadium development and the other strategic development including the open space and play areas and the construction of the necessary drainage infrastructure. In the event that the applicant fails to enter into an agreement or fails to agree to an extension of time for the determination of the application to enable the Council as Local Planning Authority to deal with these matters, then the Head of Planning, Regulatory Services and Heritage be authorised to refuse the approval of reserved matters.

Conditions/Reasons

External facing materials

1. Prior to the commencement of works above damp proof course level to construct the stadium buildings, race buildings stands and for the avoidance of doubt other buildings shown on drawing 3320/0150 rev G (master plan) on site in connection with the development hereby permitted, details of all external facing materials shall have first been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with these approved details.

Reason: To ensure that the appearance of the development is satisfactory.

Boundary treatment

2. Prior to the commencement of works on site in connection with the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected during the course of construction works and for the development as shown on the master plan drawing reference 3320/0150 rev G shall be submitted to and approved in writing by the Local Planning Authority. This boundary treatment shall be implemented before the buildings are first occupied or in accordance with a timetable that has first been submitted to and agreed in writing with the Local Planning Authority, and shall be retained in the approved form for so long as the development hereby permitted remains on the site.

Reason: In the interests of the amenities of the area.

Water supply

3. No development hereby permitted above damp proof course level shall commence until

details for the provision of a water supply network and/or hydrants to meet the fire-fighting needs of the development (to include installation arrangements and the timing of installation) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be provided in accordance with the agreed details.
Reason: In the interests of safety

Drawings approved

4. This approval shall be in respect of the following drawings;

Original submission received 25 Jan 2016

Elevations 3320/301

Elevations Competitor Area 3320/300

Location Plan 3320/0110

Acoustic Plan 3320/0130

Training Kennels 33230/0210

Roof Plan 3320/205

Track Design

Ground Floor Plan Stadium 3320/203

First Floor Plan Stadium 3320/204

Swept Path Analysis for Taxi Lay-by 1307-31/SP08

Development Location Plan 1504-92/100

General Arrangement 1504-92/101

Original supporting documents received 25 Jan 2016

Design and Access Statement

Transport Statement

Phase II ecology surveys

Acoustic Report

Drainage Strategy

Geo-environmental Site Assessment Report

Archaeological Evaluation

Revised plans

Swept path 1307-31 SP05 rec E received 20 July 2016

Construction Details C SA 90 0003 A04 received 20 July 2016

Master plan-Altered site 3320/0150 rev G received 20 July 2016

General Arrangement C SA 90 001 A03 received 20 July 2016

Infrastructure Landscape Softworks Planting Plan to Balancing Pond AJA.2333.04 issue 05 received 1 July 2016

Open Space Layout Context Plan AJA.2333-11 issue 01 received 1 July 2016

Soft Landscape Scheme AJA.2435-01 issue 07 received 01 July 2016

Travel Plan (revised) received 31 May 2016

Ecology report 1st July 2016

received by the Local Planning Authority on the above dates.

Reason: To define the scope of the development hereby permitted, in accordance with section 72 of the Town and Country Planning Act 1990.

Finished floor levels

5. Prior to the commencement of works on site to construct the stadium and buildings as shown on the master plan drawing 3320/0150 rev G in connection with the development hereby permitted, details of the proposed finished floor levels of the stadium and associated

buildings in relation to the existing and proposed levels of the site and the surrounding land shall have first been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be constructed in accordance with the approved slab levels.

Reason: To ensure the details and appearance of the development is acceptable

Acoustic mitigation

6. The acoustic mitigation measures described in the Clarke Saunders acoustic report (reference AS7261.150513.RM1.2) shall be fully implemented as proposed in the report and detailed on the application drawings. The installation of the acoustic barrier shall be continuous and imperforate, with a minimum surface density of 12kg/m² and at a height of 3.5m above the local ground height datum.

Reason: In the interests of the amenity of nearby residents.

7. In addition to the installation of the acoustic barrier to comply with condition 6 above, noise from stadium events shall be monitored. Details of a source noise monitoring scheme shall be submitted to the local planning authority for approval in writing and shall be implemented prior to the first Speedway racing event at the stadium. The noise monitoring scheme shall comprise a scheme for the accurate and continuous monitoring of Speedway noise levels, together with a reliable system and process of data management and storage and reporting to the local planning authority at regular intervals to be agreed with the local planning authority and/on demand at the reasonable request of the local planning authority. The noise monitoring scheme to be submitted for approval in writing shall include details of equipment precision, calibration, microphone location and measurement parameters.

Reason: In the interests of the amenities of nearby residents.

8. Noise emissions shall be monitored for each Speedway event held at the stadium and measured against the race noise trigger level of 57dBLAeq15min at the nearest residential properties. Before the third Speedway event takes place (at the new stadium) the stadium operator shall submit details to the local planning authority for approval in writing, of a trigger noise value at the monitoring location at the nearest residential properties. Where the race noise level exceeds the trigger level on three consecutive events, the stadium operator shall submit a further acoustic assessment report to assess and evaluate whether or not there were any extenuating meteorological conditions that may have affected these results. Where no such mitigating factors are reported to the local planning authority that may explain or justify exceedance of the trigger noise levels, before the expiry of 28 days of the notifiable third Speedway event, the stadium operator shall submit further details to the local planning authority for approval in writing of a scheme to identify additional noise control measures and these shall be implemented prior to the next Speedway event.

Reason: In the interests of the amenities of nearby residents.

9. Before the first Speedway event commences, a scheme shall be submitted to and agreed in writing by the Local Planning Authority to identify and specify measures and provisions to be made for the control of noise emanating from the site in accordance with the Code of Practice for Noise and Vibration Control on Construction and Open sites BS 5228. The noise mitigation scheme shall be fully implemented prior to the first use of the site. The scheme shall thereafter be maintained in its approved form and shall not be modified or altered unless otherwise first agreed in writing by the local planning authority.

Reason: In the interests of the amenities of neighbouring residents.

Hours of work

10. No construction work including site clearance and delivery of materials shall be carried out except between the hours of 07.30 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays and at no times on Sundays or on Public or Bank Holidays.

Reason: In the interests of the amenities of neighbouring residents.

Trees and hedges protection

11. Prior to the commencement of works on site in connection with the development hereby permitted, details of temporary protective fences to safeguard the trees and / or hedges to be retained on the site and on land adjacent and adjoining the site's eastern boundary shall have first been submitted to and approved in writing by the Local Planning Authority and shall be erected in accordance with the current BSI 5837 and maintained to that standard until the development has been completed or the Local Planning Authority has confirmed, in writing, that the fencing can be removed.

Reason: To ensure that adequate protection is afforded to the trees and/or hedges on the site.

Ground remodelling

12. Prior to the commencement of works on site above damp proof course level in connection with the development hereby permitted, details of a scheme for the ground re-modelling and re-profiling of material currently stored at the site, including details of any tree protection measures necessary to protect trees at the site and adjacent to the site shall have first been submitted to and approved in writing by the Local Planning Authority. Such ground re-modelling/re-profiling measures shall be implemented in accordance with the approved details prior to the occupation / first use, of the development hereby approved.

Reason: In the interests of the amenity.

Pedestrian routes

13. The pedestrian routes and linkages to the adjacent open space shown on planning layout drawing 3320/0500 shall be constructed and made available for use prior to the first use or occupation of the development hereby approved, or in accordance with a timetable that has first been agreed in writing by the Local Planning Authority.

Reason: To accord with the terms of the permission and to ensure that pedestrian links are provided to the open space and surrounding pedestrian network.

Landscaping

14. Prior to the commencement of works on site in connection with the development hereby permitted, a scheme of landscaping to include a planting schedule and time table of works, shall have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the positions, species and crown spread of all existing trees and hedgerows on the land, detailing those to be retained, together with measures for

their protection during development. The approved scheme shall be implemented as per the approved timetable.

Any tree or shrub planted in accordance with the scheme which is removed, dies or becomes diseased within a period of five years from first being planted, shall be replaced by one of a similar size and the same species.

Reason: To ensure the appearance of the development is satisfactory.

Informatives

1. The applicant is advised that details of the surfacing of the car parking facilities submitted within the reserved matters have assumed a CBR of 5% which is not acceptable. This aspect is not to be decided at this stage as it is controlled by Condition 26 of the outline permission.

2. The applicant's attention is drawn to a number of pre-commencement planning conditions that form part of the outline planning permission S/07/1365 and S/12/1826 including but not limited to the following matters; construction management plan (condition 8); temporary access and car parking (condition 9) and wheel washing (condition 10).

3. The applicant's attention is drawn to the provisions of the section 106 planning obligations, specifically with respect to the implementation of the Travel Plan, delivery of the new stadium and other infrastructure.

4. The approval of reserved matters does not authorise any works to be undertaken on or over the public right of way and this route shall remain open and free from obstruction; further details can be obtained from the Council's Public Rights of Way Officer (Highways and Transport 01793 466382).

End of Report