

**Pool Farm,
Mill Lane,
Stratton Audley,
OX27 9AJ**

15/02314/F

Ward: Fringford and Heyfords

District Councillor: Cllr Wood, Corkin and Macnamara

Recommendation: Approval

Case Officer: Stuart Howden

Applicant: Mr Christopher Wigmore

Application Description: Permanent use of land as Rally school including use of land for quad bikes, buggies and jeeps

Committee Date: 29 September 2016

Committee Referral: Site area is over 1 hectare

1. APPLICATION SITE AND LOCALITY

- 1.1 The application site is located in an isolated location, approximately 1.2 KM to the north east of Stratton Audley and over 600 metres away from Stratton Audley Park to the west. The site is accessed off Mill Lane which is located to the east of the site.
- 1.2 The site accommodates a detached farmhouse and a rally track is situated to the north east of the farmhouse. A rally use at the site has had temporary planning permission (ref: 05/01926/F) for tuition purposes only and this consent expired on 31st March 2016. This consent restricted the rally school use to only be operated by a maximum of 1 car at a time and the rally school use could only take place on the track and yard area located to the north of Pool Farm.
- 1.3 To the south east of the rally track, the use of the land for quad bikes and 'Honda Pilots' (single seat 4 wheel off-road cars) also had temporary planning permission (05/01927/F) and this consent also expired on 31st March 2016. These vehicles operated on a temporary grass circuit (defined by cones, tyres and bales rather than an engineered gravel track) and the use was restricted to no more than 4 quad bikes and/or 'Honda Pilots' being operated at any one time. Furthermore, the permission did not allow for the use of this land for racing or time trials. This consent was personalised to the applicant in this application, Mr Wigmore.
- 1.4 Furthermore, there are a collection of outbuildings to the west of the main farmhouse with a variety of uses, including the storage, servicing and repair of vehicles associated with the rally school and quad bikes and 'Honda Pilot' use as well as a function room which is used in association with the motor sport use at the site and for parties and wedding receptions. Parking is situated in a courtyard to the west of the farmhouse and the east of the garage used for the repair of vehicles.
- 1.5 The site is not within a Conservation Area and there are no listed buildings within close proximity to the site. The site has some ecological potential as Protected Species such as the wall butterfly, bluebell, common cuckoo and common cudweed have been recorded within close proximity to the site. The ancient woodland of Oldfields Copse abuts the northern boundary of the site and this woodland is also a District Wildlife site.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Planning permission is sought for the permanent use of the land as a rally school and for quad bikes, buggies ('Honda Pilots') and jeeps. There is currently no planning permission for the use of jeeps on the site.
- 2.2 Following discussions between the applicant and the case officer, amended plans and additional information has been received clarifying the areas of land and buildings that are used for the purposes set out in the application, and also specifying the types of vehicles to be used.
- 2.3 This planning application went before Members at planning committee in March 2016 with a recommendation for approval subject to conditions. However the application was deferred to enable further investigation into the noise and dust emissions as a result of the use at the site to ensure that the use did not cause undue harm to neighbouring properties in terms of disturbance and nuisance.

3. RELEVANT PLANNING HISTORY

- 3.1 88/00139/S – Change of use of barn to workshop. Construction of track for testing Rally Cars – Refused as it was considered that: *“The formation and use of the track for testing of rally cars forms a visual intrusion into the countryside to the detriment of its rural character and the use produces noise intrusion of a nature alien to the quiet enjoyment of the rural area and likely to be detrimental to the wildlife of the locality.”*
- 3.2 88/00140/S – Change of use of barn to workshop – Approved. A number of conditions were attached to this permission including a condition stating that at the expiration of 2 years from the date of the decision (22nd January 1988) the use specified in the application will be discontinued and the land restored to its former condition, as well as a condition restricting the use of the workshop for the purpose of rally car repair and servicing only. The permission was also for the benefit of that applicant only (Mr Whiteford).
- 3.3 88/00691/S – Use of land as a rally school from agricultural use – Refused on the grounds that the formation of the track for the use of the rally school would represent a visual intrusion into the countryside to the detriment of its rural character and appearance and that its use would produce a noise intrusion of a nature alien to the quiet enjoyment of the rural area and likely to be detrimental to wildlife of the locality. However a track was constructed without the benefit of planning permission and an enforcement notice was issued on the 18th July 1988. The enforcement notice was appealed by the applicant as well as the refusal of this planning application. As a result, the enforcement notice was quashed by the Inspector and planning permission granted subject to the condition stating that the track shall be taken up, and all rubble, hardcore and other materials used in construction removed from the land, on or before the expiration of two years from the date of the appeal decision (14th June 1989). In addition, planning permission was granted and the appeal was allowed subject to a number of other conditions including that:
- The use shall be discontinued 2 years from the date of the appeal decision (14th June 1989);
 - No motor vehicle shall be driven on the land for the purpose of driving tuition before 0900 hours or after 1700 hours on weekdays nor at any time on Saturdays, Sundays or bank holidays;
 - No vehicle other than a motor car which complies with all relevant requirements of the Road Vehicles (Construction and Use) Regulations for the time being in force shall be driven on land;

- No part of the land shall at any time be used for motor car or motorcycle racing or for any other form of motor sport including tuition, testing, trials of speed and practising for such activities.
- 3.4 90/00252/S – Continued use of barn as workshop (being that barn subject to application 88/00140/S) - Approved. A number of conditions were attached to this permission which were similar to the conditions attached to 88/00140/S (i.e. personal consent, two year temporary consent and the repair and serving of rally cars only).
- 3.5 90/00460/S – Continued use of Barn as workshop (Renewal of CHS. 140/88) – Approved – A number of conditions were attached to this permission including a condition noting that the workshop shall only be used for the purpose of rally car repair and servicing only. A condition noted that on 13th June 1991, the use specified in the application will be discontinued. The permission was also for the benefit of that applicant only (Mr Whiteford).
- 3.6 91/00358/S – Continued use of land as Rally School – Approved. A number of conditions were included, most notably:
- Condition 1 of this consent noted that at the expiration of 10 years of the date of the decision (11th June 1991), the use specified in the application will be discontinued and the land restored to its former condition. This was to enable the Council to review the position at the expiration of the stated period.
 - Condition 2 stated that the Rally School shall only be operated by a maximum of 1 car at any one time in order to ensure the creation of a satisfactory environment free from intrusive levels of noise.
 - Condition 3 stated that no vehicle other than a motor car which complies with all relevant requirements of the Road Vehicles (Construction and Use) Regulations for the time being in force shall be driven on the land in order to ensure the creation of a satisfactory environment free from intrusive levels of noise.
 - Condition 4 noted that the use approved shall only take place on the track and yard area located to the north of Pool Farm and not on any other part of the holding.
 - Condition 7 stated that the track and yard area shall only be used for the purposes of tuition and not for any testing, trial of speed, racing or other practising to ensure a creation of a satisfactory environment free from intrusive levels of noise.
 - Condition 8 noted that the land shall not be used for any temporary uses constituting development whatsoever (e.g. war games, corporate event days, clay pigeon shooting etc.) in order to maintain the character of the area and to safeguard the amenities of the occupants of the adjoining premises and to ensure the creation of a satisfactory environment free from intrusive levels of noise.
 - Condition 9 stated that no motor vehicle shall be driven on the land (other than agricultural vehicles used on the holding) before 0900 hours or after 1700 hours on weekdays, nor at any time on Saturdays, Sundays or Bank Holidays and this was to ensure the creation of a satisfactory environment free from intrusive levels of noise.

However, this consent was not made personal to the applicant.

- 3.7 91/00359/S – Continued use of barn as workshop – Approved. A number of conditions were attached to this permission which were similar to the conditions attached to 90/00252/S (i.e. personal consent for Mr Whiteford and the repair and serving of rally cars only). However, a condition was also attached stating that at the expiration of 10 years from the date of the decision (10th June 1991) the use specified in the

application will be discontinued and the land restored to its former condition. This building has now been demolished and is used as a parking area.

- 3.8 95/01931/F – Relaxation of Condition 1 and 9 of CHS 358/91. Condition 1 vary time limit. Condition 9 vary hours of operation – Approved. This application sought to extend the permission until 2006 and to amend the hours of operation to be from 1000 to 1800 hours Monday-Saturday (excluding Bank Holidays) but accepting a voluntary restriction that it operates no more than three days per week. The application was approved on 7th December 1995 and the use was restricted to three days per week. A condition (Condition 3) was also attached stating that no use shall be made of the rally track when ‘Honda Pilots’ or quad bikes are being used on the adjacent land as permitted under 95/01934/F (see para 5.11 below).
- 3.9 95/01934/F – Change of use of land for quad bikes and ‘Honda Pilot’, together with use of barn for storage, servicing and repair – Approved. This application related to an area of land of approximately 8 hectares on the eastern side of the rally track (edged in green on the site plan submitted with this application). It was proposed that the vehicles operated on a temporary grass circuit (defined by cones, tyres and bales rather than an engineered gravel track) and the principle operation was proposed to be groups coming on appointment. Consent was also granted for the use of a barn within the farmstead for the storage and servicing of these vehicles. A number of conditions were attached to this consent, including:
- Condition 1 stated that at the expiration of 3 years from the date of the permission (7th December 1995) the use specified in the application shall be continued and the land shall be restored to its former condition to enable the Council to review the position at the expiration of the stated period;
 - Condition 2 noted that the area of the site to be used for the use of quad bikes and ‘Honda Pilots’ shall be restricted to that to the east of the rally track to ensure the creation of a satisfactory environment free from intrusive levels of noise;
 - Condition 3 stated that the use of the land hereby stated that the use of the land shall only operate between the hours of 1000 and 1800, Monday to Saturday and shall not be operated at any time on Sundays and Bank Holidays to ensure the creation of a satisfactory environment free from intrusive levels of noise.
 - Condition 4 stated that no more than 4 quad bikes and/or ‘Honda Pilots’ shall be operated at any one time to ensure the creation of a satisfactory environment free from intrusive levels of noise.
 - Condition 5 noted that no racing or time trails shall be undertaken on this land to ensure the creation of a satisfactory environment free from intrusive levels of noise.
 - Condition 6 stated that the vehicles shall be silenced to the manufacturers standard specification and that the maximum sound power level of the vehicles, measured at exhaust outlet height one metre from the vehicle, shall not exceed 75 dB(A) in the case of quads and 100dB(A) in the case of ‘Honda Pilots’ and this was to ensure the creation of a satisfactory environment free from intrusive levels of noise.
- 3.10 97/00421/F – Conversion of granary to form annex to farmhouse for guests and holiday cottage – Approved.
- 3.11 97/01839/F – Relaxation of Condition 1 of 95/01934/F to allow continued use of land for quad bikes – Approved. The application was approved and Condition 1 was varied to state that the use approved shall be discontinued and the land restored to its former condition on or before 24th January 2006.

- 3.12 01/02513/F – Change of use and alteration of existing farm buildings to provide presentations and training accommodation – Approved. Condition 2 of this permission stated that the accommodation permitted shall only be used in connection with the rally school use at the site.
- 3.13 02/01526/F – Variation of condition 2 of 01/02513/F to allow accommodation to be used as function room – Approved. The consent in 01/02513/F restricted the presentation/function room to be used only in association with the motor sport use at the site. The types of functions sought were not made clear in the application, but it was noted that the barn was advertised for use for wedding receptions and parties. Condition 3 of this consent noted that the premises shall only be operated for the uses hereby permitted between the hours of 0900 and midnight.
- 3.14 02/02511/F - Replacement of dutch barn with new wooden four bay building for storage of cars and hay – Approved. Condition 4 of this consent stated that the permission is granted for the erection of a storage building for vehicles in connection with the motor sport use at Pool Farm and/or for purposes of agriculture as defined in Section 336 (1) of the Town and Country Planning Act 1990 and for no other uses whatsoever.
- 3.15 05/01926/F – Renewal of 95/01931/F for the relaxation of Conditions 1 and 9 of CHS 358/91 for the continued use of the rally school – Approved. Planning permission was granted to allow the continued use of the rally school for another ten year period from the date of the decision notice (31st March 2006).
- 3.16 05/01927/F – Renewal of 97/01839/F for relaxation of Condition 1 of 95/01934/F to allow continued use of land for quad bikes and Honda pilots – Approved. Planning permission was granted to allow the continued use of the site for quad bikes and 'Honda Pilots' for another ten year period from the date of the decision notice (31st March 2006). Condition 7 of this consent stated that the use shall only be operated on 3 days per week (that is between Monday to Saturday between the hours of 1000 to 1800). Condition 8 noted that the land shall not be used for any temporary uses constituting development whatsoever, e.g. war games, corporate event days, clay pigeon shooting or helicopter rides. Condition 9 personalised the consent to Mr Wigmore (the applicant in this current application).

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

- 5.1 This application has been publicised by way of a site notice displayed near the site, advertisement in the local newspaper and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. Prior to the application first being presented at Planning Committee on 17th March 2016, comments were raised by third parties and these are summarised as follows:
- Objections were made to the previous applications at the site, but planning permission was granted;
 - Noise inappropriate in this rural location;
 - Temporary consent should only be given for such uses and these uses should not be made permanent;
 - Temporary consent would allow for an investigation and assessment of the noise and disturbance issues and mitigation measures to be undertaken;
 - Residential amenity - noise and dust from vehicles as well as noise from

shouting;

- Just because no complaints have been made about the use, this should not be taken as demonstrating that this use operates without causing disturbance;
- Any extension of the use is subject to the condition that the vehicles used comply with the relevant legislation governing road legal vehicles and fitted with silencers;
- The use should not be extended to buggies and jeeps;
- A condition should be attached requesting noise attenuation measures (e.g. mounds and fencing);
- Only one vehicle at a time should use the rally track;
- The use of quad bikes should be more contained closer to the buildings on Pool Farm;
- The rally track should be restricted to weekdays only with further restrictions on times of operation on Saturdays, and no use on Sundays and Public Holidays;
- Should only be used 3 days a week;
- Consent should be personalised as the operator of the business has a large influence on how it is run. The 2006 decision refers to the personal circumstances of the case which were deemed to override the normal planning policy considerations;
- All previous conditions should be re-imposed;
- Should restrict permitted development rights to prevent temporary uses (i.e. shooting) and should be used for tuition only;
- A change in the track surface to prevent noise and dust pollution;
- The local roads are used as a track when people leave Pool Farm causing highway safety concerns and visitors drive into residential properties to turn their cars around;
- Such consent would facilitate the sale of the property to a commercial purchaser who would seek to maximize the commercial use of the property to the detriment of the local area in general;
- The land is being used for corporate events despite conditions restricting such a use of the site;
- The site is being used as a wedding venue without planning permission.

5.2 After 17th March 2016 and before the submission of the Acoustic Report by the applicant on 29th April 2016, comments were raised by a third party and these are summarised as follows:

- The committee report focusses too heavily on the lack of complaint during the period of the temporary permissions;
- Noise levels have reduced since the committee meeting;
- A proper assessment of the matters of noise and dust is required;
- Fencing and mounds would reduce the noise;
- Concerns with the recommended conditions;
- Planning enforcement concerns.

5.3 After the submission of the Acoustic Report by the applicant on 29th April 2016, letters were sent to properties immediately adjoining the site. Comments were raised by third parties and these are summarised as follows:

- The Acoustic Report is biased as it is written for the applicant and should be conducted by the Council;
- The investigation of the noise complaint should be carried out in an independent manner by the Council's officers not just on one day but over a series of randomly selected operational days;
- Concerns raised with the methodology and reasoning in the Acoustic Report;
- In relation to the Acoustic Report, concerns were raised that certain cars were

not driven and vehicles were not driven at the speeds or style that they are normally driven;

- Concerns that the cars were fitted with silencers for the report;
- The investigation should be carried out on a series of operational days and not just one day so that a realistic and representative assessment could be made;
- The Acoustic Report made no reference to any recognised noise standards or guidance. And there is no information on the equipment being used or how or whether it was calibrated;
- In motor sport the LAeq is neither a reliable indicator nor a suitable descriptor;
- The Acoustic Report provided no information on the weather conditions at the time, particularly with regard to the wind direction and speed;
- Dust levels require measuring;
- The use of the function room should be restricted;
- List of conditions given including the fitting of silencers, maximum sound power levels, the use of the turning area only for the start of the return leg of the track, a scheme for the control of dust emissions, and hours of use;
- Since this application came before the Members for consideration at Planning Committee, the experience of the nearby residents is that noise levels from the rallying have fallen considerably;
- If consent is granted it should only be for 12 months to properly trial the effectiveness of the new conditions;
- Residents have not been given enough time to respond.

5.4 The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

6.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL

6.2 STRATTON AUDLEY PARISH COUNCIL: **No objections.**

6.3 GODINGTON PARISH COUNCIL: **No objections.**

STATUTORY CONSULTEES

6.4 Environment Agency: **No objections.**

6.5 BBO Wildlife Trust: **No comments received.**

6.6 Highways Liaison Officer: **No objections.**

6.7 OCC Drainage: **No objections**, but ask questions in relation to what arrangements are in place for managing a pollution incident in the event of a rally car crashing and leaking oil. OCC Drainage question if any cars are repaired, refuelled or washed on site and whether the business has implemented any anti-pollution measures to control possible pollution. Furthermore OCC Drainage ask what the risk is of pollutants reaching watercourses and do sustainable drainage systems have a role to play in remediating contaminants if this is the case.

6.8 Anglian Water: **No objections.**

NON-STATUTORY CONSULTEES

6.9 Ecology Officer: **No objections.**

6.10 Environmental Protection Officer: **No objections.**

Before this application went before Members at committee in March 2016 the Environmental Protection Officer stated *"Having visited the area and studied the plans I have no reason to object to the application, however I feel that as there have been no complaints with regards to the use of the site then the conditions on the current temporary planning permission are doing the job they were designed for."* The Environmental Protection Officer therefore recommended the same conditions to those attached on the earlier permissions at the site (05/01926/F and 05/01927/F).

Following the decision of Committee to defer making a decision on the application pending further investigation into the noise and dust impacts, an Acoustic Report was submitted to the Council on 29th April 2016. After reviewing this information the Environmental Protection Officer advised that the report was not robust as:

- There was no mention of the weather conditions or wind direction at the time of the measurements being taken or any mention of the time.
- There was no unit of time given for the noise readings so it is not possible to assess how long the average was taken for? 1 hour, 15minutes, 16hours?
- There was no discussion of the type of noise (impulsivity or tonality) or the context of the noise.

In particular the Environmental Protection Officer noted that they would most likely recommend putting noise limits at a certain measurement distance from the exhaust so they are kept at a reasonable level for the neighbours. The MSA (Motor Sports Association) Code of Conduct focuses on maximum noise levels at certain distances from the vehicle and the Environmental Protection Officer noted that this should be used as guidance and best practice to enable the Environmental Protection Officer to make a decision on the noise levels required.

However, the Environmental Protection Officer stated that there had been no noise complaints about the rally cars whilst the site has been operating so far and the neighbours have stated that there is an improvement in the noise since the planning application had been submitted. The Environmental Protection Officer also noted that in order to give neighbours some respite from the noise, the times of use could be curtailed from what has been applied for.

With regards to the dust, the Environmental Protection Officer recommended a condition that the track is 'damped down' before each session of the use to prevent dust nuisance.

Following this response, the applicant provided more information in relation to the noise report, including weather and wind direction, the unit of time for the noise readings and the type of noise and context of the noise. After the submission of this further information, the Environmental Protection Officer was of the opinion that some information was still required including information on the wind direction.

The Environmental Protection Officer then visited the site and took noise readings on 25th July 2016 and took measurements at locations to mirror those on the Acoustic Report as much as possible. The Environmental Protection Officer noted that: *"The weather was warm, sunny with some cloud. Wind was fairly strong from the south, south west (i.e. towards to Oldfield House). The noise level was barely noticeable - noise readings were taken 45.8dB LAeq (5m) at Copse Cottages and 42.2 LAeq (5m)*

near Oldfield House. In my opinion these levels are acceptable for the days, time of day and frequency of the rallying proposed and would be at the No Observed Effect level in the Noise PPG which I think has come down from Observed Adverse Effect level. In fact the neighbours at both Oldfield House and 1 Copse Cottages have both stated that the current level is a lot lower than previously." The Environmental Protection Officer has requested a number of conditions to ensure that the current reduced noise levels are maintained including:

- Month noise readings are to be taken to ensure that all rally vehicles using the track are achieving the levels set down in the Cass Allen Noise report ref LR01 - 16253 dated 29th April 2016. Measurements should be taken at 0.5m from the end of the exhaust pipe at an angle of 45 degrees with the exhaust outlet. The noise level at this point should initially be measured at the same time as the reading is taken at measuring points N1 and N3 in the report to ensure the reported levels are achieved. The result of this should be reported to the LPA. The monthly noise readings should then be recorded and available to view by an officer of the council on request.
- If the noise level is breached when the test is carried out then that vehicle should be taken out of use until the silencer has been repaired or replaced and new readings taken to ensure that it is achieving the required level.
- If a noise complaint is received from a neighbouring property then this shall be recorded, new noise tests taken and recorded as detailed above and if required corrective action taken. The results of these tests shall be added to the monthly noise reading log.
- That the area of the site to be used for use of quad bikes, "Honda Pilots" and Rally Cars shall be restricted to the areas of land marked on the submitted plan received by the local planning authority on 18th December 2016
- That the use of the land for the purposes hereby approved shall only operate between the hours of 1000 and 1800 Monday to Saturday and not operated at any time on Sundays and Public Holidays.
- The use hereby approved shall not operate on more than 3 occasions per week.
- No more than 4 Quad Bikes and/or Honda Pilots shall be operated at any one time.
- No more than one Rally Car shall be on the rally track at one time.
- There shall be no use of the rally track when the quad bike and /or Honda Pilots are being used.
- The noise levels for quad bikes and "Honda Pilots" - measured at exhaust outlet height one metre from the vehicle - shall not exceed 75dB(A) in the case of the quads and 100 dB(A) in the case of the "Honda Pilots".

6.11 Landscape Officer: **No objections.**

6.12 Licensing: **No comments received.**

6.13 Recreation and Leisure: **No comments received.**

6.14 Arboricultural Officer: **No objections.**

6.15 Thames Valley Police Design Advisor: **No comments received.**

7. Relevant National and Local Policy and Guidance

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

PSD1: Presumption in Favour of Sustainable Development

SLE1: Employment Development

ESD10: Protection and Enhancement of Biodiversity and the Natural Environment

ESD13: Local Landscape Protection and Enhancement

ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

C8: Sporadic development in the open countryside

C28: Layout, design and external appearance of new development

ENV1: Development likely to cause detrimental levels of pollution

7.3 Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Noise Policy Statement for England (NPSE) (March 2010)

8. Appraisal

8.1 The key issues for consideration in this application are:

- The Principle of the Development;
- Landscape Impact;
- Residential Amenities;
- Highways Safety;
- Ecological Impact;
- Other Matters.

The Principle of the Development

8.2 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

8.3 Paragraph 28 of the NPPF states that Local Planning Authorities should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. Paragraph 28 goes on further to state that to promote a strong rural economy, Local Planning Authorities should

support the sustainable growth and expansion of all types of business and enterprise in rural areas, promote the development and diversification of agricultural and other land based rural business, and support sustainable leisure developments that benefit businesses in rural areas, and which respect the character of the countryside. Furthermore, Paragraph B.38 of the Cherwell Local Plan Part 1 which supports Policy SLE1 notes that: *"The Council will support existing business and will seek to ensure their operational activity is not compromised wherever possible"*. It is noted within the application form that these temporary uses at the site currently employ 5 full-time employees and 2 part-time employees and the continuation of the rally school and quad biking and buggying would contribute in promoting a strong rural economy.

- 8.4 As noted in the planning history section of this report, the rally school and associated track had temporary planning permission until 31st March 2016, subject to conditions, and the site has been used as a rally school since 1989. In addition, the use of the land to the east of the rally track for quad bikes and 'Honda Pilots' also had temporary planning permission, subject to conditions, until 31st March 2016 and the site has been used for quad biking and buggying since 1995. Temporary planning permission has been granted more than once for each of these uses therefore the principle of continuing such uses has been considered acceptable in the past. As these uses have operated for a considerable length of time it is considered that it would be difficult to resist the principle of such development, even with the introduction of jeeps to the east of the rally track. Given this and the emphasis in the NPPF on promoting a strong rural economy it is considered that the principle of making these existing uses permanent at the site could be acceptable.
- 8.5 However, the principle of this development is also clearly dependent on it not causing detrimental harm to the visual appearance and the rural character of the landscape, residential amenities, highways safety and ecology.

Landscape Impact

- 8.6 Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions. Paragraph 123 of the NPPF states that planning decisions should aim to: *"Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason."*
- 8.7 Policy ESD13 of the Cherwell Local Plan Part 1 states that: *"Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations."* Policy ESD13 goes on further to note that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: *"Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
 - *Cause undue harm to important natural landscape features and topography;*
 - *Be inconsistent with local character;*
 - *Impact on areas judged to have a high level of tranquillity;*
 - *Harm the setting of settlements, buildings, structures or other landmark features: or*
 - *Harm the historic value of the landscape."*
- 8.8 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *"Successful design is founded upon an understanding and respect for an area's unique built, natural and*

cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.”

- 8.9 Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 8.10 With regard to the rally track, this is a mud track which does not rise above ground level. This is very well screened from the public highway of Mill Lane to the north west of the site by hedging along this highway. The rally track is well screened from the public highway to the south of the site which runs between Stratton Audley Stud and Pounden due to the topography of the area and hedging along the highway boundary. Furthermore, most of this track is sited within a wooded area. A Public Footpath (371/8b/10) is located to the north east of the site, but the site is screened from this footpath by the woodland of Oldfield Copse, which also contributes in screening views of the track from the north of the site. It is also worth noting that the previous planning permission required a landscaping scheme (91/00358/S) which has been carried out on site and contributes in softening the appearance of the rally track.
- 8.11 In relation to the quad bike, buggy and jeep use, temporary grass circuits are used (defined by cones, tyres and bales rather than an engineered gravel track) to the east of the rally track. This part of the site is also well screened from the public domain due to the same reasons outlined in the above paragraph of the report.
- 8.12 Whilst the use of the land for rally cars, buggies and quad bikes has an effect upon the tranquillity of the rural area, it is worth noting that the continuation of such uses has previously been considered acceptable subject to conditions (for example, but not limited to: the operation of the uses to three times a day (excluding Sundays and Bank Holidays); the hours of the use from 1000 to 1800; the use of the track to one rally vehicle at a time and for tuition only; and the use of the area to the east of the track to no more than 4 quad bikes and/or ‘Honda Pilots’). These attached conditions were considered to be adequate in the previous applications for both uses at the site (ref: 05/01926/F and 05/01927/F) in relation to limiting harm upon the rural character of the area and similar conditions can be applied again.
- 8.13 Given the above, it is considered that the proposal to make the use permanent would not cause significant harm to the visual appearance and rural character of the area, subject to conditions.

Residential Amenities

- 8.14 Saved Policy ENV1 of the Cherwell Local Plan 1996 states that development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke or other type of environmental pollution will not normally be permitted. Paragraph 10.4 of the Cherwell Local Plan 1996, supporting saved Policy ENV1, notes that the Local Planning Authority will seek to ensure that the amenities of residential properties are not unduly affected by development proposals that may cause environmental pollution.
- 8.15 Paragraph 123 of the NPPF states that: *“Planning policies and decisions should aim to:*
- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
 - *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
 - *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not*

have unreasonable restrictions put on them because of changes in nearby land uses since they were established.”

- 8.16 The nearest residential properties are positioned approximately 130 metres to the west (1 and 2 Copse Cottages), 630 metres to the north east (Stratton Audley Mill, Mill Barn and Oldfield House), and 1KM to the east (Godington Hall) of the site. Mature woodland is situated between Copse Cottages and the rally track and this woodland also bounds the site to the north, whilst the land rises and levels out towards the dwelling to the north east. The use of the quad bikes, jeeps and buggies would be restricted to the east of the rally track.
- 8.17 Significant concerns have been raised from some of the aforementioned properties in terms of noise and dust both in writing and verbally at the previous planning committee meeting. In response to these concerns, Members took to the decision to defer making a decision on this planning application to enable further investigation into the noise and dust levels as a result of the use at the site. This was to ensure that the use did not cause undue harm to neighbouring properties in terms of disturbance and nuisance.
- 8.18 Following that decision, an Acoustic Report was submitted to the Council on 29th April 2016. Concerns have been raised by third parties that the Acoustic Report could be biased as it is written for the applicant. However, the noise assessment was conducted by a qualified professional, who is bound by their own code of professional conduct. The Council has no good reason to doubt the impartiality of the assessment. In any event, the Acoustic Report has been scrutinised by the Council's own Environmental Protection Officer.
- 8.19 After reviewing this information the Environmental Protection Officer did raise concerns about the quality and reliability of the report. This was because there was no mention of weather conditions or wind direction at the time of measurements being taken, there was no discussion on the type of noise or the context of the noise and there was no unit of time given for the noise readings. That said, the Environmental Protection Officer noted that there had been no noise complaints about the rally cars whilst the site had been operating after the application was before Members in March, and that neighbours had stated there was an improvement in the noise levels since this time as the cars had been fitted with silencers.
- 8.20 Further information was submitted by the applicant to address the issues raised by the Environmental Protection Officer in relation to the Acoustic Report. After the submission of this further information, the Environmental Protection Officer was of the opinion that some information was still required including information on the wind direction. The Environmental Protection Officer therefore conducted a noise assessment on 25th July 2016 and took measurements at locations to mirror those on the Acoustic Report as much as possible (i.e. trackside, Copse Cottages and near Oldfields Farm). The Environmental Protection Officer stated that the weather was warm, sunny with some cloud and that the wind was fairly strong from the south/south west (towards to Oldfield House). The Environmental Protection Officer goes on to state that the noise level was barely noticeable and that the noise readings taken were 45.8dBLAeq (5m) at Copse Cottages and 42.2 LAeq (5m) near Oldfield House. The Environmental Protection Officer is of the opinion that these levels are acceptable for the days, time of day and frequency of the rallying proposed and that it would be at the 'No Observed Effect Level' PPG (this is the level of noise exposure below which no effect at all on health or quality of life can be detected). However, a number of conditions are recommended to ensure the noise impact remains acceptable (as outlined in Section 6.10 of the report), some of which are similar to those attached to the previous consents at the site in 2006, in order to protect the amenity of neighbouring residents.

- 8.21 The professional advice provided by the Council's Environmental Protection Officer is considered to constitute a significant material consideration in this case. Furthermore, no technical evidence has been submitted which differs with or undermines the veracity of the assessment conducted by the Council's Environmental Protection Officer. It is also worthy to note again that neighbouring residents have observed an improvement in the noise levels from the use. In addition, significant weight should be given to the fact that temporary planning permission has been granted more than once for each of these uses, which have operated for a considerable length of time apparently without complaint. During the assessment of these previous applications, noise surveys were also carried out on the site by the Council's Environmental Protection Officer.
- 8.22 As noted previously, some of the conditions requested by the Environmental Protection Officer are similar to conditions attached in the previous consents at the site in 2006 and it is considered that the attachment of such conditions is necessary and reasonable in order to safeguard the amenities of the neighbouring properties from intrusive levels of noise.
- 8.23 However, the Environmental Protection Officer also requested the regular measuring and monitoring of noise emissions resulting from the operation of the use and for these to be made available to the Council on request. In addition, with regards to the dust, the Environmental Protection Officer has recommended a condition that the track is 'damped down' before each session of the use. Officers consider that this is best addressed through a noise and dust management plan which is to be submitted to and approved by the Local Planning Authority.
- 8.24 The letters of objection note that if such uses are to be continued, the planning permission should again be for a temporary period. Conditions making both of these uses temporary were previously attached in order for the Local Planning Authority to review the impact and acceptability of the use. However a further temporary consent is not considered necessary or reasonable given that the Environmental Protection Officer considers that the use would be at the 'No Observed Effect Level' with the conditions they have requested. As such officers are satisfied that the noise impacts of the use can be effectively regulated so as to be acceptable.
- 8.25 Letters from third parties have recommended a number of other conditions which make reference to restricting the use on Saturdays and reducing the area used for quad bikes, jeeps and buggies. However, given that these uses have operated since 2006 without such conditions and that the Environmental Protection Officer considers that the use would be at the 'No Observed Effect Level' with the conditions they have requested, it is considered that it would not be necessary or reasonable to attach such conditions.
- 8.26 Whilst jeeps are also now proposed to the east of the rally track as well as buggies and quad bikes, a condition restricting the land to the east side of the track to no more than 4 quad bikes and/or buggies and/or jeeps would result in the same level of vehicles on the east side of the track to what has been previously allowed and it is not considered that the addition of jeeps to this land would result in significantly higher levels of noise than currently experienced. Furthermore, a condition has been recommended which states that the vehicles shall be silenced to the manufacturer's standard specification.
- 8.27 Letters from third parties have requested further noise and attenuation measures, including examples of fencing and mounds. Officers are of the opinion that both examples put forward would not be necessary given that the Environmental Protection Officer considers that the level of noise of the use would be at the 'No Observed Effect Level' (subject to conditions recommended by the Environmental Protection Officer). It is also considered that such features would be undesirable and

potentially harmful, intrusive features in this rural location.

- 8.28 Letters from third parties have noted that if planning permission is granted, then this should be personalised to the applicant so the land is not sold to a purchaser who would seek to maximise that commercial use of the property. Such a condition was attached to the buggy and quad bike use at the site in 2006 and the committee report for this application noted that this was appropriate. The reason in the decision notice for this condition stated that this was attached as the consent was only granted in the view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning considerations which would normally lead to refusal of planning consent. However, such a condition was not attached to the rally school use. In respect of the current proposal officers do not consider it necessary or reasonable to recommend such a condition because the use is more properly regulated through other conditions, for example in relation to the hours and days of the operation, the number of vehicles allowed at any one time and the area in which these vehicles shall be used. Planning permission would be required to vary such conditions should any future owner of the business want to operate the business in a different manner.
- 8.29 Concerns have been raised in relation to noise emanating from people on the site when a picnic tent is set up to the west of the site, but such a matter is not relevant to the determination of this application and whether this constitutes a breach of planning control is a matter for the Council's Planning Enforcement team to investigate.
- 8.30 Thus, having regard to the site assessment and advice of the Environmental Protection Officer, the length of time the uses have operated and the recent comments from neighbouring properties in relation to the reduction in noise levels, it is considered that it would be difficult to resist the permanent use of this site as a rally school and for the use of quad bikes, buggies and jeeps on the grounds of harm to residential amenity. Furthermore, the attachment of conditions which have been discussed in this section of the report can be used to ensure any impact is minimised and kept to an acceptable level.

Highways Safety

- 8.31 The Local Highways Authority has no objections to the proposal. Whilst the site is relatively remote and accessed from a minor road, the use, provided that it is carried out in accordance with the conditions recommended, should not result in a high volume of vehicular movements. The access has appropriate vision splays for the level of use and there is considered to be adequate parking on site for customers.
- 8.32 Concerns have been raised in relation to the manner in which the vehicles which have left the site are driven on the roads in the locality. As this takes place on public highway land, the Local Planning Authority has no control over this matter and this is not a material planning consideration.
- 8.33 As such it is not considered that the use would cause detrimental harm to highway safety or the convenience of other road users.

Ecological Impact

- 8.34 The Ecology Officer has no objections to the continuation of the existing uses at the site. The Ecology Officer notes that there does not appear to be any additional impacts proposed on trees or other vegetation. The Ecology Officer raised a query in relation to lighting, but given the times of the day the use is conditioned to (1000 to 1800), it is considered very unlikely that lighting is required and any permanent floodlighting would also require planning permission. Given the above, it is considered that the permanent use of the land for the rally school and quad bikes,

buggies and jeeps would not cause adverse ecological harm.

Other Matters

- 8.35 A third party has noted that this site is being used for corporate events even though conditions have been attached preventing such a use. Condition 8 of 05/01927/F did state that the land shall not be used for any temporary uses constituting development whatsoever, e.g. war games, corporate event days, clay pigeon shooting. If groups want to visit the site to use the quad bikes and Honda Pilots this does not, however, mean this condition has been breached. That said, after viewing the businesses' website, it appears that this condition has been breached as the land has been used for other uses including shooting and archery. The Council's Planning enforcement team has been made aware of this breach of condition.
- 8.36 A third party has also noted that the site is being used as a wedding venue without consent. Whilst it is the case that one of the barns is being used as a wedding venue, planning permission was granted in 2002 for such a use (02/01526/F). A third party has stated that the use of the function room should also be restricted, but this element of the site is not directly related to the application and such a condition is not necessary to make the application acceptable.
- 8.37 OCC Drainage has raised a few questions in relation to leaking oil and the risk of pollutants reaching nearby watercourses. However, the uses on the site have been considered acceptable in the past (more than once) without restrictions in relation to contamination, and in the absence of evidence to suggest that contamination is an issue, it is not considered reasonable to attach such conditions relating to this matter in this instance.
- 8.38 Concerns were raised by a third party in relation to the 21 day period for responding to the publication of this application after the Acoustic Report had been submitted to the Local Planning Authority by the applicant. However, the Local Planning Authority did not have a statutory duty to re-consult neighbouring properties in relation to this application and in any case a 21 day period is the statutory period in which planning applications are publicised.

Conclusion

- 8.39 Given the above assessment, it is considered that this proposal is an acceptable form of development and that it complies with the above mentioned policies. It is considered that it represents sustainable development and that the potential adverse impacts on the amenity of neighbours as a result of noise and dust can be satisfactorily mitigated through conditions. As such the recommendation is for approval subject to appropriate conditions as set out below.

9. Recommendation

Approval, subject to the following conditions:

1. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents:
 - Application Form submitted with the application;
 - Drawing Number 5013/2 submitted with the application;
 - Site Location Plan at a scale of 1:5,000 received by e-mail from the applicant on 25th February 2016;
 - Additional plan outlining 'Rally Stage' and 'Yard' at a scale of 1:5,000 received by e-mail from the applicant on 29th February 2016;

- E-mail from the applicant containing a list of vehicles to be used on the 'Rally Stage' and 'Yard' on 29th February 2016.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

2. Within 4 calendar months starting from the date of this decision, a Noise and Dust Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the use hereby permitted shall only operate in strict accordance with the approved Management Plan.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise and dust, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. The area of the site to be used for quad bikes, jeeps, and 'Honda Pilots' shall be restricted to the area outlined in green on Drawing Number 5013/2 submitted with the application.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No more than 4 quad bikes and/or 'Honda Pilots' and/or jeeps shall be operated at any one time.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. The 'Rally Stage' and 'Yard' outlined in the additional plan (scale of 1:5,000 received by e-mail from the applicant on 29th February 2016) shall only be used for the purposes of tuition in accordance with the terms of this consent and shall not be used for any testing, trial of speed, racing or other practicing whatsoever.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. No more than one vehicle shall be used on the 'Rally Stage' and 'Yard' outlined in the additional plan (scale of 1:5,000 received by e-mail from the applicant on 29th February 2016) at any one time, and the 'Rally Stage' and 'Yard' shall only be used by the vehicles listed on the e-mail received from the applicant on 29th February 2016.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the

National Planning Policy Framework.

7. There shall be no use of the rally stage when the quad bikes and/or 'Honda Pilots' and/or jeeps are being used.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. The use hereby approved shall only operate between the hours of 10:00 and 18:00 Monday to Saturday and shall not operate at any time on Sundays and Public Holidays.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. The use hereby approved shall not operate on more than 3 occasions in any one calendar week.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. The vehicles shall be silenced to the manufacturer's standard specification and the maximum sound power level of the vehicles, measured at exhaust outlet height one metre from the vehicle, shall not exceed 75dB(A) in the case of the quads and 100 dB(A) in the case of the "Honda Pilots".

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Notwithstanding the provisions of Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) order 2015, the site shall not be used for any temporary purpose or activity, including War Games, Paintballing, Corporate Event Days, Clay Pigeon Shooting or helicopter rides, other than those expressly approved by this permission.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. Motor car or motorcycle racing or any other form of motor sport including testing, trials of speed and practising for such activities shall not take place on the site.

In order to safeguard the rural character of the area and the amenities of the neighbouring properties from intrusive levels of noise, and to comply with Policy

ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. With regard to condition 2, the Noise and Dust Management Plan should include, as a minimum, the following:
 - Arrangements for taking monthly noise readings to ensure that all rally vehicles using the track are achieving the levels set down in the Cass Allen Noise report ref LR01 - 16253 dated 29th April 2016. Measurements should be taken at 0.5m from the end of the exhaust pipe at an angle of 45 degrees with the exhaust outlet. The noise level at this point should initially be measured at the same time as the reading is taken at measuring points N1 and N3 in the report to ensure the reported levels are achieved. The monthly noise readings should be recorded and available to view by an officer of the council on request.
 - Measures to be taken if the noise level is breached when the test is carried out (e.g. the vehicle should be taken out of use until the silencer has been repaired or replaced and new readings taken to ensure that it is achieving the required level).
 - Arrangements for recording noise complaints received from neighbouring properties, and for new noise tests to be taken and recorded as detailed above and if required corrective action taken. The results of these tests shall be added to the monthly noise reading log.
 - Measures to ensure the track is 'damped down' before each session of the use to prevent dust nuisance.
2. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.