

**MC/19/2626**

**Date Received:** 3 October 2019

**Location:** Unit 1-2 Medway Distribution Centre Courteney Road Rainham

**Proposal:** Change of use from builders merchants (sui generis) to indoor electric go-karting or builders merchants (both sui generis)

**Applicant** TBH Real Estates Developments Ltd,  
Mr Clifford Thurlow

**Ward:** Rainham Central Ward

**Case Officer:** Mary Smith

**Contact Number:** 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 15th January 2020.**

### **Recommendation - Refusal**

- 1 The proposed use for go-karting would result in the loss of employment floor space, it also being noted that the site is within the part of the Courteney Road employment area which retains its key employment purpose and is not well-served by sustainable means of transport such that staff and visitors would be likely to travel by private car. This proposed use would be contrary to Policy ED1 of the Medway Local Plan 2003 and the advice in the National Planning Policy Framework 2019 (including paragraph 81).

**For the reasons for this recommendation for refusal please see Planning Appraisal Section and Conclusions at the end of this report.**

### **Proposal**

This is an application for the change of use from builders merchants (sui generis) to indoor electric go-karting or builders merchants (both sui generis). No external alterations to the building are proposed. The proposed karting use would consist of a 300m long multi-level karting track entirely within the building. The go karts would be electric and a variety of 'roll up' and 'scheduled' events are proposed, with a maximum of 24 drivers per hour, customers predominantly being age 12 and above. It is stated that 25 jobs, 8 of

which would be part time, would be created. The hours of opening are anticipated to be 12:00 – 22:00 Monday to Thursday, 12:00 – 00:00 on Friday and 10:00 – 00:00 midnight on Saturday and Sunday. The use would trade as part of the SOAR group of companies which includes the trampoline park at nearby units 5 & 6 of Medway Distribution Centre.

### **Relevant Planning History**

MC/04/1009            Change of use from use Classes B1, B2, & B8 to builders merchant (sui-generis) together with fenced compound  
Approved 13 July 2004

Also of relevance at nearby Units 5 & 6 Medway Distribution Centre is:

MC/16/0095            Change of use from use classes B1 (employment), B2 (general industrial) and B8 (storage and distribution) to B1, B2, B8 and D2 (leisure use as a trampoline park) and extension of hardstanding to provide additional car parking  
Approved 4 May 2016

### **Representations**

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties.

**Councillor Kemp** has requested that the application be report to the Planning Committee. He does not think that it should be refused as:

- over the past 15 years only 6 people were employed at any one time at the site whereas the current proposal will be employing upwards of 30 people;
- it is more beneficial to have a site utilised rather than lying empty for a number of years; and
- the proposal will bring a unique leisure activity to Medway and, indeed, to Kent, the nearest indoor go kart track being in London.

### **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2019 (the NPPF) and are considered to conform.

### **Planning Appraisal**

#### *Principle*

The site is located within an employment area as allocated by the Local Plan (the Local Plan). Policy ED1 of this plan says that development will only be permitted for Classes

B1, B2 and B8 in this area. The proposed karting use would be a sui generis use which would not fall within in any specific use class, however it is considered to be essentially a leisure rather than a traditional employment/business use as such and so would be contrary to this policy. This is in contrast to the currently permitted builders merchants use which is primarily a storage and distribution use rather than a purely retail or leisure use. The site was last used by Jewsons and it is understood that this use ceased within the last year although no information regarding the reason for this and any subsequent marketing of the site for alternative uses has been provided.

It is recognised that the Local Plan is of some age however it is considered that the aims of Policy ED1 are consistent with the more recent advice in the NPPF. In particular in accordance with paragraph 81 of the NPPF it sets out a clear economic vision, identifies sites, takes account of infrastructure and allows some flexibility in business uses. In addition work on this matter has been undertaken to support the new local plan which is currently under preparation. An Employment Land Needs Assessment (ELNA) was commissioned in 2015 to review existing sites, recommend changes and calculate the future employment space need over the plan period. The ELNA assessed the site as part of the Courteney Road employment area and concluded that it should be protected and maintained as an employment site. In these circumstances it is considered that the proposed go-karting use would be contrary to policy aims to secure employment land and an objection is raised on this basis.

Policy L2 of the Local Plan refers to new leisure facilities, saying that they will be permitted within or on the edge of town centres but only elsewhere in given, exceptional circumstances. This policy is considered to be in accordance with the more recent advice in Section 7 of the NPPF which aims to ensure the vitality of town centres. The application submissions include a letter from Watson Day Chartered Surveyors which is stated to provide a sequential assessment, examining whether or not there are any other buildings suitable for the proposed use which are vacant or would be within a reasonable time period. It is stated that buildings have to be existing as the use would not be viable with redevelopment/new build, with a minimum useable floor space of 1858sqm (20,000sqft) on a single level. The submission concludes that there are no sequentially preferable sites available.

In these circumstances the key question is whether or not the need for employment space outweighs the need for informal leisure. The findings of the ELNA, which recognise that there is already a mix of uses within the Courteney Road area, support the need for employment allocation and it is therefore considered that the site should be protected for this purpose.

In reaching this conclusion it is recognised that the Planning Committee granted planning permission for a trampoline park at units 5 and 6 to the east MC/16/0095 (contrary to officer recommendation). However notwithstanding this the current site is in the part of Courteney Road which retains its key employment purpose and feel rather than being within the northern area closer to the Tesco store which has more of a mix of uses. This northern area closer to the A2 is also more accessible by a range of transport means,

whereas the current site is not, both Policy L2 of the Local Plan and paragraph 87 of the NPPF giving preference to highly accessible sites for leisure uses. It is also recognised that leisure and various other uses may well employ more staff than traditional employment/business class uses. However this does not overcome the findings of the ELNA which suggest that there is a forecast growth in employment uses (Classes B1, B2 and B8), highlighting the need to protect sites for those particular uses including due to their suitable infrastructure links. It is also noted that the permitting of a leisure use in units 1 and 2 in addition to the trampoline use at units 5 and 6 is likely to result in further pressure for potential non-employment uses at units 3 and 4, these being sandwiched between the two and currently occupied by Benchmark Kitchens and Joinery and Furniture.

### *Amenity*

The site is located within a commercial area off Courteney Road with other commercial uses to all sides, including across Hoath Way to the west. The nearest residential neighbours are to the east of Units 3-6 Medway Distribution Centre, beyond the indoor trampoline park, the nearest houses in Edwin Road mostly having long rear gardens and not being visible due to vegetation.

A noise assessment has been submitted with the application. This confirms that the proposed karts would be electrically powered, with an artificially produced 'realistic F1-style sound' being the main source of noise generated. A calculation of the noise impact at the nearest houses in Edwin Road has been made, concluding that the noise is likely to be inaudible at these residential purposes. With regard to the potential impact on nearby workers at other commercial units it is concluded that the brick separating wall to the adjoining unit can be expected to provide sufficient noise insulation and that there would be no adverse impact on this or other commercial units.

In summary the impact on amenity is considered acceptable including with regard to Policy BNE2 of the Local Plan and paragraph 127 of the NPPF. If permission were to be granted conditions to restrict the carts used to electric karts only and to control the hours of opening would be recommended.

### *Highways*

A Transport Technical Note has been submitted in support of the application and this includes a plan showing the site frontage laid out to provide 36 parking spaces, including 2 suitable for use by the disabled. The submissions demonstrate that this level of on-site parking is likely to be sufficient to accommodate potential demand. There are likely to be 15 employees on site at any one time and karting would usually take place within fixed pre-booked one hour activity slots, with safety training beforehand. The site is located away from both public transport and cycle routes and has good highway accessibility onto the secondary and primary road network, such that visitors would predominantly travel by car, although it is noted that this type of use may result in car sharing for parties and similar outings. There would be no conflict with the adopted maximum parking standards

and the parking controls on Courteney Road would be sufficient to prevent any indiscriminate parking affecting safety and the free-flow of traffic on the public highway.

In summary there is no objection on parking and highway grounds including with regard to Policies T1 and T13 of the Local Plan and paragraph 109 of the NPPF. If permission were to be granted a condition requiring the provision of electric charging facilities in the car park would be recommended in the interests of sustainability and in accordance with paragraph 110 of the NPPF.

### *Climate Change and Energy Efficiency*

The proposed new use, indoor go-karting, is specifically for the use of electric go-karts which are considered to be more sustainable than alternatively fuelled vehicles such as petrol go-karts. However the site is not served by public transport or in an easily accessible location, other than by car, therefore the vast majority of visitors and staff are likely to travel by car.

### *Other Matters*

It is noted that this application is for the proposed indoor electric go-karting use or for use as a builders merchants (the last use of the site). There is no objection to the continued use for a builders merchants, in accordance with the current permission for the site, however this would mean that the use of the premises could be for either of these uses at any time in the future. For example if the karting use were implemented but then ceased the use of the premises could revert to a builders yard. If permission were granted it would therefore be necessary to consider planning conditions relating to both of these uses.

### **Conclusions and Reasons for Refusal**

In summary, the proposed go-karting use would result in the loss of the site for employment use and due to the identified need for such floor space the development is considered unacceptable on this ground, being contrary to Policy ED1 of the Local Plan and the advice in the NPPF including paragraph 81. In addition whilst, subject to conditions, there are no objections with regard to amenity, parking and highway impacts it is noted that the site is within an employment area which retains its key employment purpose and is not well-served by sustainable means of transport, such that staff and visitors would be likely to travel by private car. Refusal on these grounds is therefore recommended.

The application would normally be determined under delegated powers but is being referred for Committee determination at the request of Councillor Kemp.

The application was deferred from the last Planning Committee for draft conditions to be reported back, should the application be approved. A supplementary report was presented to this Committee:

## **Representations**

**One letter** has been received from a business stating that the unit now has a firm full-price offer for B8 use with terms agreed with the landlord, the business being ready to take occupancy of the unit as soon as possible.

The intended use of the building by this potential occupier is stated as falling within Use Class B8 (warehouse and distribution hub). It is hoped that the change back from builders merchant to Class B8, the original use, would be straightforward.

It is stated that the company is a rapidly growing company, currently based on the Medway City Estate. They state they have outgrown their current units and desperately need to find a larger property urgently. They believe that if they took occupancy of the unit they would contribute to the employment in the area much more so than the indoor karting track. They are currently employing 17 Full Time Equivalentents but advise with their rapid growth, currently running at around 7% per month, their detailed forecasts show that by the end of year 1 of occupancy they would be employing 26 FTEs, year 2 38 FTEs and year 3 59 FTEs, approximately double the number of jobs being created by the karting track.

Further to this they say that they have had great difficulty finding an industrial unit of sufficient size in Medway to accommodate their growing business, saying there is a severe lack of suitable units available in Medway. They have stated that if they cannot secure this unit, due to the proposed leisure use, they would have to leave Medway and relocate outside of the area. It is stated that there are suitable units available elsewhere in North Kent and Swale. They advise that such a move would mean them losing the majority of their staff, as all bar one live in Medway. This in turn would mean that the 42 jobs they forecast to create over the next three years would also be outside of Medway.

The suggested conditions are:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing 7115-P-04 A received 3 October 2019.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Prior to the commencement of the indoor electric go-karting use hereby approved the area shown on the submitted layout within the Transport Technical Note as vehicle parking shall be provided including being marked out as shown. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking is likely to lead to hazardous on-street parking and in accordance with Policies T1 and T13 of the Medway Local Plan 2003.

4. Prior to the commencement of the indoor electric go-karting use hereby approved two electric vehicle charge points shall be provided for use by visitors (including staff) to the site and they shall be retained as such thereafter, available for use.

Reason: In the interests of sustainability in accordance with paragraph 110E of National Planning Policy Framework 2019.

5. The indoor electric go-karting use hereby approved is for the use of electric karts only and no other karts shall be used.

Reason: In the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

6. The uses hereby approved shall only operate between the hours of 12 noon to 10pm Monday to Thursday, 12 noon to 12 midnight on Friday and 10am to 12 midnight on Saturday and Sunday, other than the builders merchants use which may also operate from 0730 from Monday to Saturday mornings.

Reason: In the interests of amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

7. Prior to the undertaking of any open storage of materials, plant or other equipment of any description on the site details of this (including the position, maximum height and any means of enclosure) shall first be submitted to and approved in writing by the Local Planning Authority. Any open storage on the site shall only be in accordance with such approved details.

Reason: In the interests of visual amenity and highway safety in accordance with Policies BNE1 and T1 of the Medway Local Plan 2003.

8. When the premises is in use as a builders merchants no more than 10% of the total gross sales from the premises shall be ancillary retail sales and the applicant or any subsequent occupier or tenant shall maintain a record of the total gross sales

and ancillary retail sales, which the Local Planning Authority may inspect at any time given 24 hours notice.

Reason 8. To restrict any ancillary retail development in accordance with Policies ED1 and R14 of the Medway Local Plan 2003.

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## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>