

APPEAL REFERENCE: APP/E3715/W/23/3322013
Rebuttal proof of evidence
on behalf of the Save Coventry Speedway & Stox Campaign Group



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Proof of Evidence by Gareth Hooper
Rebuttal Proof of Evidence
by David Carter
on behalf of:
SAVE COVENTRY SPEEDWAY & STOX
CAMPAIGN GROUP



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David Carter BSc MSc MRTPI

on behalf of:

SAVE COVENTRY SPEEDWAY & STOX CAMPAIGN GROUP

Site Address:

COVENTRY STADIUM, RUGBY ROAD, COVENTRY CV8 3GP

Appeal Proposal:

DEMOLITION OF EXISTING BUILDINGS AND OUTLINE PLANNING APPLICATION (WITH MATTERS OF ACCESS, LAYOUT, SCALE, AND APPEARANCE INCLUDED) FOR RESIDENTIAL DEVELOPMENT (USE CLASS C3) INCLUDING MEANS OF ACCESS INTO THE SITE FROM THE RUGBY ROAD, PROVISION OF OPEN SPACE AND ASSOCIATED INFRASTRUCTURE AND PROVISION OF SPORTS PITCH, ERECTION OF PAVILION AND FORMATION OF ASSOCIATED CAR PARK

Appeal Ref: APP/E3715/W/23/3322013 Planning

Application Ref: R18/0186

Document Ref: SCS/R1 DC

Date: 5 September 2023

Web: savecoventryspeedway.com

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COVENTRY STADIUM APPEAL

Proof of Evidence by Gareth Hooper

Rebuttal Proof of Evidence

Introduction

1. Mr Hooper's evidence gives a misleading impression in relation to the appeal proposal. I will start by rebutting key elements of his approach before making some more detailed observations. This is important because Mr Hooper, alongside the Appellant's other witnesses, place significant weight on the description as a 'former' stadium and its current state of disrepair. Mr Hooper suggests this is not a material planning consideration (para 1.4 and Appendix 1 of Mr Hooper's proof refer).
2. First, it must be highlighted out that the marketing exercise carried out in 2013 was on the basis of the site being a "residential development opportunity" for sale on freehold basis with vacant possession. The marketing materials are available in Appendix 2 of CD10.18.
3. While making reference to the existing stadium use it is clear that residential hope value was being sought.
4. It is also clear that the appellant bought the site with the intention of obtaining planning permission for housing, with little or no reference to the need to protect the existing use as a sports facility.
5. By 2014, the appellant carried out pre planning application consultation on a scheme based on a two-phase development of 250 dwellings covering most of the site. Phase One of the scheme was for the provision of 124 dwellings (see image from the 2014 exhibition appended).
6. It was clear through the process leading to closure of the stadium that the appellant had no intention of allowing racing to continue whilst planning permission was being sought.
7. In the run up to closure in late 2016, the former owner, Mr Sandhu, removed assets that he owned which related to the stadium usage. This would enable them to be reused, should an alternative site have been found. When the appellants sought to permit speedway to continue for a short period, until the end of 2017, Mr Sandhu offered to replace the items at his cost but this fell through, since the appellant would not permit Mr Sandhu to continue running stock car racing at the site.
8. Subject to the replacement and repair of the removed items this means that the stadium, at the time of possession at the beginning of 2017 would have been useable, as before, and as viable as it had been previously.

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9. Since taking possession, what has happened? The appellant failed to properly secure the site which led to repeated invasions by a traveller group or groups, arson attacks and mindless vandalism over a five year period (2017-22). Despite the Council issuing a Warning Notice on the appellant (which they failed to comply with and a Community Protection Notice (CPN), damage continued to occur through the failure to properly secure the site.

10. Convictions for breaches of the CPN during 2019 and during 2021 demonstrate that the security failures were not a one off, but persistent, resulting in fines and costs awards in favour of the Council.

11. The appellant served notice of their intention to appeal the court decision but in early 2023, approached the Council and having significantly improved the level of security on the site following the conviction offered to withdraw the appeal if the Council were to withdraw the CPN. The Council agreed and the appeal and the CPN were withdrawn. The conviction, the fines and award of costs all remain. It also demonstrates that improved measures to improve security could have been put in place much earlier.

12. Looking to the future, the outcome of this appeal will determine whether the stadium is lost forever, or if the land values appertaining to the site go back to a level commensurate with its rural location, without hope of residential development value. This is the key to the restoration of the stadium and would reflect the proper application of planning policy both nationally and locally.

13. SCS has acknowledged the poor current state of the stadium, and that this would be addressed by the appeal proposal. However, it is also the case that the re-opening and restoration of the stadium would also satisfactorily address those very same issues.

Other points

14. Paras 2.21-25. These paragraphs deal with Local Plan (CD8.2) policies HS3 and HS4. The Local Plan Inspector's Interim Letter (CD15.3.1) reflects the discussion held at the Examination (where I was a participant) where he concludes on page 6 that in relation to, *"Policy HS4 – Brandon/Coventry Stadium I heard evidence at the hearings about the potential redevelopment and loss of the Brandon or Coventry Stadium. Notwithstanding the current condition of the site, it is evident that the stadium was until recently in active use for speedway and stock car racing. In the light of this, the absence of a policy to safeguard existing sports and recreational buildings from being built on unless surplus to requirements or replaced elsewhere, in line with paragraph 74 of the NPPF, renders the Plan unsound. Such safeguards are in place for open space and community facilities in the borough, but not sports facilities. Accordingly, main modifications should be included to apply the tests in Policies HS3 and HS4 and their supporting text to sports facilities. This would also ensure that any planning application for the redevelopment of the Brandon Stadium could be assessed against evidence for its need, viability and alternative provision."*

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15. While Mr Hooper is correct that Policy HS3 does not identify sports stadia within the list of facilities/ services, Policy LF1 of the BBNP specifically identifies Brandon Stadium as a community facility noting, that at the time the plan was 'Made', it was 'presently closed'.

16. Taking Local Plan Policies HC3 and HS4 and Policy LF1 of the BBNP in the round strongly suggests that the tests set out in the accompanying text to Policy HS3 (CD8.2, paras 8.10-8.12) should apply to proposals affecting Coventry Stadium.

17. Para 3.3, refers to the appellants other witnesses. I do not propose to specifically rebut aspects of Mr Hooper's proof that are covered elsewhere.

18. Para 4.3, covers refusal of the planning application by Committee on grounds relating to NPPF para 99c). However, what Mr Hooper fails to recognise is that the independent sports needs assessment by the Council led the appellant to recast their proposals under NPPF para 99c), whereas previously they were cast under para 99a). The switching back between the elements of NPPF para 99 is not justified. If the appellant wishes to revert to consideration under para 99a), then one simply has to ask, why bother including the 3G element of the application before this appeal?

19. Para 4.5, the BBNP is integral to the development plan, so its definition of Coventry Stadium as a community facility should be taken into account. In the event of conflict then the most recent document takes precedence, and it is a fact that while both plans were adopted/made on the same day, the local plan was actually adopted before the BBNP.

20. Para 5.3 – The evidence of John Eady of KKP concludes that there is insufficient evidence of demand at a level that would make a reinstated/replacement facility commercially viable. Mr Eady produces no evidence and states "attendances for either domestic or international events are not published and difficult to obtain, and goes on to say "As such, it is accepted that in preparing this report KKP is unable to provide a full picture in terms of trends". (My emphasis).

21. Para 5.24 refers to the Farrow Walsh Report (Appendix a7) in April 2023 and states that the grandstand has been in service since 1928. This is not true. The grandstand was built in two phases, the first phase being completed in 1968 (CD10.19, Appendix 6).

22. Para 7.1 refers to 211 representations made in respect of the appeal, one of which is a petition of 18 signatories in support of the application who live close to the stadium. Para 7.2 suggests that when the petitioners are counted individually, 228 (as opposed to 211) comments were received, 23 of whom were in support and 204 opposed to housing.

23. Para 7.3 then refers to a map shown in Appendix 13, which indicates that comments have been made from across England. Paras 7.4 and 7.5 refer to another map (Appendix 14) showing responses to the appeal who live locally, suggesting the majority of those supporting the appeal proposal live closest to the appeal site.

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24. The analysis above (Paras 7.1 to 7.4) all refer to representations to the appeal and do not include all those representations made at the Public Exhibitions by the appellant in 2014 and again in 2018, nor do they refer to representations made in response to the original application of 2018 or the revised planning application of 2021.

25. Mr Hooper, in showing the spread of objections across England, rather makes the point that Brandon Stadium is a sporting venue of National and therefore strategic significance. With regard to the petition with 18 names on (supportive of housing) and shown in Appendix 14 as living close to the stadium it is understood this was based on false information provided by the petitioner (i.e. that if the stadium remained, the car park was going to be used as a lorry park, 24 hours a day, 7 days a week).

26. In Para 7.7, Mr Hooper suggests the pattern of the residents closest to the appeal site supporting the application reflects the representations made at the application stage. However, at the application stage, responses were segregated by RBC as 'local residents' and 'others', with 'local residents', as acknowledged by Mr Hooper in Para 7.8, as being Binley Woods and Brandon. He cannot therefore possibly know that those in support of housing were closest to the appeal site in the way he does in Appendix 14. Nor can he possibly know that 'many of those residents who now support the appeal proposals initially objected', not least because the personal and contact details of objectors are not disclosed.

27. Even if Mr Hooper's assertions were to be the case, it is very likely they would have changed their minds as a result of being subjected to traveller incursions and the noise and disturbance of daily cases of trespass and vandalism arising from the lack of security.

28. Para 7.9, Mr Hooper refers to 1400 objections being received from beyond the application area including from the USA and New Zealand. This rather emphasises the point that Brandon Stadium is not only a stadium of local significance but also of national and international significance.

Mr Hooper's Appendix 1 – History and Significant Events Review 15th Aug 2023

29. Item 3: The stadium was sold to Investin Brandon and then onto Brandon Estates.

30. Item 2: the sale particulars are clear the site was marketed as a residential development opportunity (subject to Planning Permission).

31. Item 6: this is not true. No discussions were held with Coventry Racing Club. The letter of apology from Louise Steel (Framptons) to Jeremy Heaver (Coventry Racing Club) provides evidence (CD10.18 Appendix 3).

32. Item 8: I refer to this point in my introduction above. Additionally, the shale was removed from the track and placed on the infield. No shale left the site.

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33. Item 10: this is not true. SCS knew assets had been removed by the previous owner and have never said BE was responsible. Reference is made by SCS to Coventry Racing Club removing assets and state that “The pictures clearly show that whilst fixtures and fittings had been removed, the stadium was left in a clean and tidy state” in the SCS response to the original application (CD10.19 Appendix 3).

34. Item 11: the pictures are a true reflection of the condition of the stadium on the day and show whatever they show.

35. Item 13: the previous owner publicly offered to reinstall all assets removed if a deal could be done to stage speedway and stock car racing in 2017.

36. Item 14: there were two approaches made to lease the stadium (in 2017 and again in 2018) and one approach to buy the stadium in March 2017. A further offer to buy the stadium was made in May 2020. The value of the offer reflected the established use of the site and vandalised and fire damaged condition of the stadium at that time, and was not based on housing hope value. The offer was not and has still not been refused (email from Jon Burgwin 7th July 2020 confirms this (CD15.5.14). The independent survey suggesting it would cost £13.71m to reinstate was not carried out at that time but six years later in June 2023. (Mr Hooper’s Proof, Appendix 4).

37. Item 15: It is not true that the site had been subject to trespass and criminal damage in April 2017. At that time there had been very few, if any, cases of trespass and certainly no damage done to the stadium (other than the removal of assets by the previous owner). The first incursion by travellers was in June 2017.

38. Item 16: a warning Notice was first served on Brandon Estates on 15th September 2017, following the third incursion by travellers. The Notice gave the appellant 7 days to tidy up and secure the site which they failed to comply with, resulting in the Community Protection Notice (CPN) being served on 26th September 2016. The appellant chose to challenge the CPN in court.

39. The case was heard at Nuneaton Magistrates Court on 6th February 2018 (by which time two further traveller incursions had taken place and the first of 8 major fires had destroyed a turnstile building). The case was settled outside of the court and the appellant paid Rugby Council’s costs.

40. This is all detailed, including photographic evidence and copies of the Notices, in CD10.19 Appendix 3)

41. Item 18 – Since the work to secure openings with metal shuttering has been completed following the court case, residents inform SCS that there have been very few incidents at the stadium.

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42. This suggests that had these security measures been in place from the outset, or certainly following the first incursion by travellers in June 2017, the stadium may not have been subject to vandalism and arson which has resulted in the level of damage evident today.

43. Item 21: the description by Mr Hooper is misleading. The withdrawal of the appeal was as a result of Brandon Estates (new) legal team approaching RBC and offering, on the basis of the appellant's efforts to improve security following the trial, to withdraw their appeal whilst at the same time asking RBC to withdraw the CPN. It should be noted that the judge verdict and the fines / costs awarded, still stand.

44. In Mr Hooper's chronology, described as a History and Significant Events Review, there are some significant events missing, particularly in the five year period between Item 16 (September 2017 and Item 18 (November 2022) where Mr Hooper's chronology suggests there were no significant events.

Other significant events excluded from Mr Hooper's chronology include:

45. Major fires at the stadium, in addition to the one referred to above (Item 16) on 4th February 2019, 10th March 2020, 17th April 2020, 29th April 2021, 7th August 2021, 12th February 2022 and 13th May 2022.

46. January 2018: Appellant submitted original planning application:

47. October 2018: Framptons submitted a Sports Needs Assessment (which was omitted from the appellant's original planning application).

48. November 2018: RBC Commission wyg to independently review the planning application.

49. June 2019: Rugby Local Plan adopted and did not include the redevelopment of the stadium

50. June 2019: Brandon & Bretford Neighbourhood Plan adopted identifying Brandon Stadium as a community facility.

51. September 2019: wyg report issued, concluding the appellant's case (targeted at NPPF para 99a) had not been made and the stadium could not be considered surplus to requirements.

52. May 2021: RBC issue an ultimatum to the appellant to submit a revised planning application within 3 months or the original application would be reported to Planning Committee with a recommendation for refusal.

53. July 2021: Revised planning application submitted.

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54. November 2022: Planning Committee consider the revised planning application and vote unanimously to go against the Officer's recommendation and refuse the application.

55. December 2022: RBC approve a Notice of Motion instructing Officers to "explore options available to bring Brandon Stadium back into use".

56. May 2023: Appellant notified RBC of intention to appeal refusal of the revised planning application

Appendix 6

57. Appendix 6 (a94): refers to a record of complaints associated with anti-social behaviour. The request for information was made to RBC and response received in July 2023. It shows between 1st January 2017 and July 2023 there were 25 incidents.

58. A Freedom of Information Request made by SCS to Warwickshire Police requested the number of incidents reported to the police between 1st January 2017 and 1st July 2020 (the date of the request). That response shows there were 34 incidents logged by Warwickshire Police during that period (Shown in Appendix 1, CD16.2.3).

59. This suggests RBC were not aware of all of the complaints / calls to Warwickshire Police and there were far more than the 25 incidents referred to by Mr Hooper.

Appendix 1: Image of the Masterplan displayed at the 2014 public exhibition

