

Speedway prompts damages

Complainants have won a long running battle against a speedway stadium which was causing noise disturbance near their home in Mildenhall, Suffolk.

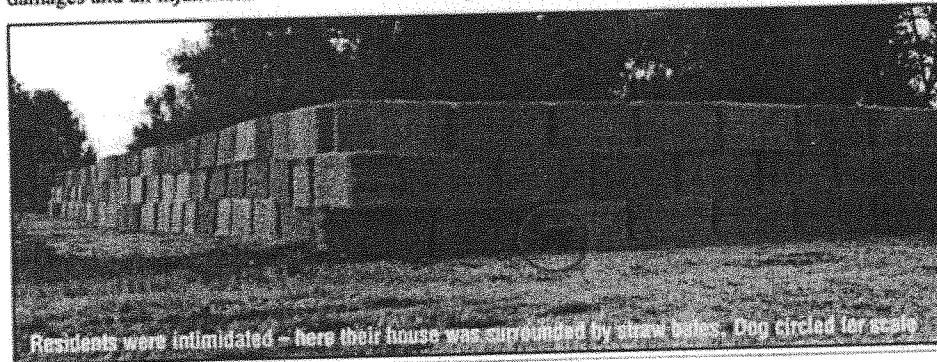
Advised by legal firm Richard Buxton and noise expert Mike Stigwood, residents said they had endured years of nuisance noise from speedway racing and an associated motocross track 500m away. The High Court has awarded damages and an injunction.

The speedway racing involved about 24 events a year, often on a Saturday night. Each event involved 10-20 short races, sometimes till 11pm on Saturday nights and on Sunday afternoons. Residents also claimed aggravated damages for alleged intimidation. The court was told that forklift trucks were used to damage property, their house was set on fire and a straw bund was built around the house ostensibly as a noise barrier but allegedly to

intimidate them.

"The straw bale wall was twelve feet high something like fifteen feet from the boundary hedge of *Fenland*. The straw bale wall as constructed proved to be ineffective as a noise barrier and was removed after some seven weeks. It was suggested that the construction of the straw bale wall was in the nature of an attempt at intimidation – certainly the facts

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Residents were intimidated – here their house was surrounded by straw bales. Dog circled for clarity

that the height of it obviously overshadowed the garden at *Fenland* and, to a degree, the Bungalow, being roughly twice as tall as recommended."

Following the removal of the straw bale wall, in December 2007 abatement notices were served and eventually some mitigation work was carried out along with limited change in operating procedures. This gave a marginal improvement and Forest Heath District Council took the view that "following completion of attenuation works, the activities at the track did not produce noise which was a statutory nuisance, but that it might well still amount to a private nuisance".

There was much argument between each sides' acoustics consultants, Doug Sharps of Sharps Acoustics argued for the racetrack, Mike Stigwood argued for the residents who lived in the nearby bungalow.

The judge explained that Stigwood undertook a context type assessment, applying the principles of *British Standard 4142: 1997 method for rating industrial noise*. By contrast Sharps used WHO guidelines: "indicating that any reasonable person would not be affected by a noise which did not exceed an $LA_{eq16hours}$ of 55 dB".

The judge then said that Sharps "quoted selectively" from an NPL report to conclude that significant "serious annoyance may not occur until sound levels reach around 61 dB LA_{eq7} ". The judge added: "The NPL authors were not concerned to specify any level of noise which should be considered as tolerable by any reasonable person, yet that seems to be precisely what Mr. Sharps has sought to find in the NPL Report."

Sharps had measured noise levels at the facade of *Fenland* on a number of occasions. He found: "The average level of $LA_{eq15minutes} = 50.5$ dB over ten races equates to a noise emission over the seventy minutes duration of this event of $LA_{eq7event} = 42.0$ dB".

The judge said: "What Mr. Sharps was doing was to include the intervals between races in order to reduce the measured noise levels of the period between the start of racing and the conclusion of racing. Someone simply listening to the noise from afar, such as at *Fenland*, would probably be struck by the loud increase in noise during the actual races.

"I am afraid that I formed the view that Sharps's approach was essentially juggling with numbers to seek to produce an

apparently soundly-based scientific case that the residents could not have endured the noise nuisance of which they complained because the science showed, it was said, that it was impossible to cause nuisance at the levels which Mr. Sharps noted. The fact is that just about every witness who expressed a view said that the noise from the activities at the stadium and at the track was audible, in one case up to two and a half miles away."

He concluded that the track and the stadium caused a nuisance before and after the attenuation works. Two remedies were considered. Subject to discussions, the judge was minded to grant an injunction along the lines of: "not causing or permitting noise to be generated from activities at the stadium or the track, as the case may be, which generate a noise level, measured at the boundary of *Fenland*, which exceeds, between 08:00 and 20:00 hours, 45 dB $LA_{eq15minutes}$ or, between 20:01 and 7:59 hours, 37 dB $LA_{eq15minutes}$."

Because the identities of those who harassed the householders could not be proven, aggravated and exemplary damages were rejected. Instead damages exceeding £20,000 were handed down.

● More details next month