



Nuisance claim upheld by court



The Big-wheel class charge down the start straight at Mildenhall

Picture: Mike Gurney

A recent legal decision, involving the well known and much utilised Motoland facility could have serious and far reaching effects not only to that particular facility but also for motocross race and practise tracks across the country.

The Supreme Court (the highest Court in the Country) gave a decision recently allowing an appeal by owners who bought a property in Suffolk (in 2006) some 560 meters from the Motoland UK track near Mildenhall in Suffolk.

They claimed they were unaware that the motorsport facility was close by.

Catherine Lawrence and Raymond Shields

obtained an injunction and damages, but the Court of Appeal then overturned this ruling.

However, now the Supreme Court has upheld the nuisance claim in a move that could cause the track to close.

Worrying

Following this ruling Andrew Tugwell, a partner and Head of Property Litigation at Payne Hicks Beach Solicitors in London (and also a longstanding motocross enthusiast), said that this is a worrying development for motocross tracks all over the Country.

"Whether or not a land use is a nuisance will take into account the character of the area, but the Supreme Court's most recent decision means that in most cases it is now not possible

to argue that the character of the area includes the use in question.

"This means that even a track with planning consent and an established use will not be safe from a nuisance claim by a neighbour, even if the neighbour has only recently moved to the area.

"The only good news is that this latest decision encourages Courts to consider awarding damages rather than preventing use by way of an injunction, although, either way, this development in the law is likely to pose a serious threat to motor sports venues.

Tracks which have been open for more than 20 years may have a legal argument that they have more permanent rights to operate, but not otherwise."