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Steve Atkinson MA(Oxon) MBA FIoD FRSA
Chief Executive

Date: 16 September 2014

Hinckley & Bosworth
Borough Council

A Borough to be proud of

To: **Members of the Executive**

Mr SL Bray (Chairman)
Mr DC Bill MBE (Vice-Chairman)
Mr DS Cope
Mr WJ Crooks

Mr DM Gould
Mr KWP Lynch
Mr MT Mullaney
Ms BM Witherford

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

There will be a meeting of the **EXECUTIVE** in the De Montfort Suite - Hub on **WEDNESDAY, 24 SEPTEMBER 2014 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Officer

EXECUTIVE - 24 SEPTEMBER 2014

A G E N D A

1. APOLOGIES
2. MINUTES (Pages 1 - 4)
To confirm the minutes of the meetings held on 6 & 28 August 2014.
3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES
To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.
4. DECLARATIONS OF INTEREST
To receive verbally from Members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the agenda.**
5. QUESTIONS
To hear any questions in accordance with Council Procedure Rule 10.
6. ISSUES ARISING FROM OVERVIEW & SCRUTINY
(If any)
7. MALLORY PARK RACE TRACK (Pages 5 - 44)
Report of the Chief Executive.
8. STRATEGIC HOUSING MARKET ASSESSMENT (Pages 45 - 50)
Report of the Deputy Chief Executive (Community Direction).
9. MEMORANDUM OF UNDERSTANDING (Pages 51 - 60)
Report of the Deputy Chief Executive (Community Direction).
10. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

Agenda Item 2

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

EXECUTIVE

6 AUGUST 2014 AT 6.30 PM

PRESENT: Mr SL Bray - Chairman
Mr DC Bill MBE – Vice-Chairman
Mr DS Cope, Mr WJ Crooks, Mr DM Gould and Ms BM Witherford

Members in attendance: Councillors Mr PR Batty

Officers in attendance: Steve Atkinson, Bill Cullen, Sanjiv Kohli, Rebecca Owen, Sally Smith and Sharon Stacey

120 APOLOGIES

Apologies for absence were submitted on behalf of Councillors Lynch and Mullaney.

121 MINUTES

Councillor Batty pointed out that he had attended the previous meeting but was not listed as being in attendance.

It was moved by Councillor Crooks, seconded by Councillor Witherford and

RESOLVED – the minutes of the meeting held on 25 June 2014 be confirmed subject to the abovementioned amendment and signed by the Chairman.

122 DECLARATIONS OF INTEREST

No interests were declared at this stage.

123 RURAL AREAS REVIEW ANNUAL REPORT 2013/14

The Executive was presented with the rural areas review report 2013/14. It was moved by Councillor Crooks, seconded by Councillor Cope and

RESOLVED – the rural areas review report be noted and service delivery in the rural areas be endorsed.

124 ENVIRONMENTAL IMPROVEMENT PROGRAMME

Members received a report which outlined the Environmental Improvement Programme for 2014/15. Concern was expressed that the funding only appeared to be available for schemes in conservation areas, but in response officers explained that it had originally been for conservation areas and schemes were identified via conservation area management plan reviews, but requests could be made for non-conservation areas. It was moved by Councillor Bray, seconded by Councillor Cope and

RESOLVED – the enhancement schemes set out at appendix 1 to the report be agreed.

125 CAR PARKING FEES & CHARGES

Consideration was given to a report which recommended the introduction of charges for the Hinckley Hub car park. It was reported that the proposals were to retain the current free parking (having obtained a ticket) for two hours, with a charge of £2 for the third hour, with a maximum stay of 3 hours.

Concern was expressed that when ticket machines were not working people may receive fixed penalty notices if not displaying a ticket. In response members were assured that on arrival at a car park, the attendant checks the machine before issuing any tickets.

It was moved by Councillor Bray, seconded by Councillor Crooks and

RESOLVED –

- (i) The introduction of pay and display charges at the Hinckley Hub car park be agreed;
- (ii) The amendment of the scale of fees and charges and the Parking Places Order be approved.

126 SUPPLEMENTARY BUDGET FOR WHEELIE BINS

The Executive was requested to approve additional capital funding to purchase refuse and recycling bins due to demand for new and replacement bins exceeding that forecasted. A member asked about the policy to replace lost or damaged bins and if it led to people not looking after their own bins. In response it was stated that when reporting a lost bin the person was asked to check around but not asked further questions. It was suggested that consideration be given to adding further questions to the script for the contact centre. It was moved by Councillor Crooks, seconded by Councillor Bray and

RESOLVED – additional capital funding of £36,000 to purchase additional refuse and recycling bins be approved.

(The Meeting closed at 6.41 pm)

CHAIRMAN

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

EXTRAORDINARY MEETING OF THE EXECUTIVE

28 AUGUST 2014 AT 5.45 PM

PRESENT: Mr SL Bray - Chairman
Mr DC Bill MBE – Vice-Chairman
Mr DS Cope, Mr WJ Crooks, Mr DM Gould, Mr KWP Lynch and Ms BM Witherford

Members in attendance: Councillors Mr PR Batty, Mrs L Hodgkins and Mr K Morrell

Officers in attendance: Steve Atkinson, Bill Cullen, Simon D Jones, Karen Mason, Rebecca Owen and Katherine Plummer

134 APOLOGIES

Apologies were submitted on behalf of Councillor Mullaney.

135 DECLARATIONS OF INTEREST

No interests were declared at this stage.

136 PROGRESS TOWARDS DELIVERY OF NEW LEISURE CENTRE

The Executive received an update on progress towards the delivery of the new Hinckley Leisure Centre to the specification approved by Council in January 2014. The site investigation work, requirements for mitigation related budget implications, additions and enhancements to the scheme specification and progress on the contract were highlighted for members. It was noted that the reason for the report being presented to the Executive was for consideration of the financial implications before being put to Council. It was moved by Councillor Cope, seconded by Councillor Bill and

RESOLVED – the report and implications be endorsed and Council be RECOMMENDED to approve the recommendations contained within the report.

(The Meeting closed at 5.55 pm)

CHAIRMAN

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EXECUTIVE - 24 SEPTEMBER 2014

REPORT OF CHIEF EXECUTIVE RE MALLORY PARK RACE TRACK

WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

- 1.1 To advise the Executive of actions taken since the meeting of 28 May 2014 and on potential next steps.

2. RECOMMENDATION

- 2.1 That Members note the activity since 28 May 2014 and the potential implications, including the Appeal from RML currently being considered by the Courts.
- 2.2 That, notwithstanding the fact that RML did not complete the actions required in May 2014, and for the reasons set out in the report, the Council serves a new Notice, without time limits, using the same principles as the Notice currently in place, as attached at Appendix D.
- 2.3 That approval is given for a supplementary estimate of £40,000 to cover additional costs of monitoring/court activity, as set out in paragraph 3.10 in the report.

3. BACKGROUND TO THE REPORT

- 3.1 Members will recall that, at the meeting of the Executive on 28 May 2014, it was agreed that a Statutory Notice be served for the remainder of 2014 only, with the overall aim of enabling Real Motorsport Ltd (RML) to operate to their already published calendar, where possible. In the event (see below), in order to have a consistent Notice and ensure that the fundamental principles within it were upheld, some events on the calendar have proved problematic. The full minute of the meeting is attached at Appendix A.
- 3.2 A condition of serving the Notice was that RML undertook to complete three actions within two months of the service date (10 June 2014), on fulfilment of which the Council would seek to issue for 2015 and after a less stringent Notice from that served for 2014. Failure to complete these actions satisfactorily and within the timescales would result in the Council, prior to 31 December 2014, serving a Notice 'reflecting the controls under the former Control of Pollution Act 1974 notice, dated 18 December 1985'. These conditions are reproduced at section 3.9 below, with comments as to progress in responding.
- 3.3 Immediately prior to the deadline for submission, RML (via their solicitors) did submit an Appeal, ostensibly because officers refused their request for a relaxation of the specific terms of the Notice to enable a pre-published event to continue. Whilst the Executive had given the indication to which reference is made in 3.1 above, the refusal was because it did not comply with the strict terms of the Notice served on 10 June 2014. Members are well aware of the ramifications of not enforcing a published Notice in the strictest terms.

- 3.4 The process for hearing that Appeal is already being drawn out, with two initial hearings (just to confirm the grounds for Appeal) being adjourned. The next one is due on 7 October and it is now very clear that there will be no conclusion until late spring 2015 at the earliest.
- 3.5 In the meantime, it should be recognised that RML have made, largely successful, attempts to adhere to the terms of the Notice, as served (including the rearrangement of pre-published events) and have taken some steps to reduce noise levels experienced in the village of Kirkby Mallory (including the recent erection of additional barriers, particularly around the hairpin). Evidence to prove the efficacy of these initiatives either way has been made available only at the time of completing this report and this is being evaluated. A Noise Management Plan has been submitted, again only immediately before the finalisation of this report, and this is attached at Appendix B. Different individuals and groups who live in the village have divergent views on the changes (if any) they have perceived in noise levels directly experienced, although I think it is fair to say that there is some acknowledgement that positive attempts are being made.
- 3.6 Initial work on data gathered by the Council has identified noticeable reductions in the level of noise in the village on 'like for like' comparisons (see Appendix C(i)) and this seems to be endorsed by a separate exercise conducted by RML, which is attached at Appendix C(ii). A more detailed evaluation will be presented to Members by officers at the meeting. Complaints have continued to be received from some residents concerned about the overall level of noise and frequency of events through 2014 and since service of the Notice. Of particular concern was the Sunday of the Bike Bonanza in July. Under the terms of the Notice the Council agreed a relaxation of exhaust controls to reflect the original exhaust when the classic bikes operated many at Mallory Park in previous years. That condition will be excluded from any new Notice.
- 3.7 It is acknowledged also that RML have made attempts to engage with village residents in a far more proactive and welcoming manner than their predecessors, but greater promotion of the positive aspects of what they are doing might have been more productive.
- 3.8 However, the fundamental issue for the Executive to consider now is whether RML has complied with the conditions set out on 28 May and, if so, how timely have those responses been. Given the time available to take these actions, Members could take a simple/clear view as to whether they have been addressed in full or not; promises and intentions were made by the previous operator and, whilst there is more confidence in the integrity of RML, that confidence must be reinforced by evidence of actions taken.
- 3.9 In reviewing the evidence now available in relation to the conditions set on 28 May 2014, the following conclusions can be drawn:

CONDITION 1

The operator shall install and maintain a drive-by noise monitoring system, calibrated to identify individual vehicles exceeding the vehicle equivalent static test or other agreed noise limit. This shall be used to identify those vehicles exceeding the required noise level and action shall be taken by the operator to immediately remove the vehicle from the track. The details of the system and action levels shall be submitted to and approved by HBBC within two months of the service of the first notice. The data from this system shall be provided to the HBBC on request and direct access allowed.

Comment

An approved (by the Council) trackside system has been installed and the Council has had direct data access from this since 29 August 2014 - but that was nearly three weeks after the due date. There is clear evidence, however, that greater control is being exercised over individual vehicles and excessively loud vehicles removed from the track. A noise management plan has been submitted relating to the control of noise from the circuit and has been amended, following comments submitted by the Council. This is attached at Appendix B. Again, that Plan was submitted only over the weekend immediately prior to the publication of this report.

CONDITION 2

The operator shall install a trackside monitoring system to measure noise arising from track activities. The details of the system shall be submitted to and approved by HBBC within two months of the service of the first Notice. Once installed, the system shall be calibrated and levels agreed with HBBC as to reflect the noise limits given in the definitions of days of use. Once agreed, these levels will form the levels for control over days in a future notice. Data from the system shall be provided on request to HBBC and direct access allowed.

Comment

At the time of writing this paper, it is still unclear as to whether RML intend to use the pit lane meter and other meters. The Council has received information from RML (Appendix C (ii)) about levels of noise experienced in the village, which shows reductions from former noise levels, which our own data seems to support. However, because of the lateness (again) of receipt, this is subject to evaluation and further information will be provided to Executive at the meeting.

CONDITION 3

Within two months of the service of the first Notice, a noise report is produced by the operator identifying suitable and cost effective measures for the attenuation of noise from the track affecting the village to be agreed by the Council. A planning application is required to be submitted within a further month for the identified works. The agreed measures identified shall be installed prior to 1 March 2015 or other such date or dates as agreed with the Council.

Comment

The Council has received a noise report, but only days before this report had to be completed for publication. As with the response to Condition 2 (above), officers will attempt to advise Executive of their evaluation of this report at the meeting. We have received plans regarding the proposed installation of bunding, but no fencing details have been submitted. Temporary barriers and bales have been installed facing Stapleton Lane and around the hairpin, as mentioned earlier, and this appears, from the acoustic data presented, to have had a positive effect on noise reduction in the village. Further proposals and implementation have not been agreed at the current time.

- 3.10 A budget of £20,000 was approved for 2014-15 relating to the legal and consultant support required to progress the service of the new notice and ongoing prosecutions relating to health and safety matters at Mallory Park relating to the previous operator. This budget has been committed and a further budget is required for the defence of the appeal which was not anticipated. It is therefore requested that supplementary approval is given for £40,000 to support the appeal and service of the notice.

4. CONCLUSION

- 4.1 It is clear from 3.9 above that RML have not met fully the conditions set out by the Executive on 28 May 2014 within the timescales set. However, the tasks that have been completed in time for this meeting and some positive effects on noise levels in the village can be evidenced by data gathered by both the Council and RML, comparing levels before and after the temporary measures have been put in place; certainly, as compared with the levels recorded in previous years. By the time of the meeting, we will be able to confirm (or otherwise) whether the RML data fully substantiates that view.
- 4.2 Members can be reassured that RML has made efforts to engage residents far more effectively than their predecessors through the issue of a monthly newsletter, but there has previously not been regular and clear notification of events sufficiently in advance (if at all in some cases) to enable residents to prepare. Events are shown on the website for Mallory Park.
- 4.3 As this report was being finalised, it did appear that we were in very much the same position as we were some twelve months ago, albeit with a different operator, who has made some progress. Although this somewhat negative view might be tempered by the information received over the last few days, this has still to be evaluated and, because of the late responses, Members might conclude, yet again, that the more stringent Notice to which the Executive committed, if conditions were not met, should be prepared and served.
- 4.4 However, there are implications for the present (from the current Appeal process) and for the future (a potential further/additional appeal), as set out below in the Legal Implications (especially 6.2 and 6.3), which might lead Members to conclude that they should adopt a more straightforward and constructive approach. This is reinforced by the fact that the '2014 Notice' can be seen to have been an element in the noise and activity reduction, of which there is recorded evidence, and in the more recent constructive responses from RML. A number of events programmed for this year have been cancelled, thereby reducing the actual number of events to an estimated 85 by the year end.
- 4.5 Members may, therefore, take the legitimate view that the serving of a '1985-style' Notice would be counter-productive, but they may be justifiably cautious also about serving '2015-style' Notice, without the full evidence to support it at this point. The alternative offered, therefore, could be the serving of a new Notice, using the same principles as those which formed the basis for the current (2014) Notice, without a time limit, thus continuing with what seems to have been a successful approach.
- 4.6 On balance, it is the approach set out in 4.5 above which is recommended to the Executive, in the form of the draft Notice attached at Appendix D.

5. FINANCIAL IMPLICATIONS [KP]

- 5.1 As outlined in 2.3, a supplementary budget request of £40,000 is being requested to cover additional costs of monitoring/court activity. In line with the financial procedure rules, this requires approval of Executive.

- 5.2 It is proposed that this supplementary budget is funded from the Enforcement Reserve. Council approved the transfer of £100,000 to this reserve on 1 July 2014, which could be called upon to fund one-off enforcement costs. Mallory Park was cited in the Council report as specific example of such a case.

6. **LEGAL IMPLICATIONS [ST]**

- 6.1 The Notice served on 10 June 2014 is a time limited Notice and will lapse on 31 December 2014. It has been appealed by the Operators, RML, and the due appeal process is being followed, but the proceedings will not conclude until next year. In the meantime, there is a duty on the Council to serve a new notice if it is satisfied that there is, or is likely to be, nuisance.
- 6.2 The Council, prior to serving this new Notice, will have to draft its terms. In doing so, the Council will have to take into account any nuisance or recurrence of nuisance as well as any improvement of the situation. The terms of the new notice will have to accord to this state of affairs. The terms should therefore reflect that level of nuisance. It is open to the Council to serve a notice which is more restrictive than that served in 2014, with reference to the use of the land by the operators if there is evidence to substantiate it. It is equally open to Members to serve the new notice in terms similar to those contained in the present 2014 notice. This will have to be borne out in the evidence available to the Council and the terms will therefore be less restrictive with regard to the operator's use of the land. It is key, therefore, to assess the situation at the time that the future notice is being drafted and at any other point.
- 6.3 Whilst the option to serve a Notice similar to that served in 1985 was detailed in the report of 28 May 2014, the Council is nonetheless bound by its ongoing duty to assess the evidence as is available at present, prior to embarking on the drafting of a notice to be served in 2015. It is indisputable that the evidence available now reflects a reduced number of events taking place. Any notice served henceforth would have to take this into account. As a result, it would not be justifiable or reasonable for the Council to exercise its statutory function by the service of a notice in more restrictive terms. It is anticipated, therefore, that the Council discharge its duty by serving a notice to prevent the recurrence of nuisance, but on terms and principles which are largely similar to those contained in the notice of 2014.
- 6.4 Upon the service of the new notice, the operator has the ability to appeal the new notice. If the appeal is lodged in time, then there will be a situation where there are two appeals in tandem. Under these circumstances, it is proper for the two appeals to be consolidated. If the terms are identical, then it will be a simpler process of defending the notices. If the notices differ, then the terms of the second notice alone are relevant, as the first notice will have lapsed.
- 6.5 The appeal process commences in the Magistrates' Court and is governed by the directions made by the Court. The main body of the report contains the relevant text with regard to this.

7. **CORPORATE PLAN IMPLICATIONS**

- 7.1 The considerations and conclusions/recommendations in this report have particular relevance to the elements in the Council's Corporate Plan relating to Cleaner and Greener Neighbourhoods (minimising environmental nuisance).

8. **CONSULTATION**

8.1 There has been no further consultation since the report of 28 May 2014, other than a continuing informal and e-mail dialogue with RML

9. **RISK IMPLICATIONS**

9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
That members of the local community remain dissatisfied with the Council's decision	a) That there is sufficient clear evidence that actions have been taken by the operator, which have resulted in reduction in noise experienced at houses in the village b) That any Notice continues to be the subject of enforcement action c) That the Council responds to any further complaints/action as necessary (see the Financial Implications in 6 above)	Chief Executive Chief Officer (Environmental Health) / Chief Executive
That the operator enters a further appeal	See Legal Implications above - respond to any appeal using funds set aside in the enforcement reserve	Chief Executive

10. **KNOWING YOUR COMMUNITY - EQUALITY AND RURAL IMPLICATIONS**

10.1 This report has attempted to ensure that the primary responsibility of the Council towards affected residents is met, whilst taking into account the views of other residents in the village of Kirkby Mallory and the legitimate minimum commercial needs of the operator.

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HINCKLEY AND BOSWORTH BOROUGH COUNCIL

EXECUTIVE

28 MAY 2014 AT 6.30 PM

PRESENT: Mr SL Bray - Chairman
Mr DS Cope, Mr DM Gould, Mr KWP Lynch, Mr MT Mullaney and Ms BM Witherford

Members in attendance: Councillors Mr PR Batty, Mr JS Moore and Mr K Morrell

Officers in attendance: Steve Atkinson, Rebecca Owen, Rob Parkinson, Ian Pinfold, Caroline Roffey and Shilpa Thakrar

31 APOLOGIES

Apologies for absence were submitted on behalf of Councillors Bill and Crooks.

32 MINUTES

On the motion of Councillor Witherford, seconded by Councillor Cope, it was

RESOLVED – the minutes of the meetings held on 26 March and 16 April 2014 be confirmed and signed by the Chairman.

33 DECLARATIONS OF INTEREST

No interests were declared at this stage.

34 MEMORIAL SAFETY POLICY

The Executive received the updated Memorial Safety Policy and was informed that since the original policy was introduced in 2009 there had been no complaints or adverse publicity. It was also reported that a lot of work had been undertaken to make memorials safe and this had resulted in a vast reduction in the number of memorials found unsafe each year. It was moved by Councillor Bray, seconded by Councillor Gould and

RESOLVED –

- (i) the updated Memorial Safety Policy be adopted;
- (ii) implementation of the policy be delegated to the Head of Street Scene Services.

35 MALLORY PARK - NOISE CONTROL

Members were updated on discussions held regarding Mallory Park race track since the meeting of the Executive on 16 April 2014 and were informed of the proposed Notices that may be applied for 2014 and 2015 and after. It was reported that meetings had been held with different groups of residents and with the track operators, RML, in order to find an acceptable solution for all parties.

With reference to section 5.3a) in appendix A to the report, the Chief Executive clarified that only the phrase contained within the apostrophes was quoted by the Ombudsman, not the entire sentence. This had been queried by some who had read the report.

In response to a member's question, it was explained that there were a variety of notices and other controls in place at other UK tracks, but that Mallory Park was a 'special' case as it was in such close proximity to the village

Members were reminded that RML had only been in operation a few months and that they should be given the opportunity to put their own improvements in place which may further assist the situation, whilst working to the proposed Notice in 2014. To this end, it was proposed by Councillor Gould, seconded by Councillor Lynch, and agreed that recommendations b) and d) be amended to read:

- "b) agrees the proposed Notice for the remainder of this calendar year (2014) and that it be served in a timely manner to provide clarity around what noise levels are acceptable for this year, and to ensure that we are complicit with the recommendations provided by the Local Government Ombudsman;
- d) agrees the outline terms of a Notice for 2015 and after, including the requirement of an annual review before the end of each racing season, and that further discussion takes place with the purpose of it being finalised at our meeting on 17 September of this year."

It was noted that in discussing the Notice for 2015 and after in September, RML would have settled in and had the opportunity to put their own improvements in place and to build relationships with residents. Likewise, residents would have had the opportunity to establish whether RML were committed to maintaining the agreements. In relation to the noise assessment discussed on page 63 of the agenda, it was acknowledged that if not received by the end of May, action would be taken.

On the motion of Councillor Gould, seconded by Councillor Lynch, it was

RESOLVED –

- (i) the principles of a Statutory Notice as set out in section 4.4 of the report be endorsed;
- (ii) the proposed notice for the remainder of 2014, served in a timely manner to provide clarity around what noise levels are acceptable for this year and to ensure compliance with the recommendations of the Local Government Ombudsman, be agreed;
- (iii) the conditions and timescales to be met if a revised notice is issued for 2015 be agreed;
- (iv) the outline terms of a notice for 2015 and after, including the requirement of an annual review before the end of each racing season, be agreed and that further discussion take place with the purpose of it being finalised at our meeting on 17 September of this year;
- (v) the request for an additional payment to one of the complainants be refused.

(The Meeting closed at 6.52 pm)

CHAIRMAN

Mallory Park Circuit
Kirkby Mallory
Leicestershire LE9 7QE

Noise Management Plan 2014

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1. Introduction

1. This document provides a framework for owners, operators, riders and drivers, regulatory authorities and members of the community with regard to noise from activities at Mallory Park Circuit. It has been written by Real Motorsport Limited (RML), the operators of the circuit, and acknowledges information and advice from Hinckley and Bosworth Borough Council (HBBC).
2. Mallory Park Circuit has operated since 1956 under several management companies. Noise regulation began in 1985 with the service of a Noise Order by HBBC. That order terminated when the previous operation went into administration in late 2013. Following a period of discussion a new Noise Abatement Notice was served in June 2014 (Appendix 2). This is presently the subject of appeal.
3. RML are committed to responsibly managing noise in the community and have prepared this Noise Management Plan (NMP) to set out the controls and processes by which this can be achieved. The NMP is a live document and may be updated at the discretion of RML to ensure effectiveness of controls and adaption to deal with any new factors that may arise.

2. Purpose

1. This NMP exists to provide a source of information, process and control with regard to community noise and Mallory Park Circuit.. The purpose of the NMP is to ensure compliance with statutory notices and to mitigate the impact of noise in the community.

3. Scope

1. This document applies to the use of the race track, pit and paddock areas for the purpose of motor sport activities (the Circuit) and the associated PA system. It does not address noise arising from any other source.

4. Responsibility and Authority

1. The responsibility for management of the Circuit rests with the Directors of Real Motorsport Limited.
2. The Directors are responsible for the acceptance of contracts for hire of the Circuit.

3. The Circuit Manager is responsible for the day to day operation of the Circuit. The Circuit Manager is also responsible for execution of noise management processes and the maintenance of noise test equipment.
 4. Organisations, Clubs or individuals that hire the Circuit are responsible for management of all participants under their control and will be required by the hire contract to comply with the requirements of the NMP.
5. Event Management
1. The Directors shall use their best endeavours to operate the Circuit in compliance with any noise abatement notice that may be in force.
 2. The Directors shall ensure that all users of the circuit are contracted to comply with the requirements of the NMP.
 3. The Circuit Manager shall ensure that the NMP is enforced on each and every day of circuit activity by means of:
 1. Information posted in signing-on areas
 2. Signage indicating the noise controls in force on that day
 3. Supervision of noise control including static test and drive-by measurements
 4. Enforcement action against defaulters
6. Noise Monitoring
1. Noise monitoring will be undertaken as a two stage process:
 1. Where an event is subject to the Motor Sports Association or AutoCycle Union (or some other nationally recognised motor sports body) (“a Regulatory Body”) the Circuit Manager shall ensure that the regulations of the Regulatory Body with regard to noise shall be implemented. Where the Regulatory Body requires static noise testing he shall supervise and monitor to ensure that such static tests are performed in compliance with the Regulatory Body’s procedures to noise levels prescribed by that Regulatory Body.
 2. Where an event is not subject to a Regulatory Body’s regulations the Circuit Manager shall supervise a static test performed according to MSA/ACU procedures (depending on the type of event) to noise levels agreed between RML and the hirer as laid down by the hire contract in force. This may be performed by the Circuit Manager or designee or by the hirer providing that the hirer has satisfied the Circuit Manager that suitably qualified persons and calibrated equipment have been provided.

3. In addition, RML shall operate continuous drive-by testing using a trackside Class 1 measurement microphone and noise logger. The drive-by measurement system has been positioned so that the drive-by noise level will be similar to the static test noise level (e.g. static test 105dB = drive-by 105dB).
4. Except at events operated under the auspices of a Regulatory Body vehicles must continually pass the drive-by test at the noise level in force irrespective of the results of the static test. Enforcement procedures are detailed in Appendix 1. Where an event is operated under the auspices of a Regulatory Body then the drive by test shall be used to support the static tests and inform the Clerk of Course regarding vehicle noise such that he or she may apply the regulations of the Regulatory Body.

7. Mitigation Measures

1. RML may install noise measurement equipment outside the Circuit.
2. Noise baffles and other physical mitigation measures may be installed by RML to reduce community noise from the Circuit.
3. RML will use its best endeavours to ensure that published Circuit activity hours are respected including curfew times.
4. RML will from time to time assess whether further measures can be undertaken to manage noise from the circuit.

8. The circuit public address system (PA)

1. Whilst a necessary part of the circuit infrastructure, the PA system has the potential to cause public nuisance if operated inappropriately. The following information and guidance must be followed at all times.
2. The PA system at Mallory Park has three purposes:
 1. Communication with competitors in the paddock area
 2. Event commentary for the benefit of spectators
 3. Public safety including the protection of children
3. System configuration
 1. The PA system comprises a number of re-entrant horn loudspeakers mounted on poles and on building structures. It is distributed around and within the circuit.
 2. The loudspeaker system is zoned so that its output can be restricted to certain areas of the circuit.

3. Zone selection and volume control for the paddock area is located in the technical room at the base of the control tower. Control of the PA system distributed around the circuit is located in the circuit office.
4. Responsible persons
 1. The Circuit Manager is responsible for the management of the PA system. His/her discretion regarding the zones to be used, periods of use and the overall volume level shall be absolute.
5. Guidance for Race Directors and Clerks of the Course
 1. Announcements for competitors must be confined to the paddock area.
 2. Use should be limited to information and event management messages.
 3. Music may not be played through the PA system at any time.
 4. Volume must be restricted to the lowest practical level.
 5. Announcements made prior to 9am and during lunch periods should be restricted to a minimum.
 6. There must be no use of the PA system before 8am and after 6pm.
6. Guidance for commentators
 1. Public commentary must be authorised by the Circuit Manager/Directors.
 2. The circuit PA system may not be used prior to 10am, during lunch periods or after 5pm (6pm on Race Days) unless for matters of public safety.
 3. Music may not be played through the PA system at any time.
 4. Volume must be restricted to the lowest practical level.
 5. Commentators should plan to create periods of respite between commentaries.
 6. Shouting through the PA system is expressly forbidden.
9. Notification of Complaints and Community Liaison
 1. The Directors shall ensure that a race calendar containing Circuit bookings and the relevant noise limits is maintained and published by means of the Circuit web site. The information contained in the calendar may be designated as 'provisional' and the calendar may be updated if necessary.
 2. The Directors shall provide on request a monthly report to HBBC detailing the days of use, the control noise level in operation and relevant noise measurement data for each operational day.
 3. Records shall be kept for a period of 12 months.

4. Complaints or information received from the community shall be logged by designated Circuit staff. Upon receipt of a complaint the Circuit shall take prompt action to:
 1. investigate the noise levels at the location from which the complaint has been received
 2. verify compliance with any regulation that may apply
 3. take action to mitigate noise impact if possible
 4. inform the complainant of the results of any verification and/or mitigation activity
 5. report the incident to HBBC within 72 hours.
5. RML shall support and participate in community liaison by means of meetings or correspondence as is reasonably possible.

10. Noise Management Plan Review

1. The NMP is a live document and may be reviewed at any time
2. Reviews shall take place at least once every 12 months
3. Updates to the NMP shall be notified to HBBC and shall be published in the community prior to implementation.

Appendix I - Enforcement procedures

1. Special measures are in force to control noise in accordance with MSA/ACU guidance (see ACU Handbook section 4.1 and MSA Handbook section 5.17.8).
2. In addition to the static test all participating vehicles shall be monitored by a drive-by noise monitoring system located on Kirkby Straight near to Race Control however, in the case of an event operated under the auspices of a Regulatory Body, drive by testing shall be used to support static testing.
3. The position of the microphone is such that a vehicle under race or test conditions will return a drive-by noise measurement that is approximately equal to the static test level. For example, if the vehicle measures 105dBA in the static test it will measure approximately 105dBA on the drive-by system.
4. Some vehicles have exhaust characteristics or engine mappings that create unusually high noise at high RPM. These may pass the static test but may produce abnormally high drive-by measurements. A vehicle that measures a drive-by level exceeding limits determined by the Circuit in an event not held under the auspices of a Regulatory Body (and subject to the margins shown in para. 8) will not be permitted to use the circuit until remedial changes have been made and it has passed an appropriate test set by the Circuit Manager for that vehicle. This may be either a static or drive by test or both. Any remedial measures must remain fitted to the vehicle for the duration of the meeting. If the vehicle continues to exceed the drive-by limit (subject to the margins shown in para. 8) then the Circuit Manager may exclude the vehicle from the rest of the event. If the event is held under a Regulatory Body's regulations then the results of the drive by test will be passed to the Clerk of the Course and he shall determine what action is appropriate
5. If a participating vehicle undergoes a change of exhaust, engine remap or any other modification that is likely to alter its noise output it must pass a



Peak: **107.2 dB(A)**
Time: **11:24:49**

further test before entering the circuit.

6. If a vehicle is found to have been modified in a way which increases its noise output following the initial noise test and has not been submitted for re-test the vehicle and driver/rider may at the discretion of the Circuit Manager be excluded from the remainder of the event. Further if the Circuit Manager considers that such modifications were an attempt to circumvent the noise regulations then the Circuit Manager shall report the same to the Directors who may decide to exclude the driver or vehicle or both from subsequent use of the Circuit.
7. Baffles - a special note
 1. Where the circuit manager is satisfied that a given vehicle's noise has increased following a static test due to the removal or loss of baffles then he may require that vehicle and competitor to submit to a further test following remedial work (as above) or may exclude the competitor if he is satisfied that the loss of the baffle or baffling materials could reasonably have been avoided.
8. Drive-by noise margins
 1. The drive-by meter cannot differentiate between single and multiple passing vehicles,. Where the event is not managed by a Regulatory Body:
 - 1.A single passing vehicle should not exceed the static test level in force by more than 2dB. This margin allows for differences in driver/rider ability and the position of the vehicle on the track
 - 2.Two simultaneously passing vehicles should not exceed the static test level in force by more than 3.5dB
 - 3.Three simultaneously passing vehicles should not exceed the static test level in force by more than 4.5dB
 2. Where the drive-by levels exceed the margins shown above action will be taken to identify the noisy vehicle. As soon as it has been identified the vehicle must be removed from the circuit for further testing.
9. Tyre Squeal
 1. Tyre squeal is a potential source of noise disturbance. The Circuit will investigate excessive tyre squeal and may require the driver/rider to take action to remedy the problem.
 2. 'Donuts', 'Burn outs', Drifting or any similar activities are expressly forbidden.

Appendix 2 - Noise Order

A copy of the noise order is attached to this NMP. The order is subject to appeal as at 1st September 2014.

Appendix 3 - Site Plan - Environment



Site address:
Mallory Park Circuit
Kirkby Mallory
Leicestershire
LE9 7QE

52°35'55.91"N 1°20'18.21" W

Appendix 4 - Glossary of Terms

In this Noise Management Plan, the following words and phrases shall have the following meanings:

ACU	The Auto-Cycle Union, the national governing body of motorcycle sport in the United Kingdom.
MSA	The RAC Motor Sports Association, the national governing body of motor sport in the United Kingdom.
FIA	The Federation Internationale de l'Automobile, the international governing body of motor sport.
FIM	The Federation Internationale de la Motorcyclisme, the international governing body of motorcycle sport.
RML	Real Motorsport Limited, the operators of Mallory Park Circuit
HBBC	Hinckley and Bosworth Borough Council
Static test	The test applied to vehicles before use of the Circuit commences. The permitted noise limit for this test is determined by terms in force on the day. The tests are performed in accordance with the measurement criteria of the appropriate motorsport governing body.
Static test limit	The noise level above which a vehicle shall be prevented from entering the Circuit.
Drive-by test	A measurement taken on Kirkby Straight using fixed monitoring equipment.
Drive-by limit	The noise level above which a vehicle shall be removed from the Circuit, subject to margins shown in the NMP.
NMP	This entire document and attachments forming the Noise Management Plan
Circuit	The track, paddock and pits areas used for motorsport activity.
Noise Notice	The notice served by HBBC on the 10th June 2014 reference 14/00032/EPA. The notice is under appeal at 1st September 2014.
Race Day	means a day upon which participating vehicles must adhere to the noise controls specified by the appropriate motorsport governing body and where there is no limit applied outside the circuit under a noise order.

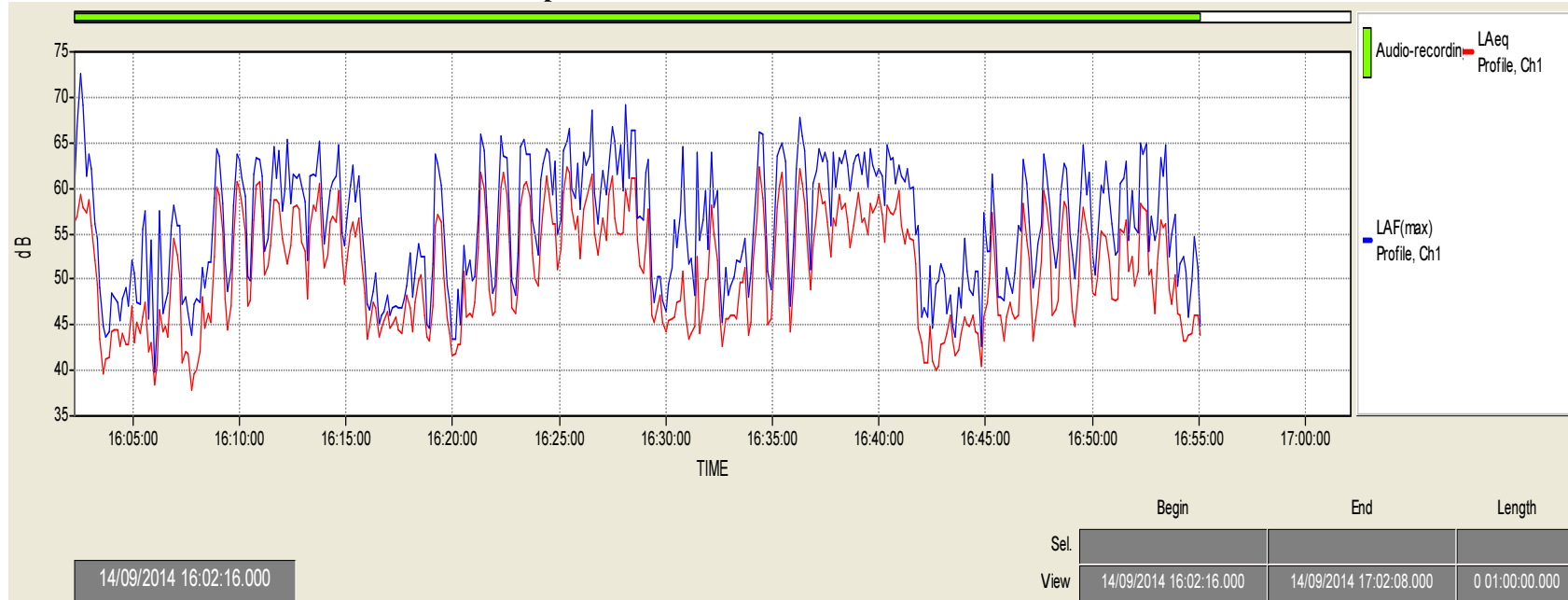
- High Noise Day means a day where noise from motor vehicles on the track is greater than 45dB LAeq(10min) and is less than 68dB LAeq(30min) measured in any 30 minute period at a noise measurement position outside the circuit (as defined in the Noise Order and subject to appeal)
- Non-Noise Day means a day where the noise level from motor vehicles on the track does not exceed 45dB LAeq(10min) and 55dB LAmax over the same period measured in any 10 minute period at a noise measuring position outside the circuit (as defined in the Noise Order and subject to appeal).
- Quiet Day means a day where the noise level from motor vehicles on the Circuit (if any) does not exceed 38dB LAeq,30min measured in any 30 minute period at a noise measuring position outside the circuit (as defined in the Noise Order and subject to appeal).

For the avoidance of doubt implementation of this management plan will fall to RML limited. References to the Directors, Circuit Manager and other persons employed by RML does not imply or is intended to incur any personal liability on their parts to any 3rd party or person. This management plan has been created and will be implemented in good faith but shall not create or imply or intend any legal relationship or otherwise with any 3rd party, organisation or body.

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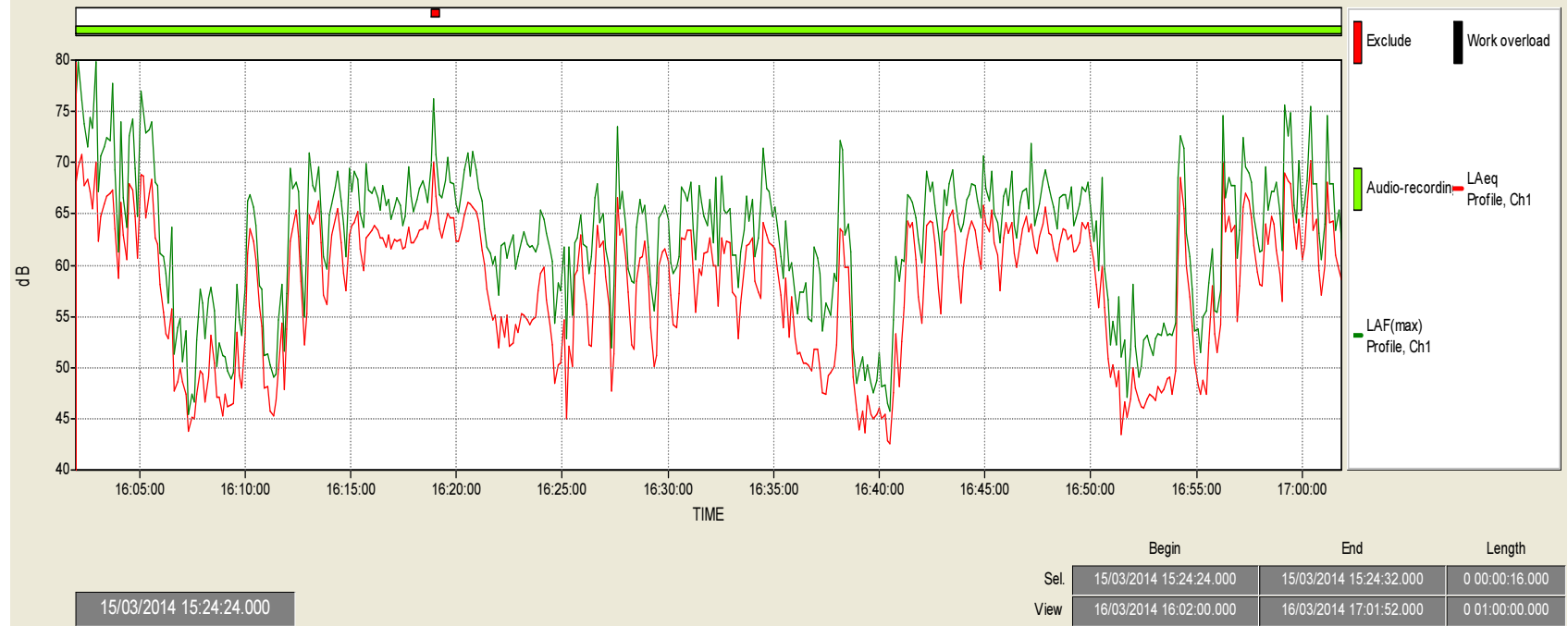
Recordings of similar events carried out in March and September 2014. Temporary Barriers have been installed between the events.

EMRA RACE DAY 14.9.14 Garden off Stapleton Lane



		LAeq	LFAmax
14/09/2014 16:02:16.000 - 14/09/2014 16:12:15.999	0 00:10:00.000	53.9 dB	72.6 dB
14/09/2014 16:12:16.000 - 14/09/2014 16:22:15.999	0 00:10:00.000	53.5 dB	66.0 dB
14/09/2014 16:22:16.000 - 14/09/2014 16:32:15.999	0 00:10:00.000	56.6 dB	69.2 dB
14/09/2014 16:32:16.000 - 14/09/2014 16:42:15.999	0 00:10:00.000	56.3 dB	67.9 dB
14/09/2014 16:42:16.000 - 14/09/2014 16:52:15.999	0 00:10:00.000	52.0 dB	64.7 dB
Average		54.1	

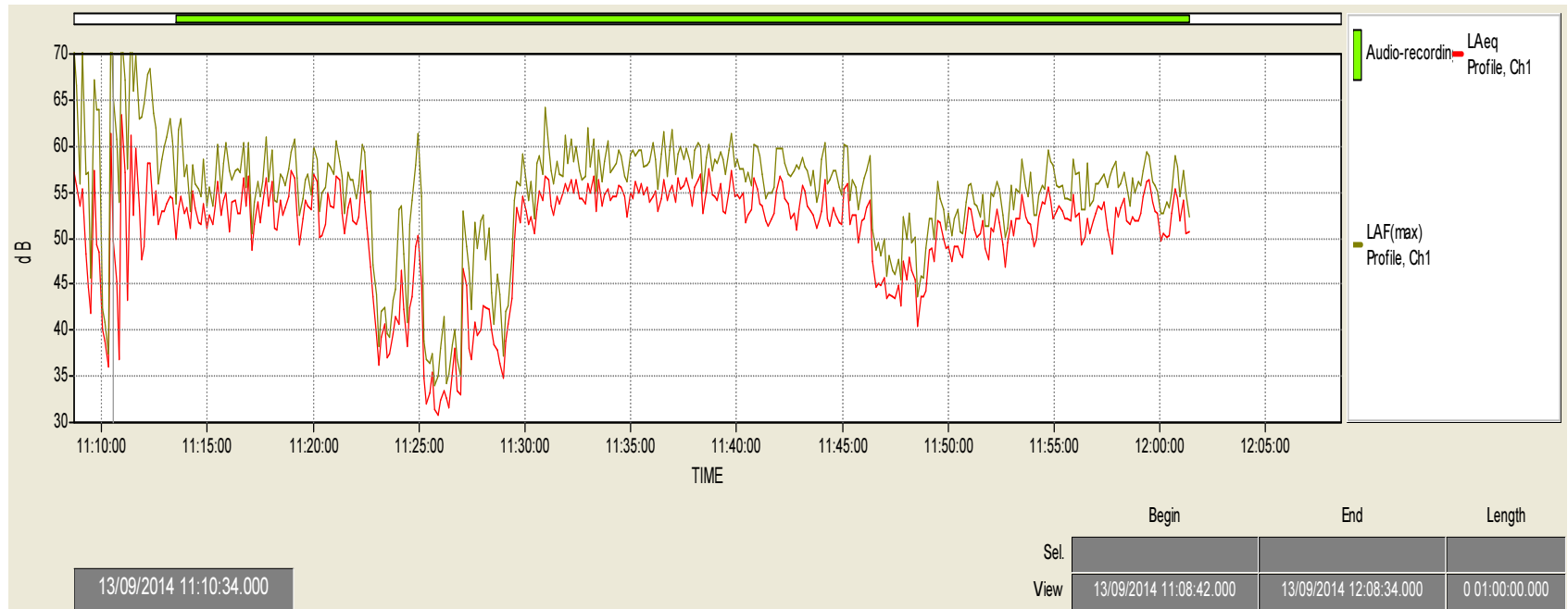
EMRA RACE DAY 16.3.14 Garden off Stapleton Lane



		LAeq	LFmax
16/03/2014 16:02:00.000 - 16/03/2014 16:11:59.999	0 00:10:00.000	63.1 dB	79.8 dB
16/03/2014 16:12:00.000 - 16/03/2014 16:21:59.999	0 00:10:00.000	63.3 dB	76.2 dB
16/03/2014 16:22:00.000 - 16/03/2014 16:31:59.999	0 00:10:00.000	58.8 dB	73.5 dB
16/03/2014 16:32:00.000 - 16/03/2014 16:41:59.999	0 00:10:00.000	58.4 dB	72.2 dB
16/03/2014 16:42:00.000 - 16/03/2014 16:51:59.999	0 00:10:00.000	62.1 dB	71.8 dB
16/03/2014 16:52:00.000 - 16/03/2014 17:01:59.999	0 00:10:00.000	62.6 dB	75.6 dB
	average	61.4	

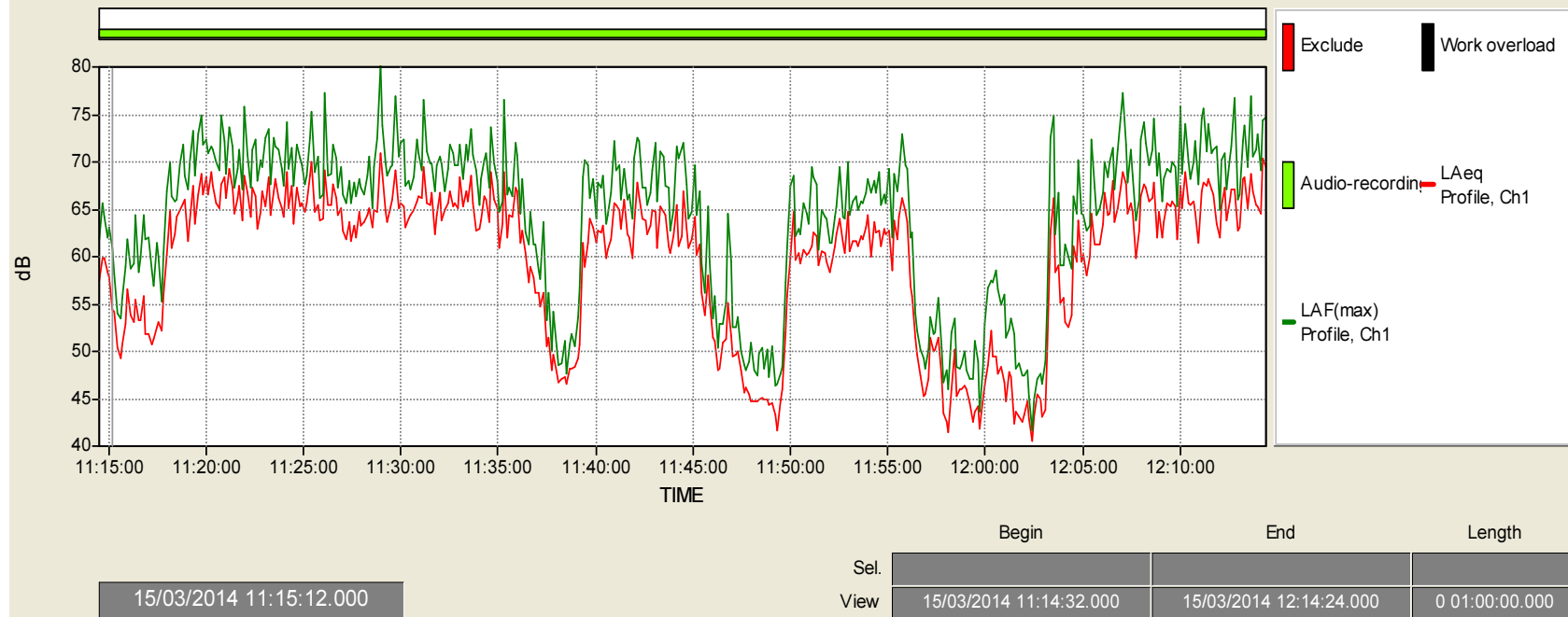
Indicative reduction between March and September for similar event ~ 6dB(A).
 Care should be exercised as there are variables such as class of vehicles and weather influences but it is indicative that noise levels have decreased.

NO LIMITS TRACK DAY 13.9.14 Garden off Stapleton Lane.



		LAeq	LFmax
11:15:00 - 11:19:59	0 00:05:00	53.9	61.0
11:20:00 - 11:24:59	0 00:05:00	51.7	61.4
11:25:00 - 11:29:59	0 00:05:00	44.1	59.2
11:30:00 - 11:34:59	0 00:05:00	54.7	64.1
11:35:00 - 11:39:59	0 00:05:00	55.2	61.8
11:40:00 - 11:44:59	0 00:05:00	53.7	60.4
11:45:00 - 11:49:59	0 00:05:00	49.7	60.1
11:50:00 - 11:54:59	0 00:05:00	51.5	59.5
11:55:00 - 11:59:59	0 00:05:00	52.8	59.3
		51.9	

NO LIMITS TRACK DAY 15.3.14 Garden off Stapleton Lane.

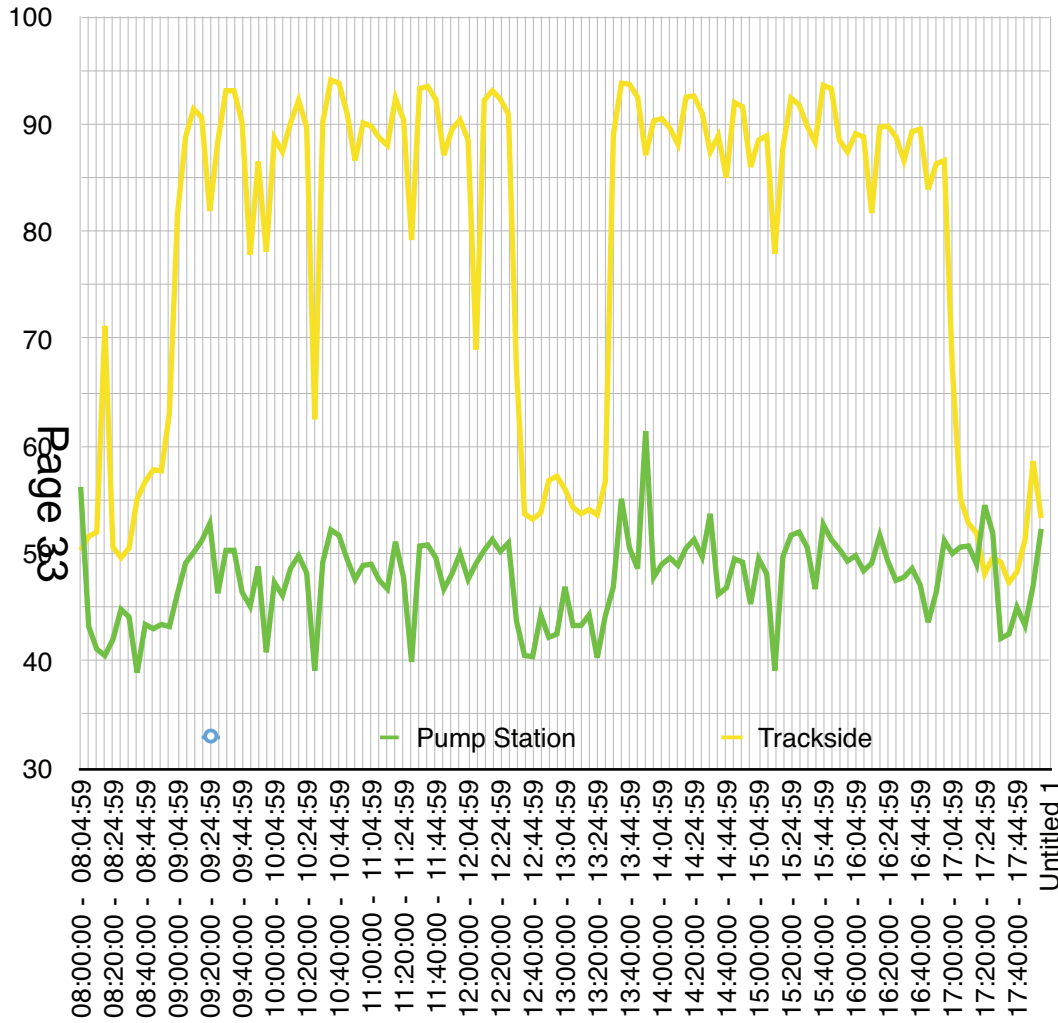


		LAF(max)	LAeq
11:15:00.000 - 11:19:59.999	0 00:05:00.000	61.6	74.9
11:20:00.000 - 11:24:59.999	0 00:05:00.000	66.7	75.9
11:25:00.000 - 11:29:59.999	0 00:05:00.000	65.8	80.2
11:30:00.000 - 11:34:59.999	0 00:05:00.000	65.8	76.6
11:35:00.000 - 11:39:59.999	0 00:05:00.000	61.0	76.5
11:40:00.000 - 11:44:59.999	0 00:05:00.000	63.7	72.5
11:45:00.000 - 11:49:59.999	0 00:05:00.000	54.3	69.7
11:50:00.000 - 11:54:59.999	0 00:05:00.000	61.7	70.1
11:55:00.000 - 11:59:59.999	0 00:05:00.000	57.6	73.0
12:00:00.000 - 12:04:59.999	0 00:05:00.000	56.0	74.8
12:05:00.000 - 12:09:59.999	0 00:05:00.000	65.0	77.3
	Average	61.7	

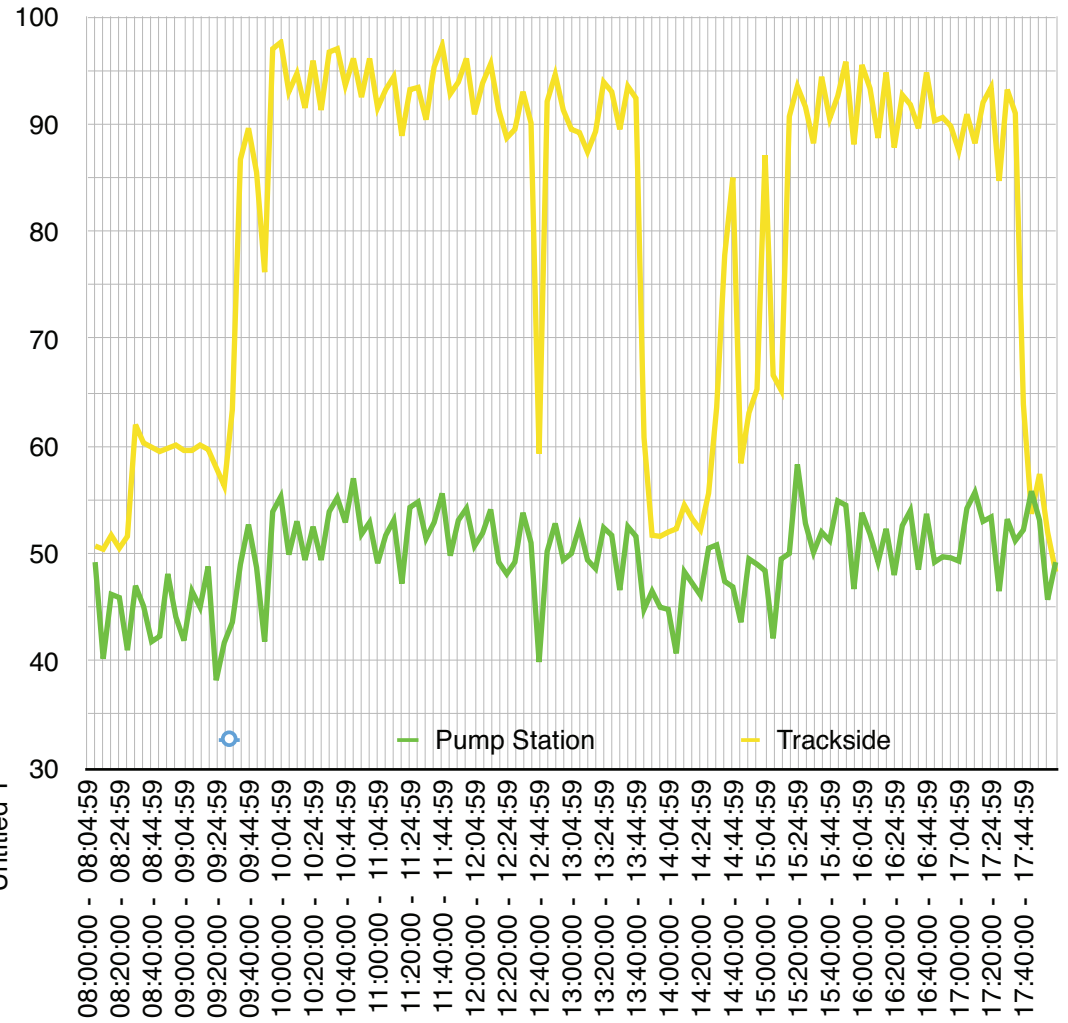
Indicative reduction between events of similar nature ~10dB(A)

Care should be exercised as there are variables such as class of vehicles and weather influences but it is indicative that noise levels have decreased.

13th September 2014 - No Limits Track Day - 98dBA Static



14th September 2014 - EMRA Race Day - 105dBA Static



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Hinckley & Bosworth
Borough Council

A Borough to be proud of

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

**PART III, ENVIRONMENTAL PROTECTION ACT 1990
ABATEMENT NOTICE IN RESPECT OF NOISE NUISANCE**

To: Real Motorsport Limited

Reference No:

Of: Mallory Park Racing Circuit, Mallory Park Estate, Church Road, Kirkby Mallory, Leicestershire LE9 7QE

TAKE NOTICE that under the provisions of Part III of the Environmental Protection Act 1990, Hinckley & Bosworth Borough Council (hereafter "the Council"), being satisfied that noise from motoring activities at Mallory Park Racing Circuit, Church Road, Kirkby Mallory, Leicestershire, LE9 7QE has given rise to a statutory nuisance and that the statutory nuisance is likely to recur

HEREBY REQUIRE YOU as the person responsible to restrict its recurrence and for that purpose require you within 21 days to cease or cause to cease the operation of the Mallory Park Racing Circuit by motor vehicles other than in accordance with the Schedule hereto attached.

IF YOU CONTRAVENE without reasonable excuse or fail to comply with any requirement of this notice you may be guilty of an offence under Section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding £20,000.

Signed: _____

Dated:

Address for all correspondence:

Environmental Health, Council Offices, Hinckley Hub, Rugby Road, Hinckley, Leics. LE10 0FR

NB: The person served with this notice may appeal against the notice to a Magistrates Court within twenty-one days from service of the notice. See notes attached to this form

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows: -

APPEALS UNDER SECTION 80(3) of the ENVIRONMENTAL PROTECTION ACT 1990 (“the 1990 Act”)

- 2 (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
 - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
 - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
 - (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
 - (e) where the nuisance to which the notice relates -
 - i. is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade, or business premises, or
 - ii. is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
 - iii. is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, that the best practical means were used to prevent, or to counteract the effects of, the nuisance;
 - (f) that, in the case of a nuisance under section 79 (1)(g) or (ga) of the 1990 Act (noise emitted from the premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates of -
 - i. any notice served under section 60 or 66 of the Control of Pollution Act 1974 (“the 1974 Act”) (control of noise on construction sites and from certain premises), or
 - ii. any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
 - iii. any determination made under section 67 of the 1974 Act (noise control of new buildings);
 - (g) that, in the case of a nuisance under section 79 (1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80 (1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 of the Noise and Statutory Nuisance Act 1993 (loudspeakers in streets or roads);
 - (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - i. the person responsible for the nuisance, or
 - ii. the person responsible for the vehicle, machinery or equipment, or
 - iii. in the case of a nuisance arising from any defect of a structural character, the owner of

the premises, or

iv. in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises

;

- (i) that the abatement notice might lawfully have been served on some person instead of the appellant, being-
- i. in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - ii. in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant being -
- i. a person also responsible for the nuisance, or
 - ii. a person who is also owner of the premises, or
 - iii. a person who is also an occupier of the premises, or
 - iv. a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph 2(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and the case of any appeal to which these regulation apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicles, machinery or equipment in question.
- (5) On the hearing of the appeal the court may-
- (a) quash the abatement notice to which the appeal relates, or
 - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
 - (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit-
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
 - (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above the court
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
 - (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

SUSPENSION OF NOTICE

3 (1) Where –

Reference Number: continued

(a) an appeal is brought against an abatement notice served under section 80 or 80A of the 1990 Act, and –

(b) either

- i compliance with the abatement notice would involve any person in expenditure on the carrying out of the works before the hearing of the appeal, or
- ii in the case of a nuisance under section 79 (1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and

(c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph (2) applies where –

(a) the nuisance to which the abatement notice relates –

- i is injurious to health, or
- ii is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or

(b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

(3) Where paragraph (2) applies the abatement notice –

(a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect

(b) notwithstanding any appeal to a magistrates' court which has not been decided by the court, and

(c) shall include a statement as to which of the grounds set out in paragraph (2) apply.

**PART III, ENVIRONMENTAL PROTECTION ACT 1990
ABATEMENT NOTICE IN RESPECT OF NOISE NUISANCE**

SCHEDULE

THE OPERATOR MUST NOT USE OR ALLOW THE CIRCUIT TO BE USED FOR MOTORING ACTIVITIES during the Period of the Notice other than in accordance with the restrictions and limitations set out below which are to be interpreted by reference to the following definitions:

I. Definitions

"**ACU**" means the Auto-Cycle Union Ltd. ACU House, Wood Street, Rugby, CV21 2YX or subsequent motor-cycling governing body for the UK replacing the former.

"**CIRCUIT**" means the Mallory Park Racing Circuit, Church Road, Kirkby Mallory, Leicestershire, LE9 7QE as delineated in red on the attached plan.

"**COUNCIL**" means the Hinckley and Bosworth Borough Council, Hinckley Hub, Rugby Road, Hinckley, Leicestershire, LE10 0FR.

"**MOTOR VEHICLE**" means any mechanically powered vehicle including all types of motor cars and motor bicycles, but excludes electric vehicles where the power is derived solely from batteries.

"**MSA**" means the Motor Sports Association Limited. Motor Sports House, Riverside Park, Colnbrook, SL3 0HG or subsequent motor vehicle governing body for the UK replacing the former.

"**NOISY DAY**" means a Race Day, High or Medium Noise Day as defined below.

"**RACE DAY**" ("**R1**") means a day when motor vehicles are raced in competition, paraded or used for the purposes of demonstration or entertainment and shall only be a Saturday, Sunday or Bank Holiday Monday.

"**HIGH NOISE DAY**" ("**N1**") means a day where noise from motor vehicles on the track is greater than 45dB LAeq10min and is less than 68dB LAeq30min measured in any 30 minute period at a noise measurement position.

"**MEDIUM NOISE DAY**" ("**N2**") means a day where noise from vehicles on the track is greater than 45dB LAeq10min and is less than 55dB LAeq30min measured in any 30 minute period at a measurement position

"**NOISE MEASURING POSITION**" means Stapleton Lane Pumping Station as identified on the attached plan or the façade of any house (subject to reasonable access being agreed by the occupier). The Council will always use Stapleton Lane Pumping Station as a noise

measuring position unless the Council considers that the impact on the façade of a house is likely to be greater than the noise levels recorded at the Pumping Station. Where facade levels are to be measured, levels shall be increased by 3dBA.

“NON-NOISE EVENT DAY” (“N3”) means a day where the noise level from motor vehicles on the track does not exceed 45dB LAeq,10min and 55dB LFAMax over the same period measured in any 10 minute period at a noise measuring position.

“OPERATOR” means Real Motorsport Limited. The expression “the Operator” is to be interpreted and applied so that it includes any occasion on which a motoring activity at the Circuit is undertaken with or by reason of the express or implied consent, default or sufferance of Real Motorsport Limited including any occasion on which Real Motorsport Limited gives its permission to any other person to use or operate the Circuit or part of the Circuit for a motoring activity at the Circuit whether as tenant, lessee, licensee or otherwise. Since motoring activities at the Circuit can and do constitute a statutory nuisance to nearby residents the Council does not consider that Real Motorsport Limited can or should be permitted to delegate the duty or ability to control noise from motor racing activities to other persons who use the Circuit in the circumstances falling within this definition.

“QUIET DAY” (“N4”) means a day where the noise level from motor vehicles on the Circuit (if any) does not exceed 38dB LAeq,30min measured in any 30 minute period at a noise measuring position.

“RACED” includes occasions on which Motor Vehicles are used in competition with or against other Motor Vehicles by reference to their related positions, the speeds at which they travel round the Circuit, the periods of time within which they travel round the Circuit, or by reference to any other forms of comparison or judgment. “Racing” shall be construed and interpreted accordingly.

“WEEKDAY” means each of those days from Monday to Friday (inclusive) which is not part of a Weekend.

“WEEKEND” means either any period consisting of a consecutive Saturday and Sunday together with any immediately-following Bank Holiday Monday or the period from 26 December (Boxing Day) through to 28 December (inclusive).

“YEAR” means a calendar year from 1 January to 31 December inclusive.

II. Restrictions

SECTION A. HOURS OF OPERATION

1. Motor vehicle activities undertaken at the Circuit in accordance with this Notice shall be limited so that the Circuit may only be used between 9.00 and 17.00 with a minimum one hour continuous lunch break to be taken between 12.00 and 14.00 save that the hours when the Circuit may be used on Race Days (R1) shall be 9:30 – 18.00 with a minimum one hour continuous lunch break to be taken between 12.00 and 14.00.

SECTION B. GENERAL OVERRIDING RESTRICTIONS

2. Save on Race Days (R1), noise from motor vehicles using the Circuit may not exceed 68dBLAeq 30min when measured at a noise measuring position or other maximum for that day.
3. In any seven days from Monday to Sunday inclusive there shall not be more than three Noisy Days.
4. In no circumstances shall there be three consecutive Noisy Days.

SECTION C. WEEKEND USE

5. A maximum number of 40 High Noisy Days (R1)(N1)(N2) shall be permitted per year at weekends subject to the further provisions of this section.
6. There shall be a maximum of four weekends per year which include two consecutive Noisy Days but there shall be no more than one such weekend each calendar month.
7. On at least one weekend per calendar month there shall be two Quiet Days (N4).
8. All other weekend days are to be either Non-Noise Event Days (N3) or Quiet Days (N4).

SECTION D: WEEKDAY USE

9. A maximum number of 40 High Noise Days (N1) shall be permitted per year on weekdays but in no circumstances shall more than ONE such day take place each week.
10. A maximum of 14 Medium Noise Days (N2) shall be permitted per year on weekdays but in no circumstances shall more than ONE such day take place each week.
11. Subject to the further provisions of this section there shall be at least two Quiet Days (N4) each week and all other weekdays shall be Non-Noise Event Days (N3).

12. In place of any one of the 40 High Noise Days (N1) permitted per year by this section the Operator may in any one week substitute up to five Non-Noise Event Days (N3) which may be consecutive.

SECTION E: BETWEEN WEEKENDS AND WEEKDAYS

13. There shall always be at least one Non-Noise Event (N3) Day or one Quiet Day (N4) between Noisy Days (R1, N1,N2) which take place at weekends and High or Medium Noise Days (N1, N2) which take place on weekdays.

SECTION E: GENERAL

14. All vehicles are to be effectively silenced according to the levels set by the ACU or MSA for that activity. Where no levels are set, levels shall be set as provided below or shall be agreed with the Council in writing prior to their use and application.
15. All motor vehicles using the Circuit must be effectively silenced and the Operator shall be personally responsible for carrying out noise level tests on every motor vehicle in order to ensure that the levels set out below are not exceeded. A written record shall be kept by the Operator of the readings taken and these readings must be kept available for inspection by the Council at all reasonable hours. All measurements shall be taken with the vehicle on level ground. The microphone of the noise meter shall be positioned at the same height about the ground as the exhaust outlet of the vehicle under test (except that in the case of a motor bicycle the height of the microphone above the ground shall not be less than 0.2 metres) and at an angle of 45° to the exhaust axis. Background noise levels shall be more than 10dB(A) below the maximum noise limit. The noise meter shall reach the following requirement:- a minimum of Class 1 or 2 instrument and comply with I.E.C.60651 and B.S.5969. It shall have a dynamic range 70-120 dB, and have an "A" weighting and have fast time constants. The meter shall be calibrated before and after use by use of a calibrator to a minimum of BSEN or ICEN 60942 Class 2.
16. The maximum static noise level for cars will be the current level for the class of vehicle and activity contained in the MSA Yearbook or for motor cycles the current level for the class of vehicle and activity contained the ACU Handbook. Where no standard exists the default level for cars shall be 108 dB(A) with the engine running at three quarters of its maximum r.p.m. For motor cycles the default level shall be 105 dB(A) for a 2 stroke engine and 105 dB(A) for a 4 stroke engine, with, in the case of a 2 stroke engine a mean piston speed of 13 metres per second and in the case of a 4 stroke engine 11 metres per second. The stroke of the engine shall be clearly and

legibly marked on the outside of the crank-case. The measurement procedure will be the same as contained in the current MSA Yearbook or ACU Handbook.

17. A calendar of activities shall be produced four weeks in advance of a Noisy Day, Non-Noise Event Day or Quiet Use Day and available on a publicly accessible location such as a website or Parish notice board and a copy provided to the Council. Any changes are to be notified in writing to the Council at least seven days before the proposed change of date and the calendar is to be updated only once an acknowledgement of the proposed change has been received in writing from the Council. In notifying any changes to the Council the Operator must remind the Council that the proposed calendar change only takes effect on receipt by the Operator of the Council's written confirmation.
18. No drifting or motocross as defined by the ACU shall be permitted.
19. The controls set out in this Schedule shall not apply to the use of the Circuit by motor vehicles for the purposes of access or egress to the Circuit buildings or land, or for the maintenance or repair of the land or facilities.
20. The Operator may request any variation to this Schedule in writing and if a variation is agreed by the Council it shall take effect only on receipt by the Operator of written confirmation of the variation. In applying for any variation the Operator must remind the Council that the variation only takes effect on receipt by the Operator of the Council's written confirmation.

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EXECUTIVE – 24 SEPTEMBER 2014

**LEICESTER & LEICESTERSHIRE STRATEGIC HOUSING MARKET
ASSESSMENT**



Hinckley & Bosworth
Borough Council

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION) *A Borough to be proud of*

WARDS AFFECTED: ALL WARDS

1. **PURPOSE OF REPORT**

To seek approval of the Leicester and Leicestershire Strategic Housing Market Assessment (June 2014) as an evidence base in planning for future housing provision in Hinckley & Bosworth.

2. **RECOMMENDATION**

2.1 To request Executive to:

- Approve the Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) Report (June 2014) as a Local Plan evidence base.

3. **BACKGROUND**

- 3.1 The National Planning Policy Framework (NPPF) introduced a presumption in favour of sustainable development. For plan making this means that local planning authorities should positively seek opportunities to meet the development needs of their area; and, ensure that local plans meet objectively assessed development needs with sufficient flexibility to adapt to rapid change.
- 3.2 On 6 March 2014 the Department for Communities & Local Government (DCLG) published National Planning Practice Guidance (NPPG), a web-based resource which replaces previous practice guidance on a wide range of planning topics, including the approach to take when assessing development needs by providing further detail on the practical application of the NPPF.
- 3.3 Local authorities are required by the NPPF to have a clear understanding of housing needs in their area and are therefore required to prepare a Strategic Housing Market Assessment (SHMA) to assess their full objectively assessed housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries.
- 3.4 Public bodies have a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities such as the future number of homes and jobs that are needed across the area. Within this context, the NPPF requires local authorities to work together at a housing market area level. The starting point in planning

for housing is that objectively assessed needs for the housing market area should be met within it.

- 3.5 Objective assessments of housing need must be undertaken within a strategic housing market area without account being taken of constraints such as land availability or environmental factors. The NPPG states that *“plan makers should not apply constraints to the overall assessment of housing need, such as limitations imposed by the supply of land for development, historical under performance, infrastructure or environmental constraints. However these considerations will need to be addressed when bringing evidence bases together to identify specific policies within development plans”*
- 3.6 The Leicester and Leicestershire Housing Market Area (LLHMA) was the subject of a previous SHMA that was published in 2008. This document is now to be replaced by a new SHMA which has been prepared by consultants as part of a Housing Market Area wide project to ensure that local plans in Leicester and Leicestershire can continue to be prepared on the basis of an up-to-date study on housing need as part of a proportionate, robust and credible evidence base. The new SHMA has been prepared within the context of the requirements of the NPPF and the supporting NPPG. The SHMA project has been overseen by the Leicester and Leicestershire Housing, Planning and Infrastructure Group (HPIG) and the associated Member Advisory Group (MAG). A paper was presented to the MAG meeting on the 26th June 2014 and the SHMA has been endorsed by that Group.
- 3.7 The SHMA provides a ‘policy off’ evidence base assessment of future housing need that is intended to inform the future development of planning policy.

4. HOUSING MARKET AREA

- 4.1 The NPPG recognises that there is no “hard and fast” approach for defining a housing market area and, in practice, many housing market areas overlap. It has therefore been necessary for the SHMA to consider whether Leicester and Leicestershire continues to be an appropriate basis for a SHMA, whilst recognising that there is interaction between adjacent and overlapping market areas.
- 4.2 The analysis that has been undertaken as part of the SHMA exercise has given consideration to the definition of the Leicester & Leicestershire Strategic Housing Market Area against the best available evidence. This includes data published by DCLG, regional research, migration flows and commuting dynamics.
- 4.3 The analysis of commuting flows indicates that each of the local authority areas in Leicestershire have a core workforce drawn from the LLHMA area. Overall, 84% of jobs are taken up by residents of the LLHMA area (for Hinckley & Bosworth this percentage is 78 %)
- 4.4 The migration analysis that has been undertaken identifies that the strongest migration flows are between authorities within the LLHMA. The SHMA uses analysis of commuting flows to establish that self containment across the LLPA is highly likely to exceed 80%.

4.5 In drawing this analysis together, the SHMA concludes that there is a high level of self containment in Leicester and Leicestershire as currently defined. The consultants therefore consider that at a strategic level, the LLHMA remains an appropriate housing market area on which to prepare the SHMA. This area includes Hinckley & Bosworth Borough. Notwithstanding this, the SHMA recognises that links to neighbouring housing market areas exist, reflecting principally localised cross-boundary moves between neighbouring authorities outside of the LLHMA. This should be borne in mind when exercising the duty to cooperate through the plan making process.

5. ASSESSMENT OF HOUSING NEED FOR LEICESTER AND LEICESTERSHIRE

5.1 A number of factors must be taken into account when considered what constitutes objectively assessed housing needs as part of the preparation of a SHMA.

5.2 The National Planning Practice Guidance (NPPG) indicates that demographic projections published by the Department for Communities and Local Government (DCLG) should form the starting point for an assessment of housing need. In order to become an 'objective assessment of housing need', consideration is given through the SHMA to the requirement for an upward adjustment to the household projections by working through three tests:

- Test 1: Do market signals point to a need to increase housing supply in order to address affordability and high demand.
- Test 2: Is there a need to increase overall housing supply in order to boost delivery of affordable homes to meet identified needs.
- Test 3: Is there evidence that an increase in housing supply is needed to ensure a sufficient labour supply to support forecast economic and employment growth in different parts of the HMA.

5.3 The tests have been considered within the SHMA and it is recommended by the consultants that the 375 per annum requirement from the demographically led household projections for Hinckley & Bosworth is increased to 450 in order to support the provision of additional affordable housing and to support growth in employment.

5.4 The conclusions of the SHMA indicate that based on the per annum level of growth for the period 2011 to 2031, the recommended objectively assessed housing need range for each of the local authorities is as follows:

- Leicester and Leicestershire total – 3775 to 4215 dwellings per annum.
- **Hinckley & Bosworth – 375 to 450 dwellings per annum;**
- Leicester – 1,250 to 1,350 dwellings per annum;
- Blaby – 360 to 420 dwellings per annum;
- Charnwood – 810 to 820 dwellings per annum;
- Harborough – 415 to 475 dwellings per annum;
- Melton – 200 to 250 dwellings per annum;
- NW Leicestershire – 285 to 350 dwellings per annum; and
- Oadby & Wigston – 80 to 100 dwellings per annum.

5.5 The SHMA is a 'policy off document that determines objectively assessed housing need. Analysis is therefore required during plan making to consider whether policy decisions generate the need for further adjustment to the housing figures.

6. PLANNING FOR THE DELIVERY OF HOUSING IN LEICESTER AND LEICESTERSHIRE

6.1 As indicated in paragraph 2.5 above, Hinckley & Bosworth forms part of the LLHMA and therefore contributes towards meeting housing needs in Leicester and Leicestershire as a whole. It is important that LLHMA authorities are able to meet their objectively assessed needs over the plan period and contribute towards satisfactorily meeting the overall Leicester and Leicestershire housing requirement. Ongoing engagement is therefore required when devising policies for housing provision to ensure that housing is being planned for strategically (which has been increasingly important since the revocation of the Regional Plan and the introduction of the Duty to Co-operate within the NPPF). This is not to say that an authority will necessarily need to meet the needs of other districts within its HMA or other adjoining districts, however they must be able to demonstrate that any relevant issues have been appropriately considered during the local plan making process in order to respond to any challenges made to the local plan relating to strategic planning matters such as housing need.

6.2 The NPPF (paragraph 14) sets out that local planning authorities should positively seek opportunities to meet the development needs of their area and that local plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change. It is therefore important that a proportionate evidence base relating to development needs is maintained in order to monitor whether there has been any changes in circumstance. This includes the need to undertake an appropriate level of analysis to ensure that an authority is able to respond to rapid change through its plan making and associated decision taking. This will require local analysis in Hinckley & Bosworth as part of its monitoring and plan making processes. In addition, this must be supported by a commitment towards joint working on an on-going basis across Leicester & Leicestershire to ensure that the HMA authorities are able to respond to issues that could influence a change to development needs over time.

6.3 It is intended that this on-going engagement will be formalised through a Memorandum of Understanding on strategic planning issues, led by HPIG and reported to the Leicester & Leicestershire MAG.

7. FINANCIAL IMPLICATIONS (KP)

7.1 A contribution of £8,495 was made by Hinckley and Bosworth Borough Council in 2013/2014 towards the cost of producing the Strategic Housing Market Assessment.

7.2 The Council has a £50,000 budget for 2014/2015 for spend associated with the Local Plan. It should be acknowledged that there is the risk that decisions resulting from the Plan may be challenged through the planning appeal process which may incur costs for the Council.

7.3 Any new housing in the Borough will attract New Homes Bonus once the property is bought into the taxable base.

8. LEGAL IMPLICATIONS [MR]

8.1 Set out in this report.

9. CORPORATE PLAN IMPLICATIONS

9.1 This report relates to an evidence base that is required by the NPPF to inform future planning processes in relation to objectively assessed housing need.

9.2 The preparation of the Local Plan is of relevance to the delivery of the following aims of the Corporate Plan:

- 1 Creating a vibrant place to work and live
- 2 Empowering communities
- 3 Supporting individuals
- 4 Providing value for money and pro-active services

10. CONSULTATION

10.1 The SHMA has been prepared by a consultant team led by the Leicester and Leicestershire Housing, Planning and Infrastructure Group (HPIG). The process has therefore included involvement from all authorities within the housing market area. The consultant team has also engaged with other relevant stakeholders during the preparation of the SHMA, which has included two stakeholder workshop events.

11. RISK IMPLICATIONS

11.1 It is the Council’s policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

11.2 It is the officer’s opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
No up-to-date shared evidence on objectively assessed housing need in Leicester & Leicestershire leading to the inability to progress with plan making and to defend challenges made through decision taking processes. This would include the inability to demonstrate the duty to cooperate on planning issues	<ul style="list-style-type: none"> • Approve the SHMA for use as an HBBC evidence base • Engage with HMA authorities through HPIG and MAG, including on a Memorandum of Understanding (MOU) relating to common strategic planning issues. • Continue engagement 	NT

that cross administrative boundaries relating to the overall need for new homes within the housing market area.	with other adjacent authorities (non-HMA authorities) on housing needs through local plan making processes.	
Challenges to housing need and the SHMA through plan making processes.	<ul style="list-style-type: none"> • The consideration of factors relating to the potential requirement for adjustments to housing need through analysis undertaken to support the plan making process (the 'policy on' position) • The continued consideration of relevant updated ONS/DCLG data to analyse any potential change over time. 	NT

12. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

12.1 The purpose of the SHMA is to provide a 'policy off' assessment of future housing needs across the Leicester and Leicestershire housing market area. It provides detailed analysis of demographic data, market dynamics and signals. This includes the consideration of housing needs of specific groups across the housing market area.

13. **CORPORATE IMPLICATIONS**

13.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications – None arising from this report
- Environmental implications – None arising from this report
- ICT implications – None arising from this report
- Asset Management implications – None arising from this report
- Human Resources implications – None arising from this report
- Planning Implications – Contained within the body of the report.
- Voluntary Sector – None arising from this report

Background Papers

- Leicester & Leicestershire Strategic Housing Market Assessment June 2014

Contact Officer: Richard Crosthwaite (ext: 5695)
Executive Member: Councillor Bray



EXECUTIVE – 24 SEPTEMBER 2014

LEICESTER & LEICESTERSHIRE HOUSING MARKET AREA
MEMORANDUM OF UNDERSTANDING RELATING TO
OBJECTIVELY ASSESSED NEED FOR HOUSING – JULY 2014

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

To seek approval of the Leicester and Leicestershire Housing Market Area Memorandum of Understanding relating to objectively assessed need for housing – July 2014.

2. RECOMMENDATION

2.1 To request Executive to:

- Approve the Leicester and Leicestershire Housing Market Area Memorandum of Understanding (MOU) relating to objectively assessed need for housing – July 2014.

3. BACKGROUND

3.1 The Localism Act 2011 created the ‘Duty to Cooperate’ which places a legal duty on local planning authorities to engage constructively, actively and on an ongoing basis to maximise the effectiveness of local plan preparation in the context of strategic cross boundary matters.

3.2 The National Planning Policy Framework (NPPF) sets out that local planning authorities will be expected to demonstrate evidence of having effectively cooperated to plan for issues with cross-boundary impacts when local plans are submitted for examination by an independent inspector. This could be by way of plans or policies prepared as part of a joint committee, a **memorandum of understanding** or a jointly prepared strategy which is presented as evidence of an agreed position.

4. LEICESTER AND LEICESTERSHIRE HOUSING MARKET AREA – A
MEMORANDUM OF UNDERSTANDING RELATING TO OBJECTIVELY
ASSESSED NEED FOR HOUSING – JULY 2014

4.1 The National Planning Policy Framework (NPPF) requires local planning authorities to have a clear understanding of housing needs in their area. To achieve this in respect of housing, the local planning authorities within the Leicester & Leicestershire housing market area have worked collaboratively to prepare a Strategic Housing Market Assessment (SHMA) to assess their objectively assessed housing need.

4.2 The Housing, Planning and Infrastructure Group (HPIG) and its associated Member Advisory Group (MAG) has been giving consideration to the collective approach to support individual authorities in demonstrating that they

have effectively cooperated in planning for issues with cross-boundary impacts in the preparation of their local plans.

- 4.3 In the first instance, HPIG and MAG have endorsed a 'Memorandum of Understanding' to establish an agreed level of housing need (and whether this can be met) to 2028. This Memorandum of Understanding also sets out the intention for further collaborative work to inform local plan reviews where the plan period will extend beyond 2028.
- 4.4 A copy of the Memorandum of Understanding is appended to this Report. This version was endorsed by Member Advisory Group at its meeting on 24 July 2014 and is now being recommended for approval through the decision making processes of the nine local planning authorities within the Leicester and Leicestershire Strategic Housing Market Area.

5. FINANCIAL IMPLICATIONS (KP)

- 5.1 A contribution of £8,495 was made by Hinckley and Bosworth Borough Council in 2013/2014 towards the cost of producing the Strategic Housing Market Assessment.
- 5.2 There are no specific costs associated with the agreement of this Memorandum of Understanding though it should be acknowledged that there is the risk that decisions may be challenged through the planning appeal process which may incur costs for the Council.
- 5.3 Any new housing in the Borough will attract New Homes Bonus once the property is bought into the taxable base.

6. LEGAL IMPLICATIONS [MR]

- 6.1 Set out in this report.

7. CORPORATE PLAN IMPLICATIONS

- 7.1 This report relates to a memorandum of understanding to demonstrate that the borough council is working collaboratively with other local authorities in Leicester & Leicestershire for use during local plan examinations.
- 7.2 The preparation of the Local Plan is of relevance to the delivery of the following aims of the Corporate Plan:
- 1 Creating a vibrant place to work and live
 - 2 Empowering communities
 - 3 Supporting individuals
 - 4 Providing value for money and pro-active services

8. CONSULTATION

- 8.1 The MOU has been prepared on behalf of HPIG and MAG, Groups which include membership from each of the nine planning authorities in Leicester and Leicestershire.

9. RISK IMPLICATIONS

9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Inability to fulfil the duty to cooperate as it applies to local plan making as required by the Localism Act 2011 and the National Planning Policy Framework.	<ul style="list-style-type: none">• Approve the MOU• Continue to work collaboratively with Leicester & Leicestershire authorities in line with section 4 of the MOU	NT

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 There are no equalities or rural implications arising from this report

11. CORPORATE IMPLICATIONS

11.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications – None arising from this report
- Environmental implications – None arising from this report
- ICT implications – None arising from this report
- Asset Management implications – None arising from this report
- Human Resources implications – None arising from this report
- Planning Implications – Contained within the body of the report.
- Voluntary Sector – None arising from this report

Contact Officer: Richard Crosthwaite (ext: 5695)
Executive Member: Councillor Bray

Appendix 1

Leicester and Leicestershire Housing Market Area – A Memorandum of Understanding relating to Objectively Assessed Need for Housing – July 2014.

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Leicester & Leicestershire Housing Market Area

A Memorandum of Understanding relating to Objectively Assessed Need for Housing – July 2014

1.0 Introduction

- 1.1 The National Planning Policy Framework (NPPF) requires local planning authorities to have a clear understanding of housing needs in their area. To achieve this, they should prepare a Strategic Housing Market Assessment (SHMA) to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. The SHMA should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period¹. This is a key part of the evidence base to address the NPPF requirement of ensuring that Local Plans meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework².
- 1.2 The Localism Act 2011 places a Duty to Co-operate on local planning authorities and county councils³. This requires them to engage constructively, actively and on an on-going basis in the preparation of development plan documents where this involves strategic matters. National policy in the NPPF adds to this statutory duty as it expects local planning authorities to demonstrate evidence of having effectively cooperated to plan for issues with cross-boundary impacts.

2.0 The Leicester and Leicestershire Housing Market Area

- 2.1 The Leicester and Leicestershire Housing Market Area covers the administrative areas of all nine Leicester and Leicestershire local

¹ National Planning Policy Framework, paragraph 159.

² NPPF, paragraph 47.

³ Localism Act 2011, section 110.

authorities, all of whom are signatories to this Memorandum, namely:

- Blaby District Council
- Charnwood Borough Council
- Harborough District Council
- Hinckley and Bosworth Borough Council
- Leicester City Council
- Leicestershire County Council
- Melton Borough Council
- North West Leicestershire District Council
- Oadby and Wigston Borough Council

3.0 Demonstrating the Duty to Co-operate and meeting the requirements of the National Planning Policy Framework

- 3.1 The purpose of this Memorandum of Understanding (MOU) between the authorities is to support the Charnwood Borough Local Plan, which is the subject of an Examination; and to set out how the local authorities will collaborate further to ensure the necessary joint evidence is in place to support subsequent Local Plans that will come forward. In this respect, it is intended to demonstrate evidence of having effectively cooperated to plan for issues with cross-boundary impacts⁴.
- 3.2 The eight district and city planning authorities within the Housing Market Area, together with Leicestershire County Council, have collaborated to meet the requirements of the NPPF as set out in section 1.0. The main output from this collaboration is a joint SHMA⁵, which identifies the scale and mix of housing needed across the Area between 2011 and 2031; and between 2011 and 2036.
- 3.3 National policy requires the authorities to be able to demonstrate both that they have a clear understanding of their full housing needs across the Housing Market Area; and whether they can meet this need in full in their own area⁶. To enable an understanding of capacity to accommodate additional housing, the NPPF further requires local planning authorities to prepare a Strategic Housing Land Availability Assessment (SHLAA) to establish realistic assumptions about the

⁴ NPPF, paragraph 181.

⁵ *The Leicester and Leicestershire Strategic Housing Market Assessment*, June 2014.

⁶ Paragraph 179 of the NPPF says: 'Joint working should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas – for instance, because of a lack of physical capacity or because to do so would cause significant harm to the principles and policies of this Framework'.

availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period⁷.

- 3.4 The table below sets out the objectively assessed need for additional housing in the Housing Market Area between 2011 and 2028, which is the period covered by the Charnwood Borough Local Plan.

Local Authority	Objectively Assessed Need 2011 to 2028⁸
Blaby District Council	6,120 - 7,140
Charnwood Borough Council	13,770 - 13,940
Harborough District Council	7,055 - 8,075
Hinckley and Bosworth Borough Council	6,375 - 7,650
Leicester City Council	21,250 - 22,950
Melton Borough Council	3,400 - 4,250
North West Leicestershire District Council	4,845 - 5,950
Oadby and Wigston Borough Council	1,360 - 1,700
HMA TOTAL	64,175 - 71,655

Source: Strategic Housing Market Assessment

- 3.5 All authorities in the Area have completed their own SHLAA to an agreed common methodology. Based on these technical assessments and transport capacity work led by the County Council, all authorities are able to accommodate the upper figure in the above table within their own area.
- 3.6 In determining housing targets in their Local Plans, local authorities should take account of the requirements of national policy and local circumstances, including basing those plans on a strategy that seeks to meet the objectively assessed need for homes. In this regard, it should be noted that all authorities in the Housing Market Area are at different stages of plan preparation. Those authorities that do not have an up-to-

⁷ NPPF, paragraph 159.

⁸ The figures in this column are derived by annualising the objectively assessed need from the SHMA for the period 2011 to 2031 and applying these figures to the period 2011 to 2028. The figures are, therefore, the same as the SHMA except that they cover three years less.

date adopted plan or are reviewing an adopted plan are likely to be progressing plans with horizon dates of 2031 or 2036. In determining their housing target over the relevant plan period each authority will take account of all relevant evidence.

- 3.7 Against this background, the authorities are able to confirm that for the purposes of the Charnwood Borough Local Plan examination the full need for homes within the Housing Market Area in the above table can be met, meaning there is no unmet requirement in the Housing Market Area to at least 2028.

4.0 Further work to support Local Plan reviews

- 4.1 To cover the period from 2028 to 2031, specific transport modelling for significant new development proposals will be completed, as appropriate by the County and City highway authorities, within a time period to meet the respective local plan preparation programmes for each authority. The programme of transport modelling required will be agreed and commissioned by the relevant local planning and highway authorities as soon as possible and authorities will use their best endeavours to ensure completion no later than the end of January 2015.
- 4.2 Beyond 2031 there is a need to articulate a longer term strategy for the spatial development of the Housing Market Area to ensure that opportunities for future economic growth are maximised. This strategy will need to set out how future growth and development will be promoted and accommodated through Local Plans, particularly those with end dates of 2036. A project plan and timeline will be developed for this work as soon as possible. The work will be commissioned and managed by the Housing, Planning and Infrastructure Group and be completed in accordance with the agreed timetable to be included in the project plan.

5.0 Conclusion

- 5.1 The purpose of this MOU is formally to record and make public the local authorities' agreement under the Duty to Co-operate to the position as set out in this Memorandum. This MOU has been endorsed by Members of each of the nine local authorities at a meeting of the joint Member Advisory Group on 24th July 2014.
- 5.2 The nine authorities that form signatories to this Memorandum agree, therefore, that the figures in the table above represent the level of objectively assessed need in each district in order to meet the overall

identified need for additional housing within the Leicester and Leicestershire Housing Market Area between 2011 and 2028; and that based on SHLAAs and transport capacity work led by the County Council such levels of additional housing are able to be accommodated by each district in which the need arises.

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