



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 68dB(A)eq 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.