

Reference: 14/01102/FUL

Applicant: Real Motorsport Ltd

Location: Mallory Park Circuit Church Road Kirkby Mallory

Proposal: Formation of new bunding, erection of acoustic fencing and reduction in size of existing pond

RECOMMENDATION:- Grant planning permission, subject to Leicestershire County Council (Ecology) removing their objection

Introduction:-

The application is to be considered at Planning Committee in accordance with the Scheme of Delegation as the Chief Planning and Development Officers considers it necessary to be considered by Members.

Application Proposal

The application seeks planning permission for the formation of new bunding with the erection of a new acoustic fencing. The proposal also seeks to reduce the size of two of the existing ponds. The racing circuit is located in the countryside to the South West of the village of Kirkby Mallory and is part of an established motor sport venue and tourist attraction. The applicant has stated that the purpose of these works is to reduce the noise impact from the operation of the circuit on nearby residents.

The site has operated as a motor racing site since the mid 1950s and has been subject to a noise abatement since 1985. Following legal action resulting from noise complaints received particularly since 2011 against the former operator, new noise notices were served on the current operators in 2014. Temporary noise barriers consisting of wooden panels and straw bales were constructed in 2014 to seek to reduce noise affecting particularly the Stapleton Lane area. Monitoring by officers was inconclusive as to the degree of attenuation provided by these temporary structures. This application proposes to extend existing bunding and for the replacement of these barriers with permanent structures.

With the application, the results of a full survey has been submitted to establish the gradients of the bund and the amount of material that is required to be imported onto site to undertake the required works. The gradient of the bund facing the racing circuit would be 1:3 and the slope to the rear would be at a gradient of 1:2. The total area of the site is 7,800 square metres and a total of 38,050 cubic metres would be imported to create the earth bunds. The material will be sourced from reputable buildings sites in and around the local area. All of the materials brought onto the site will be inert, including topsoil, rubbles and hard core. No material comprising vegetation, general rubbish, hazardous substances or indeed be biodegradable. To the top of the earth bund, at the Lake Essess corner, a continuous 3.54 metre high, acoustic fence would be installed around the bend. To the rear of the bunds are two existing ponds which will be reduced in size by a total of area of 2,920 square metres.

Technical Documents submitted with the application

Noise assessment
Ecology survey
Transport statement
Tree survey

An Independent Noise Assessment has been carried out by AAD Consultants on behalf of the Council (15 December 2014).

Relevant Planning History:-

Borough Council Applications

Whilst there is a substantial planning history associated with the overall site, the most recent applications detailed below are the most relevant to this application.

13/00031/FUL	Regularisation of ground works carried out at Mallory Park circuit, including earth-bank and re-profiling of bank	Approved	09.12.14
12/01133/FUL	Regularisation of ground works carried out at Mallory Park circuit, including extension to run-off area, hard core track, earth bank pond and re-profiling of bank	Approved	09.12.14
09/00951/FUL	Ground works to create extension to run-off area of Circuit along with creation of earth bank and pond (This application is the same area of the track as approved application 12/01133/FUL)	Approved	17.02.10
08/00374/FUL	Re-profiling of land and creation of new earth bund to reduce noise pollution (Relates to the area at the northern part of the site between the Circuit and the Village)	Approved	15.09.08
06/01361/FUL	Re-profiling of Land and Reduction of Noise Pollution (Relates to the area at the northern part of the site between the Circuit and the Village)	Approved	07.03.07

County Council Applications

2012/CM/0149/LCC	Regularisation of tipping of inert waste and associated activities (This application is the same area of the track as the approved application 12/01133/FUL)	Approved	15.06.12
2010/0013/04	Tipping of inert waste to meet safety requirements for extra run-off area (This application is the same area of the track as the approved application 12/01133/FUL) -	Approved	18.03.10

- b) many of the earthworks undertaken have resulted in banks of soil facing the track at vertical angles of greater than 45 degrees which has resulted in sound being directly reflected back across the track and towards the village.
- c) the changes in the earth works surrounding the track the noise is amplified by the surrounding bunds and is being channelled into the village.
- d) the noise assessment undertaken has not taken into account varying weather conditions and does not show a rigorous scientific approach
- e) the tests undertaken were done by cars and not by motor bikes which can result in more noise due to the profiling of the vehicles
- f) the bund should be profiled so it would deflect the sound upwards instead of towards of the village.

Policy:-

National Policy Guidance

The National Planning Policy Framework (NPPF) 2012
 The National Planning Practice Guidance (NPPG) 2014
 Environmental Impact Assessment Regulations 2011
 Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management sets out the Government's policy objectives on waste, with the overarching intention to protect human health and the environment by producing less waste and re-using it as a resource wherever possible.

Hinckley & Bosworth Core Strategy 2009

Policy 13: Supports the development in the tourism industry in rural hamlets in line with
 Policy 23: Tourism Development
 Policy 21: National Forest
 Policy 23: States that tourism development for extended visitor attractions will be encouraged

Hinckley & Bosworth Local Plan 2001

The site lies in the countryside outside the settlement boundary of Kirkby Mallory as defined in the Hinckley and Bosworth Local Plan.

Policy NE5: Development in the Countryside
 Policy NE12: Landscaping Schemes
 Policy NE14: Water quality and ecology
 Policy BE1: Design and Siting of Development

Appraisal:-

The main considerations with regard to the application submitted are the principle of the development (including the tourism aspects), noise and its relationship to the surrounding countryside, biodiversity, highway safety and the amenities of the occupiers of neighbouring properties.

Principle of Development

Whilst both national government guidance in the National Planning Policy Framework and Policy NE5 of the adopted Local Plan seek to protect the character and appearance of the countryside for its own sake and from unnecessary development, it is recognised that certain forms of development, including those in connection with recreation, tourism or other land based activities which require a countryside location, are generally acceptable in principle.

Mallory Park Race Circuit is a major tourist and leisure attraction within the borough and holds prestigious events providing world-wide promotion of the locality. Following a number of noise nuisance abatement notices served in the past, the required works are proposed to reduce the amount of noise nuisance on the local village of Kirkby Mallory. Whilst the site is in a countryside location it is adjacent to, and part of, an established motor sports complex and the principle of development is, therefore, considered to be acceptable in this case in respect of policies 11, 13 and 23 of the Core Strategy and policies BE1 and NE5 of the adopted Local Plan.

Having considered all matters, it is considered that in principle, having regard to the track as a racing and tourist destination; the works are considered to be acceptable.

Relationship to Countryside and Biodiversity

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is either (a) important to the local economy or is (c) for sport or recreation purposes. Furthermore policy NE5 states that this only applies where (i) it does not have an adverse effect on the appearance or character of the landscape; (iii) is effectively screened by landscaping; and (iv) the development will not generate traffic likely to impair road safety. Further Policy NE12 requires development to take into account the existing landscaping features of the site and to make provision for further landscaping where appropriate. Policy NE14 requires the water quality and ecology of watercourses and groundwater resources to be protected.

At the time of writing, the local planning authority is awaiting a final ecology report to demonstrate that the development would not adversely impact upon Great Crested Newts. Leicestershire County Council (Ecology) has stated that there are unlikely to be any species on the site and this would overcome their objection. If protected species are found on site, the applicant would need to submit a mitigation strategy to demonstrate that the development would not cause harm. In view of importance of resolving this issue, it is recommended that delegated authority be given to officers to resolve these ecological issues before the planning permission is issued.

The earth bund construction will necessitate the removal of sixteen trees and the new bund gradient will prohibit new tree planting on the slope. It has been recommended that the existing laurel hedge be extended along the ridge of the new bund to screen the acoustic fence and tree losses be mitigated by planting elsewhere on the site at a rate of 2 new trees to one removed.

Overall, it would be appropriate to include a condition on the application, for the applicant to provide a landscape plan for implementation on the site at a later date; this planting can then be completed in an appropriate planting season to ensure ample growth of the new trees. Proposed landscaping measures would assist in securing the mitigation necessary to enhance the wider setting of the track and the further enhancement of protected species and the biodiversity of the area.

It is worth noting that under the two previous planning approvals of 13/00031/FUL and 12/01133/FUL there was conditions stating that landscaping should have been implemented within the last planting season. This landscaping has not been completed and is likely to be subject to the local planning authority taking enforcement action to ensure that the landscaping is completed within the next planting season.

Physical Relationship to Nearby Properties

Policy BE1 seeks to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area; avoid the loss of vegetation and features that contribute to the local environment and minimise the impact of the development on it; incorporate landscaping to a high standard; have regard to the safety of individuals and property and not adversely affect the occupiers of neighbouring properties.

The nearest properties to the Circuit are Brockey Farm over 400 metres to the south; Keepers Cottage over 500 metres to the north east; and the Oaks, which is approximately 100 metres to the west. Given these separation distances, the ground works themselves do not adversely affect any residential amenity directly in terms of the physical impact.

The village of Kirkby Mallory is located to the north and east of the Circuit. The proposed earth works will have a limited visual aspect due to the levels sloping away from the village and the distance from the main settlement. The same can be said for the impact on the wider surroundings. With appropriate landscaping the works will not have an adverse impact on the landscape character of the area and therefore would not conflict with policies NE12 and NE14 of the Local Plan.

Noise

The NPPF guides that planning policies and decisions should aim to:-

- a) Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development
- b) Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- c) Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- d) Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

Policy BE1 seeks to secure attractive development and to safeguard and enhance the existing environment. It is noted that a majority of the work has been carried out in relation to the land tipping and the reprofiling of the bunds and therefore additional traffic movement in relation to these works would be minimal. The principal noise issue therefore relates to the impact of the bunding on the noise climate emanating from the track activity to neighbouring and nearby properties in Kirkby Mallory.

The noise reports submitted by the applicant's noise advisor were reviewed by officers and the noise consultant engaged by the Council. Further reports, comments and specifications submitted in response to comments have been received and further reviewed. The proposed 3.6 metre wooden panels topped by an offset 0.6 metre panel faced with noise absorbing material are to be installed on top of existing and extended bunds along Shaws Corner and tied into the main offices. The applicant has confirmed that the panels would be installed as a straight line as detailed in the submitted plans rather than the saw tooth design detailed in the noise report. Whilst there has been discussion relating to the scope of the noise reports, officers and the Council's noise consultant have concluded that the faced panels should minimise any risk of noise reflecting off the barrier towards any noise sensitive properties. The 25mm thick plywood should ensure that noise passing through the barrier will not add anything to the noise passing over and around the barrier due its density. On the face of it

therefore the proposed barrier design should provide noise reductions of 10dBA or better for those properties it is designed to protect and there should be little or no risk of reflected sound giving rise to increased noise levels in other parts of the village.

Highway Issues

As a result of the previous planning permissions at Mallory Park Racing Circuit involving the importation of materials, an appropriate route was identified for associated traffic to avoid unsuitable vehicle movements through the village of Kirkby Mallory. Furthermore a temporary traffic signal system was installed on Barwell Lane at its junction with the applicant's private track leading to Shilton Road. A condition is added to make sure the haul routes and traffic management plan is submitted to ensure that there are no highway safety issues in the construction of the bunds. This is consistent with other works.

Conclusion

The extension of the earth bund and the erection of a permanent acoustic fencing has been shown by various acoustic specialists that the sound within the village should give little or no risk of reflected sound giving rise to increased noise levels in other parts of the village. More appropriate planting is to be undertaken which would respect the overall character and appearance of the local landscape and has the potential to provide habitats for wildlife as well as support a key tourism destination in the Borough. The application is therefore recommended for approval subject to appropriate conditions.

RECOMMENDATION:- Grant planning permission, subject to Leicestershire County Council (Ecology) removing their objection

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the patten of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan.

Hinckley & Bosworth Core Strategy 200):- Policies 13, 21 and 23.

Hinckley & Bosworth Local Plan 2001:- Policies NE5, NE12, NE14, BE1 and T5.

Conditions:-

- 1 The development shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Topographical Survey (Drawing Number: S1318/01, Scale 1:500) received by the Local Planning Authority on the 19 February 2015 Proposed Bund Re Profile (Drawing Number: S1303/02 Revision B, Scale: 1:500) received by the Local Planning Authority on the 25 February 2015.

3 No development shall commence until full details of soft landscaping works and tree planting have been submitted to and approved in writing by the Local Planning Authority. These details shall include:-

- a) Planting plans
- b) Written specifications
- c) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate

The approved landscaping scheme shall be commenced in accordance with the approved details and implementation programme in the first available planting season. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

4 Prior to the commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. The plan shall details how, during the site preparation and construction phase of the development, the impact on existing residential premises and the environment shall be prevented or mitigated from dust, noise, smoke, light and land contamination. This should include identified haul routes and traffic management. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints.

5 No waste materials shall be burnt on the site at any time during the construction phase

6 Construction shall be limited to the following hours;

- a) Monday to Friday: 08:00 to 18:00
- b) Saturday: 08:30 to 13:30
- c) No working on Sundays and Bank Holidays

Reasons:-

1 To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2 To define the permission.

3 To ensure adequate landscaping is planted to enhance the appearance of the area and is maintained in accordance with policies NE5 and NE12 of the adopted Local Plan and the aims and objectives of the National Planning Policy Framework.

4-6 To protect the amenity of residents and the environment during construction in accordance with policies BE1 of the adopted Local Plan

Notes to Applicant:-

1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Prior to any soil being imported onto the site the applicant has to comply with CL:AIRE Definition of Waste: Development Industry Code of Practice (CoP); Applying for an Environmental Permit from the Environment Agency under the Environmental Permitting Regulations 2010. The applicant should contact the Environment Agency Officer Andrew Staufenbiel (0116 237 6990) to discuss the above two issues further. Andrew must be contact before any waste soil is imported onto the site.

Contact Officer:- Craig Allison Ext 5700