

<b>APPLICATION NUMBER</b>		21/00575/FUL	
<b>SITE ADDRESS:</b>		Darley Moor Motor Cycle Road Racing Club, Darley Moor Airfield, Darley Moor, Ashbourne	
<b>DESCRIPTION OF DEVELOPMENT</b>		Retention of noise attenuation bund	
<b>CASE OFFICER</b>	Mr Chris Whitmore	<b>APPLICANT</b>	Mr E. Nelson
<b>PARISH/TOWN</b>	Yeaveley	<b>AGENT</b>	Mr J. Imber, JMI Planning
<b>WARD MEMBER(S)</b>	Cllr. Morley	<b>DETERMINATION TARGET</b>	23 <sup>rd</sup> June 2021
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Considered sensitive by the Development Manager	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	To consider the impact of the bund on the character and appearance of this part of the countryside

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• Background</li> <li>• The effectiveness of the bund in terms of noise attenuation;</li> <li>• The impact of the development on the character and appearance of this part of the countryside, and;</li> <li>• The impact on public rights of way which cross and run alongside the development.</li> </ul>

<b>RECOMMENDATION</b>
That the application be refused.

## 1. THE SITE AND SURROUNDINGS

- 1.1 The application relates to Darley Moor Motor Cycle Road Racing circuit land at Darley Moor Airfield; a former satellite airfield to Ashbourne Airfield with three concrete runways.
- 1.2 The site relates specifically to an area of land to south east of the race circuit, on the southern boundary, beyond the hairpin bend. Edlaston is located to the north of the site, Wyaston to the east and the properties at Hales Green to the south. A network of public footpaths cross and run adjacent to the application site. Public footpath 11 'Edlaston and Wyaston' runs alongside the northern boundary and crosses through the site from north to south. Public Footpath no. 22 also crosses through the site further to the north west, again in a north to south direction. The surrounding land form is relatively flat and the landscape interspersed with pockets and lines of tree planting.



## 2. THE APPLICATION

- 2.1 This application seeks planning permission to retain a linear bund extending along the southern boundary of the site, beyond an approved bund, which has been formed around the hairpin bend. The bund has been formed on a former runway in two sections, to allow a 4m wide gap in the centre to facilitate the public rights of way which crosses through the site. The bunds are some 320m long in total and 11m wide. The bund survey drawing shows the maximum height of the bund to be a little over 4m above original ground level.
- 2.2 The applicant advises that the bund is currently formed of bare earth but will be seeded with a wildflower mix in order to better assimilate it into its surroundings and to promote biodiversity.

- 2.3 In support of the application the applicant advises that the bund has been formed to provide more effective mitigation of noise caused by motorcycles accelerating out of the hairpin and along the south straight.
- 2.4 To demonstrate the effectiveness of the bund from a noise attenuation perspective the applicant has submitted a series of noise readings during a race event on the Darley Moor Race Track and during a Pennine Autograss event on land to the south. The results of the noise recording work are set out and assessed in the consultation response and officer appraisal sections of this report.

### **3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

- 3.1 Adopted Derbyshire Dales Local Plan 2017:
  - S1: Sustainable Development Principles
  - S4: Development in the Countryside
  - S9: Rural Parishes Development Strategy
  - PD1: Design and Place Making
  - PD3: Biodiversity and the Natural Environment
  - PD5: Landscape Character
- 3.2 National Planning Policy Framework (2021)
  - National Planning Practice Guidance
  - Landscape Character and Design SPD (2018)

### **4. RELEVANT PLANNING HISTORY**

11/00781/VCOND - Retention of authorised use of site subject to variation of Condition 1 of planning permission DDD/0496/0240 to enable rider training, motorcycle testing, motorcycle set-up and practice for one day per week between March and October – Refused 12/12/2011 (Appeal Dismissed)

0496/0240 - Variation of conditions for permanent use for motor cycling, driving tuition, model cars, cycling, dog training, archery - Granted 25/07/1996

0196/0018 - Permanent use of site for motor cycle racing and driving tuition – Withdrawn 17/04/1996

1292/0976 - 2 additional motorcycle race days and 4 additional practice days & use for pedal cycling, dog training, learner driving etc. – Granted 17/02/1993

1092/0810 - Variation of condition 2 on planning permission WED/0388/0184 to allow additional practice and race days – Refused 19/11/1992

0692/0510 - Use of land for siting of up to 10 caravans for race meetings – Granted 11/09/1992

0294/0099 - Renewal of permission for motorcycle racing (extra days), pedal cycling, dog training, learner driving and archery – Granted 12/07/1994

1088/0716 - Renewal of consent for timekeeper's box (WED1286/0716) – Granted 01/11/1988

0388/0184 - Renewal of consent for use of land for motor/pedal cycle racing with variation of condition to allow increased use - Granted 11/05/1988

## 5. CONSULTATION RESPONSES

### 5.1 Local Highway Authority:

No highway comments.

### 5.2 Rodsley and Yeaveley Parish Council:

The PC have no objections to the retention of the noise attenuation bund provided it and the footpath which passes through it is built and maintained to the standard approved by the planning authority.

### 5.3 Edlaston and Wyaston Parish Council:

The Parish Council have a number of concerns that they request are considered in the assessment of this application, as follows:

1. The application provides no justification for the proposed works with respect to the anticipated reduction in noise levels from the motorbike circuit. The location and orientation of the bund shown in the application are such that we would question its effectiveness in providing any reduction in noise from the circuit at nearby residential properties. In the absence of evidence that the earthworks provide any effective noise attenuation we cannot see how this planning application can be granted on this basis.
2. We note that section 10 of the submitted Planning Application Form answers 'No' to the question "Are there trees or hedges on the proposed development site?". Observations during construction of these earthworks showed that a number of mature trees were actually buried within the earthworks. We do not believe that any consideration was given to mitigation of impacts on trees, habitat or other wildlife in the planning and execution of these works;
3. The planning application gives no indication that the safety or stability of the earthworks has been considered in their planning, design or construction. These bunds are of a significant height and have been constructed with a very steep slope angle (approx. 1:1.5 based on the submitted Bund Survey drawing). We also note that, while section A-A on this drawing shows the height of the bund as 3.32m high, the levels shown on the plan indicate that, towards the north end of bund, it is up to 4.5m high. Without proper engineering and construction of the slopes, including drainage at the base of the bunds, (which we believe from observing the works has not been undertaken), the long-term stability of the bunds is questionable. The potential safety implications of this are very severe.
4. There is also no indication of the materials used to construct the slopes. From observations during construction, a significant quantity of plastic, demolition rubble, metal, topsoil and other material has been used to construct the bunds. As well as the concerns over stability of the bunds in this regard, without positive drainage and the ability to test the leachate from the bunds, we are concerned about the suitability of it to be permitted to run-off into local surface water receptors. We note that the planning application form indicates that drainage will be by 'soakaways'. However, the bunds are constructed directly on top of the existing concrete runways and rely on leachate running across the concrete surface to run-off into the surrounding fields.
5. We note that, at the commencement of the works, a significant area of self-sown wild flowers and other vegetation was cleared from the area. The application includes no indication of proposals to compensate for this loss, or any planting scheme on completion to provide biodiversity enhancement.
6. In addition to the works shown on the submitted drawings, a very significant amount of additional earthworks were undertaken on the existing bunds to the east of the hairpin

and along the north straight of the circuit. We have previously been advised that these works are covered by the proposals to discharge the conditions associated with the original 1996 planning consent, as they are 'broadly in line' with the proposals submitted for these works at the time. However, we believe that this is a spurious justification for these additional works, and that they should be included within this planning application. This is based on a number of considerations, as follows:

- a) This work involved a considerable amount of additional construction, over a period of over 18 months, which should be justified on the basis of the benefit provided with respect to noise levels at community receptors in the nearby villages (refer to point 1. above)
  - b) In places, the height of these bunds has almost doubled. This has significantly increased the visual impact of the bunds when using the public footpaths in this area. This should be considered in a planning context and justified in relation to their benefit to provide noise attenuation.
  - c) We have similar concerns relating to these bunds as outlined under points 2, 3, 4 & 5 above. Since the highest bund around the hairpin was completed in Spring 2021 there is already evidence of instability of the slopes, with tension cracks clearly visible at the top of the slopes.
  - d) While the existing bund along the northern straight has been increased significantly in width, there has been absolutely no increase in its height. The benefit of these works with respect to noise attenuation and reduction in noise levels at community receptors should be demonstrated.
  - e) Barriers have been constructed along the top of the bunds around the hairpin using a very large number of old tyres. No such barriers were indicated on the drawings submitted to discharge the condition under the 1996 planning consent, and this further exacerbates the issues relating to height and visual impact of the additional works.
7. Furthermore, an additional earth bank, not shown in this planning application, has been constructed along the east / west runway approximately one hundred metres to the east of the hairpin and extended bund. This bund also has a significant visual impact when viewed from the public footpaths in the area, and we have other similar concerns as outlined above. This should therefore also be considered as part of this planning application.
8. Given the nature of the materials used in the construction of the bunds shown in this planning application and those areas discussed in points 6. & 7. above, we question whether it would be more appropriate for this planning application to be considered as waste related development. Government guidance on waste planning policy indicates that works falling under the scope of 'waste development' include, inter alia, "landfill and land raising sites (such as soils to re-profile golf courses)" and "recycling facilities for construction, demolition and excavation waste". This would appear to be applicable in this case, and therefore a variety of waste management policies apply, including Control of Pollution Act (COPA) 1974, Environment Act 1995, Special Waste Regulations 1996, Duty of Care Regulations 1991 and the Waste Management Regulations 2006. Consideration of this application should be based on the evident use of demolition material in the construction of these works in this context.

Comments following receipt of the answers to the questions put to the applicant to establish whether the development constituted waste development:

## **1. Noise attenuation benefit**

We would be interested to see any acoustic modelling or analysis undertaken to demonstrate the benefit of the earthworks undertaken. With regards the area of works detailed in the planning application submitted, these are remote from the motorbike circuit and we would be very surprised if they offer any noise attenuation benefit to Edlaston and Wyaston or Hales Green from activity on the motorbike circuit. We acknowledge that there

may be some potential benefit with respect to noise from the Pennine Autograss activity, and are intrigued that DMMCRRC appear to have undertaken a significant amount, of earthworks apparently for the benefit of the independent Pennine Autograss circuit.

We also reiterate our previous points that the layout and configuration of the earthworks around the hairpin and along the north straight seem highly disproportionate to any likely noise attenuation benefit, due to the narrow shape and considerable distance that the raised earthworks extend from the hairpin down the eastern runway (recently updated Google Maps aerial imagery gives a good indication of this), and the fact that there has been no increase in the height of the bund along the north runway, despite the significant volume of material deposited in this area.

With regards the reference to noise monitoring tests undertaken on behalf of DMMCRRC, members of the PC and the community have observed noise readings being carried out, and we would recommend that independent verification of these tests is undertaken. On some occasions it has been observed that noise monitoring has been by means of a noise meter being held out of a car window, pointing away from the circuit. We would respectfully suggest that more rigorous noise monitoring should be undertaken to justify the stated 3-6dB reduction. We would also wish to understand the baseline against which these reductions are being assessed, with respect to activity on the circuit, wind direction, etc. Furthermore, we note that the "bomber car" meeting on 14th & 15th August to which you refer was a Pennine Autograss event, and hence is irrelevant to the assessment of mitigation of noise nuisance from DMMCRRC activity. However, we note that due to the south-westerly winds during that event the noise levels in Edlaston and Wyaston were extremely high for the entire weekend.

## **2. Source of Bund Material**

We note the response that the material for the bunds has been sourced on site. A very considerable volume of material has been used in the earthworks undertaken around the site and, from observations made from public rights of way around the circuit, there is absolutely no evidence of the source of this material. We also note that, with respect to the material used for the bunds around the hairpin and along the north straight, we were previously advised in an email from Chris Whitmore on 27/07/21 that this was demolition material sourced from a construction site near Longford. Significant numbers of lorries were also witnessed turning off the A515 into the DMMCRRC site throughout the duration of the earthworks. Notwithstanding the unresolved issue that DDDC assert that this area of the works does not require planning consent, the assessment of the use of waste to form these earthworks is still relevant and the same tests should be applied in relation to these areas.

## **3. Completion to an appropriate standard**

We note the comments regarding topsoil and seeding of the finished bunds, but note that the earthworks to which this planning application apply are actually the only area of the works that have not been topsoiled. At the current time these areas are still finished with bare earth that has not been seeded nor has it self-seeded. We would therefore question when this activity is proposed to be undertaken. We also believe that the surface finish to the earthworks should not be the only consideration relating to the formation of the bunds to an appropriate standard. We have previously questioned the stability of the bunds and the apparent lack of adequate drainage from them (particularly the control of leachate from areas where waste material has clearly been used), and these concerns remain. We note that a significant slope failure has already occurred, where a large volume of material has slipped from the face of the bank onto the road adjacent to the hairpin.

In light of the comments above, we are very concerned that there still appears to be limited rigour or independent review by DDDC of the claims made and responses provided by

DMMCRRC relating to these earthworks, and that development has been allowed to continue with no meaningful control or oversight.

#### 5.4 Environmental Health (DDDC):

##### Initial Comments:

The effectiveness of the bunding on site will require a more methodical noise assessment or a more thorough explanation of how these results were obtained. For example, we need to ask for a bit more detail on the measurements, as in a location plan showing both points on either side of the bund, time/duration, instrument used as well as an idea of wind directions on those days.

##### Comments following receipt of information submitted by the applicant to address the initial comments made by Environmental Health

After reviewing the submitted information with regards to noise impact for the retention of a noise attenuation bund at Darley Moor Motor Cycle Club I make the following comments:

- The noise measurements taken on either side of the bund do not reflect a 'betterment' or effectiveness of the development on the nearby village of Wyaston which is considered to be the nearest noise sensitive receptor.
- The proposal assumes that the bund is effective from noise generated by Pennine Autograss track located on 'Rachel Kent's land' which has no relevance to this application for noise attenuation relating to noise generated by motorcycle activities (racing/track days) on the proposal site and therefore the location where the submitted noise levels were taken have no meaningful purpose.
- The noise measurements that were submitted are insufficient in both methodology and location. The measurement taken on the 11th & 19th July "at about 11.30 am and 2.30 pm and lasted for about 20 mins duration" and 15th & 16th August the "11.00 am and just after 12.00 noon and again they were of about 20 mins duration" is not a recognised way of assessing noise. These should have been recorded as an LAeq and not simply as a decibel level. Ideally the recording should have been taken over a recorded period of time (start time/end time) and details such as weather conditions/wind speed should have been factored in/ fully recorded, "cloud cover and wind speed & direction were about the same" is not sufficient.
- There are no details of the equipment used to take the measurements
- No measurements were taken in nearby villages to show if the bund has mitigated noise levels in these areas, and in my professional opinion, the siting of the bund has no actual noise attenuation capabilities due to its location in relation to noisy activities from the riders leaving the hair pin bend and accelerating down the straight; as can be visually appreciated in the annotated aerial view photograph submitted by Mr Edwards.
- My initial comments for further information have not been met in respect that the information submitted is insufficient and I have no data to compare any noise monitoring data taken by DDDC.
- To fully support this application, in my opinion, the applicant should have commissioned a competent person to carry out a detailed and robust noise impact assessment.

To this end I recommend that this application is refused on the grounds that the bund is not an effective noise attenuation structure and the limited submitted information reflects this.



#### 5.5 Trees and Landscape Officer (DDDC):

The bund is a significant man made linear 'structure' within the local rural agricultural landscape which obscures views and changes the character and appearance of the local landscape. The local landscape is otherwise open and expansive due to the almost flat topography.

The bund does not appear to be particularly visible from built up areas or roads, but is located close to and is clearly visible from public footpaths in its vicinity.

The bund appears to be being currently used to store tyres on part of its upper surface which further increases its visual impact. I suggest a condition should planning consent be granted requiring that nothing be installed or stored on the sides or top of the bund.

The bund is currently bare soil. I suggest a condition should planning consent be granted requiring the whole bund be planted with a diverse range of appropriate native grasses, herbs, wildflowers, etc. to soften its appearance and provide an enhancement to local biodiversity. An appropriate management regime to maintain this planting and prevent it gradually turning into scrub over time is also recommended. Details should be submitted for approval.

#### 5.6 Policy and Monitoring (Derbyshire County Council):

Derbyshire County Council has no comment concerning the infrastructure and services.

#### 5.7 Peak and Northern Footpaths Society:

I object to this application. Looking at the county council's working definitive map on its web site, the bund appears to block the legal, definitive routes of FPs 11, 13 and 22 Edlaston & Wyaston. The opportunity presented by this application must be taken to ensure that the legal routes are not blocked. I was very disappointed to see that the DCC highways consultation response did not mention the public footpaths - these are highways and the effect of the proposed development on them is a material consideration in the determination of the application. Permission must not be granted in this situation. I trust the DDDC planners will consult the DCC rights of way officers so that this situation can be correctly resolved.

#### 5.8 Derbyshire Dales Group of the Ramblers:

Ramblers Derbyshire Dales Group objects to this application for the following reasons:

- i) Both bunds in place obstruct two Rights of Way
- ii) Edlaston & Wyaston FP 11 is obstructed by the eastern bund, approx. 30m from an existing gap separating the two bunds. The bunds are approx. several metres high and too difficult to walk or even scramble over
- iii) Ed. & Wy FP 13 is obstructed by the western bund
- iv) Part of FP 11 runs alongside the north side of the bunds and should remain open and unaffected at all times
- iv) The bunds are unaesthetic and unattractive to walkers
- v) Both RoWs should be opened up on their legal lines.

Also make the following comments:

- FP 11 is further obstructed by tyres and other debris just next to the south side of the eastern bund, where the Edlaston & Wyaston FP 11 DM legal line runs.
- No evidence of FPs 11, 13 22 nor 23 on the ground. No RoW signage.
- Could the bunds not be substituted for trees to mitigate noise pollution?



## 6. REPRESENTATIONS

6.1 Representations have been received from two members of the public, one in support and one objecting to the development. In objecting to the development, the following detailed representations from a local resident have been received:

I am not against the construction of noise bunds if it will reduce the noise levels in the villages. The earth banking in this retention application is clearly not a Noise Attenuation Bund since for it to serve that purpose, the bund has to provide a barrier between the noise source and the noise receptor and it does not do this. There are no houses in the vicinity behind the bund and it will serve no purpose in disrupting the motorcycle noise to any properties. These earthworks can only be described as waste disposal on a very large scale, it is tipping and only that.

The waste disposal has also blocked the footpaths. The waste has been banked up at a steep angle making it impossible to cross. I use the footpaths every day as I walk my dog on Darley Moor at the rear of my property.

The applicant has built a very large elevated car park at the rear of the hairpin banking and topped it off with lorry tyres to stop people or vehicles falling off it. This elevated car park dominates the area and has altered the landscape and skyline. It is also unsightly.

The problem now is what to do with the hundreds of thousands of tons of waste disposal applicable to this application. If the Council made the operators have it removed it would bankrupt the MotorCycle Race Club several times over. Although I do not like the noise from the racing, I have no desire to see the racing stopped and the club cease operating. Waste disposal is an expensive business as the Council will know. The waste has been arriving on 8 wheel tipper lorries with about 18 ton loads most week days for nearly two years and lorries have been lining up to tip. There is a lot of it. Each load costs at least £20 to tip if it is inert. Owning a site where you can receive inert waste is normally a very lucrative business. To avoid the haulage costs which are the most expensive part of waste disposal the simple solution would be to move the waste deposited regarding this application and complete the construction of the banking alongside the north straight, as the planning conditions required in 1996/7.

I ask that the following proposals take place:

1. Remove the earthworks regarding this application from the point where the footpath is blocked to the end of the site.
2. Use this waste to complete the noise bund recommended by Dr Fillery along the north straight and the inside of paddock bend. This will also enable the Environment Agency to check that all the waste is inert.
3. Remove the tyres from the elevated car park.
4. Landscape the elevated car park to better blend with the landscape but still retain the noise reduction ability of it.
5. Plant trees on the sides of the landscaped elevated car park and sow wild grass and flowers to reduce the visual impact of this elevated car park.
6. Retain the north western part of the new bank concerning this application from the point of the footpath obstruction and plant with wild grass and flowers.
7. Use some of the profit made from this waste disposal to install a drive by noise testing system linked to the Council using the existing wi-fi equipment.
8. Formally apologise to the residents for the disturbance caused during this waste disposal.

## Comments on the Initial Noise Assessment Information:

The noise assessment work is very limited.

In 2011 Mr Nelson applied for planning permission for race bikes to be used on track days.

This was refused and Mr Nelson appealed to the Planning Inspectorate. During this process Mr Nelson employed Acoustic Consultants being Vanguardia Consulting. The 28 page Acoustic Report produced by Mr Jim Griffiths FIOA on behalf of Mr Nelson made a series of recommendations to support the application.

Mr Griffiths made no recommendations with regard to Noise Bunds. The Planning Inspector refused the appeal. The report is available.

During this planning appeal Mr Nelson produced a 14 page statement in his Proof of Evidence. On page 7 he declares "Further, the Council have not suggested any initiatives to try and reduce the level of noise which arises from the Track and its activities, apart from the response to the 1996 planning application when the council requested that the club build bunds around the perimeter of the Track. The Club did so at huge expense, despite their noise consultant Mike Fillery's advice that this was not necessary and would not reduce the level of noise emanating from the track".

It is most unlikely that a Noise Consultant would recommend the construction of a Noise Bund that is not between the Noise Source and the recipient residential properties as is the case with Mr Nelson's application. During the period of my Acoustic Survey in 2013/2014 the Environmental Health case officer was Mr. Mathew Hulley. Mr Hulley re-examined the possibility of further noise bunding even if the benefit was minimal. The conclusion drawn by Mr Hulley was that the idea had no merit.

The data, as published, regarding the sound levels from the track is not in line with normal expectations. The sound levels on Rachel Kent's side of the 'bund' show a lower level than the results on the Darley Moor side of the 'bund'. The area on Rachel Kent's side does not have anything that would disrupt the transmission path of noise emanating from the bikes exiting the hairpin corner and accelerating down the Pope straight other than some low vegetation. Mr Nelson claims that the 'bund' provides a 3 to 6 dBA reduction benefit in the noise level but the data shows a higher level on the Edlaston and Wyaston side of the 'bund'.

The applicant states that he measured the noise level of the Pennine Autograss Race Days on the 15th and 16th August and included this data in his submission. The Pennine Autograss events take place on Rachel Kent's [Salt's] property and are held about 8 days per year. As far as I am aware the noise produced by the grass tracking has not been a cause for concern for residents. It does contribute to the overall noise climate of the area over the year but I have never been requested to monitor the noise levels of the grass tracking. I have spoken to Rachel on two occasions over the last 30 years regarding the Public Address system being used inappropriately and Rachel has resolved the issue satisfactorily. As far as I am aware the Environmental Health Department do not monitor the grass tracking events and have no reason to do so. It is clear that the inclusion of the data recorded on the 15th and 16th August have no relevance to Mr Nelson's retrospective application. It appears that he is attempting to use the grass tracking activity which is not an issue to support his own activity of tipping waste in the countryside.

The earthworks subject to this application is not between the noise source and the recipient villages so has no value in any case, since it is not an obstruction to the transmission path of the noise from the track. In addition the village of Wyaston is 5 metres higher than the

race track as shown by Ordnance Survey. These are some of the reasons why previous Acoustic Consultants have not advised the applicant to construct these earthworks.

Comments on the additional information received in response to the initial comments of the Environmental Health Officer:

The photograph provided clearly shows why the earth tipped in the location shown could never have any value as a noise attenuation barrier as claimed in this application. The earthworks cannot disrupt the noise path between the noise source and the villages. The earthworks are not between the race track and the villages. The photograph also shows why the Acoustic Consultants previously employed by the applicant have never suggested that any earthworks should be constructed at the location as my previous letters draw attention to.

When the data submitted by the applicant is examined a number of issues are apparent even though it is currently incomplete with the requested information still not supplied.

1. The data for Pennine Autograss on a neighbours property is not relevant and can be disregarded.
2. There is no discernible difference between the noise levels of a race day with a track day.
3. The dbA levels at the measuring location near to the track are far below the dbA levels that the applicant has measured in Wyaston village [76 dbA] as shown previously, even though the village is a considerable distance further away from the noise source.
4. The applicant has obtained higher sound levels on the Darley Moor/ Wyaston side of the bank even though the measuring equipment is very close to the hairpin bank which is not in this application. The applicant has in fact measured the directional properties of the bikes accelerating away from the hairpin bend. The nearer to the centre line of the noise source the higher the sound level.
5. Since the completion of this earthbank I have measured the highest sound levels emanating from the track.

6.2 The following representations in support of the application have been received:

Operation of the Darley Moor track is long-standing and is already controlled in the limit to the number of race days allowed.

Additional use, eg. motorcycle track days, require all machines to be silenced to the same standard as road vehicles and could be said to be no greater than that from a busy road. Track days operate only during daylight hours, similar to the limits placed on industries such as engineering and construction, and which are accepted as fair to all parties.

The track also provides valuable facilities for cyclists' events and branches of the emergency services as a training venue.

Whilst there is a level of sound from the track, clearly this is limited in both duration and range. Compare with this the noise from the adjacent airfield, which is far less restricted and, due to the nature of the activities there, is fundamentally and significantly much more wide-ranging. This impacts a much greater number of local residents than those in the immediate vicinity.

There are many activities in life that impinge on others in different ways, not only noise - as a society we have a duty to ensure we mitigate, but equally importantly we have a duty to tolerate: Simply 'not liking' something can never be a just reason to expect it to be eliminated; in other words, those same people whose activity offends you may be equally offended by an activity of yours!

6.3 In addition to the above, a noise complaint from a local resident has been forwarded on to the Local Planning Authority, which raised the following planning concerns:

- The new earthwork banks were being used as a car park on race days;
- The shape of the earthworks is such that they have no meaningful benefit in reducing the noise from the circuit.

## 7. OFFICER APPRAISAL

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Adopted Derbyshire Dales Local Plan (2017). The National Planning Policy Framework (2021) is also a material consideration in respect of this application.

7.2 Having regard to the consultation responses and representations received, the relevant provisions of the development plan and the National Planning Policy Framework, the main issues to assess are:

- Background
- The effectiveness of the bund in terms of noise attenuation;
- The impact of the development on the character and appearance of this part of the countryside, and;
- The impact on the public rights of way which cross and run alongside the development

These matters are considered below.

### Background

7.4 The former airfield has been used by the appellant as a motorcycle club since 1965. From 1970 until 1996 regular temporary 7 year planning permissions were granted subject to a condition restricting the use to 8 days between March and October. In 1994 planning permission was granted for the training of motorcycle riders, car driving, motorcycle racing, model aircraft, car racing, archery and cycling. The motorcycle racing was limited to 14 days a year between the months of March to October; and for no more than 7 Sundays throughout this period.

7.5 In 1996 a permanent planning permission was granted along with the same planning conditions as the 1994 planning permission. Condition 1 permitted the use of the site for motor cycle racing, racing practice and pre-race qualification to no more than 14 days in any calendar year. Driver tuition and 'trials of speed' / track days unconnected to motorcycle racing is not explicitly restricted by condition 1 of permanent permission DDD/0496/0240. Therefore such activity takes place in addition to the 14 race events permitted under permitted development legislation.

7.6 In 2019 the Local Planning Authority received reports that a large amount of earth was being imported to site to create new bunds around the racing circuit. Following an investigation it was established that the works were broadly in accordance with details submitted and approved in respect of part iii) of Condition 10 of planning permission code ref. DDD/0496/0240, in terms of the extent and location of the bunds. These details indicated a linear bund to the north of and a separate bund around the hairpin bend. The approved plan also showed a second linear bund further to the north to be built up. Whilst the form and overall height of the bunding around the hairpin differed slightly from the approved drawings, it was not considered to be in the public interest to pursue the matter any further due to the

negligible additional impact the works had on the local landscape and the benefits to local residents in terms of noise reduction.

- 7.7 In March 2021 reports of further bunding work were received. Following a further investigation it was established that unauthorised earthworks were taking place to the south of the hairpin bend. The land owner was requested to cease any further work and an application to regularise the development was invited. This application relates to those works.

#### The effectiveness of the bund in terms of noise attenuation

- 7.8 As set out in the covering letter which accompanies this application, the applicant recognises that the bunds approved as part of the 1996 permission were designed to provide noise attenuation, to reduce the impact of the noise from the racing circuit on nearby residents. They, however do not consider that their approved position maximised their effectiveness and that the position of the new bund will provide more effective mitigation in terms of noise caused by motorcycles accelerating out of the hairpin and along the south straight.
- 7.9 No information to demonstrate betterment in terms of noise attenuation was submitted with the application. Noise monitoring work was undertaken by the applicant on the 11<sup>th</sup> and 19<sup>th</sup> July 2021 during a race day, which they believe indicates some betterment in terms of the noise readings that were taken either side of the bund. Noise recording was also carried out during a Pennine Autograss race day on adjacent land, which in the applicants' opinion demonstrated betterment based on noise readings on the northern side of the bund (compared with the readings on the southern side). As however set out in the consultation comments and representations received, noise from the Pennine Autograss activity is not a source of significant noise nuisance in the locality. This activity is also not controlled by the applicant and takes place on land which falls within separate ownership and does not demonstrate effective mitigation, in terms of noise caused by motorcycles accelerating out of the hairpin and along the south straight to justify its location and design.
- 7.10 Following clarification on the location where the readings were taken and their duration the Environmental Health Officer has advised measurements taken on either side of the bund do not reflect a 'betterment' or effectiveness of the development on the nearby village of Wyaston which is considered to be the nearest noise sensitive receptor. There are also concerns that the noise measurements are insufficient in both methodology and location. No measurements have taken in nearby villages to show if the bund has mitigated noise levels in these areas.
- 7.11 Notwithstanding the above and lack of information to demonstrate any substantiated betterment to local residents / the nearest noise receptors, the Environmental Health Officer supports the representations made by a local resident which advises that the location and siting of the bund has no actual noise attenuation capabilities.
- 7.12 The significant earthworks undertaken do not it is considered deliver any benefits to local residents in terms of mitigating noise from the racing circuit and no overriding / significant benefits to the residents from the activity on adjacent, uncontrolled land which is not a major source of nuisance.

#### The impact of the development on the character and appearance of this part of the countryside.

- 7.13 The site lies within the countryside where care is needed to ensure that development is integrated sympathetically into the landscape and its impact is minimised. Whilst there is general support in Policy S4 of the Adopted Derbyshire Dales Local Plan (2017) for development 'associated' with sport and recreational uses in the countryside the policy also

requires that development preserves and/or enhances the character and local distinctiveness of the landscape. This is also reflected in Policy S1 which requires development to make a positive contribution towards the achievement of sustainable development. The preamble to the policy advises that applications for development in the countryside will be required to submit evidence to justify why it is required. Policy PD1 of the of the Adopted Derbyshire Dales Local Plan (2017) deals with design and place making and requires development to be of a high quality design that respects the character, identity and context of the Derbyshire Dales landscapes. Policy PD5 deals specifically with Landscape Character and echoes the provisions of Policies S1 and S4 and advises that development will only be permitted where the location, materials and scale of are sympathetic and complement landscape character amongst other considerations. These policy requirements closely align closely with chapter 15 of the National Planning Policy Framework, which advises that decisions should contribute to and enhance the natural environment by recognising the intrinsic character and beauty of the countryside amongst other considerations.

7.14 As set out in the consultation comments received from the Councils Trees and Landscape Officer the bund is a significant man made linear 'structure' within the local rural agricultural landscape, which obscures views and changes the character and appearance of the local landscape. The bund is located close to and is highly visible from the network of public footpaths in its vicinity. Although the bund extends beyond the approved hairpin bend bund it extends significantly in a south easterly direction across a landscape that is expansive due to the flat topography. It constitutes an encroaching and unwarranted form of development that is harmful to the character and appearance of this part of the countryside and local landscape, contrary to requirements of policies S1 and S4 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained in the National Planning Policy Framework (2021). The reference made to cars being parked on the bund, would appear to relate to the adjacent hairpin bend bund, however, the storage of material and types, will clearly further serve to result in harm to this part of the countryside and the local landscape. Controls in relation to the storage of material and the use of the bund could however be secured by planning condition.

7.15 Having regard to the suggestion in the representations and consultation comments received that the application concerns waste development, it is necessary to consider whether there is clear demonstrable benefit from the activity, that any recovered waste material is suitable for its intended use, the minimal amount of waste is being used to achieve the development, whether the material used has been used as a substitute for non-waste material and whether the proposal will be completed to an appropriate standard to be satisfied that development constitutes a District, as opposed to a County Matter. The applicant has advised that the material used to form the bund has been sourced from site, that it would be seeded once complete and does provide a benefit. In this regard the Local Planning Authority consider that it is appropriate for the District Council to determine the application and to take any necessary enforcement action to resolve the breach of planning control where required.

#### The impact on Public Rights of Way which cross and run alongside the development

7.16 The bund crosses the route of two public footpaths and the earthworks affect the enjoyment of the routes by users. Provision has however been made through the bund to accommodate the Public Footpaths that cross the site. Whilst users may be inconvenienced by any changes to the legal alignment, such changes could be agreed through a footpath diversion, where appropriate, under the relevant provision of the Town and Country Planning Act should members be minded to approve the application. Notwithstanding the harm to the character and appearance of this part of the countryside and the local landscape, the impact on the enjoyment of the public footpaths, where provision has been made through the bund

and users would not be severely inconvenienced, is not considered to constitute a sustainable reason for refusal in this case.

## Summary

7.17 In summary the application seeks to retain significant earthworks in the form of a bund that by reason of its siting and scale would achieve little in terms of noise attenuation from the noise generated by motorcycle activities on the adjacent race track and introduce a man-made land form, that would result in significant harm to the character and appearance of this part of countryside and the expansive, flat landscape particularly when viewed from the network of public footpaths in the locality. The development constitutes an encroaching and unwarranted form of development in the countryside that fails to preserve its character and appearance and the distinctiveness of the local landscape contrary to the requirements of policies S1, S4, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017), the Landscape Character and Design SPD (2018) and guidance contained in the National Planning Policy Framework (2021). A recommendation of refusal is put forward on this basis.

## **8. RECOMMENDATION**

8.1 That planning permission be refused for the following reason:

The bund by reason of its siting and scale achieves little in terms of noise attenuation from the noise generated by the activity on the adjacent race track or other activity on adjacent land from the nearest noise receptors. The development is therefore unwarranted and fails to preserve the character and appearance of this part of the countryside and local distinctiveness of the landscape contrary to policies S1, S4, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained in the Landscape Character and Design SPD (2018) and the National Planning Policy Framework (2021).

### **NOTES TO APPLICANT:**

The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

This Decision Notice relates to the following documents:

1:10000 Scale Site Location Plan;

Covering Letter by JMI Planning dated 28<sup>th</sup> July 2021;

Block / Site Layout Plan numbered 2021-5002-002 Rev P1, and;

Bund Survey Plan numbered 2021-5002-001 received by the District Council on the 4<sup>th</sup> May 2021, and;

Noise Assessment Information contained within the applicant's agent's emails of the 16<sup>th</sup> August 2021 and 21<sup>st</sup> February 2022.