

**APPLICATION NO** PA/2014/0762

**APPLICANT** Mr P Sembiente, Act Fast

**DEVELOPMENT** Planning permission to vary condition 4 of PA/2009/0444

**LOCATION** Kieradan Park, North Moor Lane, Messingham

**PARISH** **MESSINGHAM**

**WARD** Ridge

**CASE OFFICER** Nicholas Lawrence

**SUMMARY RECOMMENDATION** **Grant permission subject to a condition**

**REASONS FOR REFERENCE TO COMMITTEE** Head of Development Management discretion

## **POLICIES**

**North Lincolnshire Local Plan:** Policy DS1 (General Requirements) sets out criteria against which all proposals in the development and use of land will be considered and includes reference to quality of design, amenity, conservation, resources and utilities.

Policy DS5 (Household Extensions) seeks to control the scale, form and design of extensions to dwellings with particular regard to sunlight/daylight and the overbearing effect of extensions.

Policy R10 (Potentially Disruptive Sports) states that the development of noisy sport will be permitted where it can be developed so that the character, appearance and quiet enjoyment of the locality remains unharmed and the nature conservation or archaeological importance of the site will be unaffected. Additionally, noise attenuation measures should be incorporated to reduce noise levels to an acceptable level.

**North Lincolnshire Core Strategy:** Policy CS23 (Sport, Recreation and Open Space) aims to ensure that North Lincolnshire's leisure and recreational facilities are sustained and improved.

**National Planning Policy Framework (NPPF):** Planning conditions and obligations (paragraphs 203 to 206).

**National Planning Practice Guidance (PPG):** Use of Planning Conditions (ID 21a).

## **CONSULTATIONS**

**Highways:** Does not wish to restrict the grant of permission.

**Environment Agency:** Does not wish to make any comments on this application.

**Public Rights of Way Officer:** No objection.

**HER (Archaeology):** No objection.

**Environmental Health:** Object on noise grounds.

**Project Officer (Ecology):** No objections.

**Severn Trent Water:** No response.

## **PARISH COUNCIL**

Received additional information. Further response awaited.

## **PUBLICITY**

Neighbouring properties have been notified and a site notice posted. Three responses have been received which can be summarised as follows:

- object following discussions with Environmental Health re increasing the number of motorbikes to 45 and noise nuisance
- object – heard that Mr Gary Fox and the motocross owners have in principle agreed to increase in bikes to 45, also noise pollution
- detrimental effect upon the quality of our leisure time at home
- application in the first instance should never have been allowed.

## **ASSESSMENT**

### **Introduction**

The purpose of this report is to assist members in the consideration and determination of an application to vary condition 4 attached to an extant and lawful permission associated with the motorcycle activities at Kieradan Park, North Moor Lane, Messingham.

### **Background to the application**

On 19 August 2009 the Planning Committee granted conditional planning permission under application reference PA/2009/0444 for the 'change of use to provide off-road motorcycle facility and to site storage containers on land adjacent to Bottesford Beck, North Moor Lane, Messingham'.

Condition 3 of the grant of permission in essence created a temporary permission for a period of two years from the use commencing. The applicant informed the local planning authority in May 2010 that the change of use took place, thus complying with condition 2, and in turn triggering condition 3.

The applicant subsequently challenged condition 3 at appeal and the inspector, in his decision letter of 12 August 2010, was of the view in allowing the appeal that 'condition no. 3 is unduly onerous and is unnecessary and unreasonable to safeguard the appearance of the area and to protect amenities pursuant to policy DS1'. The inspector further added at paragraph 10 of the decision letter:

*'In all the circumstances in this case there is no need for a period of time to enable the Council to make further assessments of the impact of the development. I shall therefore remove the condition from that permission.'*

Recognising that the appeal decision has established a permanent permission, the committee should be aware of the coverage of the extant permission in terms of operational use. Condition 12 of the permission reads:

*'The proposed motorcycle training facility shall not be operated outside the hours of 9am to 6pm Monday to Saturday, 10am to 4pm on Sunday and at no time on a public holiday.'*

*Reason*

*To define the terms of the permission and to avoid unacceptable loss of amenity through noise disturbance to residential properties located within the vicinity of the site in accordance with policy DS1 of the North Lincolnshire Local Plan.'*

This condition uses the phrase 'motorcycle training facility' and not 'off-road motorcycle facility' as per the description of the development granted permission. This condition differentiates between the two elements and the approved details as covered by condition 4 show a beginners track/training facility.

A copy of the grant of planning permission is appended to this report and tabbed NLC1.

**Basis of application and variation sought**

This application is made under section 73 of the Town and Country Planning Act 1990, as amended, to vary condition 4 attached to the above quoted planning permission issued by the council on 19 August 2009.

Condition 4 of the permission provides:

*'The development shall be carried out in accordance with the amended details received by the local planning authority on 16 June 2009.'*

*Reason*

*To define the permission and to help ensure the development is in keeping with its surroundings in accordance with policy DS5 of the North Lincolnshire Local Plan.'*

The condition cites amended details received on 16 June 2009. All parties accede that amended details are those covered by the amended plan (appended and tabbed as NLC2), albeit that the plan is not date stamped as having been received by the local planning authority. Although this plan includes a scale of 1cm to 12.50m this does not correspond to the fixed measurements shown on the plan and consequently it is not an accurate representation of the proposed development. It is considered that the only purpose which can be attributed to this plan is to provide a broad indication of the segregation of various operational activities associated with the consented development.

As noted above, the use commenced in May 2010 and although the applicant has not commenced the training area, the off-road motorcycle facility area has been in operation since May 2010 as shown on appended drawing no. KP/14/05A received by the local planning authority on 19 August 2014 (appended as NLC3).

Having regard to the amended details and the areas of operation since May 2010, the applicant is seeking to replace the approved plan with drawing no. KP/14/05 dated as received by the local planning authority on 6 August 2014. A copy of the proposed varied plan is appended as NLC4.

In broad terms the off-road motorcycle facility area on the proposed plan accords with the same off-road motorcycle facility area that has operated since May 2010. In terms of the proposed plans, compliance with the amended details referenced in the condition as noted above cannot be accurately recorded due to the aforementioned deficiencies of the amended details. However, it is considered not unreasonable to conclude that the following variations exist:

- The training facility (CBT) has reduced in area.
- The off-road motorcycle facility area has increased.
- The size of building 2 has increased.

### **The decision-taking process**

Government advice on the use of planning conditions is contained within the NPPF and the PPG, both of which re-affirm the position with regard to planning conditions that was in effect when the extant permission was granted. The PPG at Paragraph: 031 Reference ID: 21a-031-20140306 states with clarity that:

*'In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.'*

The same paragraph adds:

*'It should be noted that the original planning permission will continue to exist whatever the outcome of the application under section 73.'*

Both the NPPF and the PPG set out as a matter of policy a series of tests (known as the six tests) all of which have to be met to allow a condition to be lawful and attached to a grant of planning permission. In brief, these tests explain that conditions should be:

- (i) necessary;
- (ii) relevant to planning;
- (iii) relevant to the development to be permitted;
- (iv) enforceable;
- (v) precise; and
- (vi) reasonable in all other respects.

### **Main issue**

The singular issue in this case is whether the existing condition meets the requirements of being necessary, precise and enforceable as set out in the six tests.

## **Assessment of the main issue**

### *Need for the condition*

On the matter of considering whether a condition is necessary, local planning authorities shall ask themselves whether planning permission would have to be refused if the requirements of that condition were not imposed. If it were not, then the condition needs special and precise justification.

Condition 4 was placed upon the decision notice on the basis, in part, to ensure that the development is in keeping with its surroundings and is in essence a general amenity reason.

The second element of the reason (ie the justification for the condition) references local plan policy DS5, which should amplify the first element of the reason for the condition. However, local plan policy addresses the issue of residential extensions, which has no connection with the first element of the reason, let alone the proposed development. This was clearly an error in drafting the decision notice.

It is evident that whilst it would be good governance to have a condition seeking that a proposed development should accord with the approved plans, such a condition should be founded upon a robust and sustainable reasoning, which has not occurred in this instance. The condition therefore fails this test.

### *Precision*

There is a requirement that conditions should be precise and the framing of conditions requires care, not least to ensure that a condition is enforceable, consequently a condition that is not sufficiently precise for the applicant to be able to ascertain what must be done to comply with it is ultra vires.

Condition 4 lacks precision in a number of respects, not least of which is that there is no approved details dated 16 June 2009 held on file and whilst there is a consensus that the amended plan is the amended details covered by the condition, consensus alone is not a precise measure. Indeed, if it were deemed that the condition met the precision test, then the amended plan lacks any precision to enforce the condition. It is therefore the report writer's view that this test has not been satisfied.

### *Enforceable*

Precision in the wording of a planning condition is vital when it comes to enforcement. In this instance the condition according to the reason is intended to prevent any harm to the surroundings by virtue of residential extensions. Allowing for the above commentary it is evident that the condition and its underpinning reason lacks precision and has no connection with the proposed development. Therefore, condition 4 fails this element of the six tests.

## Other issues

On the issue of the further comments received from the Environmental Health department, now raising an objection on noise grounds (appended as NLC5), the committee should be advised upon and carefully consider the following matters.

Firstly, the revised representation is seeking the submission of a noise management plan for an area that has operated since May 2010 and been monitored by the council. Indeed, this aspect of the approval has been addressed by the applicant under condition 11, which covers the issue of noise that was lawfully discharged on 1 June 2010.

The Planning Act is very clear on dealing with section 73 applications in that the local planning authority must only consider the disputed condition/s that are the subject of the application.

The proposed condition seeks to regularise the areas of activity that currently exist and would allow the council to control the areas of operation that cannot be achieved under the current condition 4. The Environmental Health department has powers to deal with noise nuisance under another Act.

Secondly, the consultation response does not state with clarity that the variation, which sets out the current areas of activity will increase the level of noise as the number of bikes are currently limited by a planning application and *the 'new' track size on its own would not be significant in terms of bringing noise sources closer to residents*. The consultee differentiated between the small track and the larger track; however, the only elements under the approved scheme are a training area and the main track. The consultee is also mindful of what is described as *'creeping background noise' through the submission of incremental planning applications seeking to vary planning conditions at the site*. However, each application is considered on its own merits and it is not for the decision-taker to determine one application based upon what may or may not arise before the local planning authority for determination.

Finally, the consultee comments that it is essential that the conditions prevailing at the time of noise monitoring are maintained. As cited above, the variation application does not alter any of the other conditions on the originating permission.

## Concluding comments

Having regard to the above commentary it is considered that condition 4, as set out on the face of the decision notice, fails the above quoted tests and could be deemed to be unlawful and not effective. The fact that an applicant has agreed to a condition either directly or tactlessly does not make that condition lawful.

In order to rectify the clear weakness of the condition it is recommended that condition 4 should be varied and replaced with the following wording:

*'The proposed development shall be carried out in accordance with drawing no. KP/14/05 received by the local planning authority on 6 August 2014.*

*Reason*

*For the avoidance of doubt.'*

**RECOMMENDATION      Grant permission subject to the following condition:**

1.

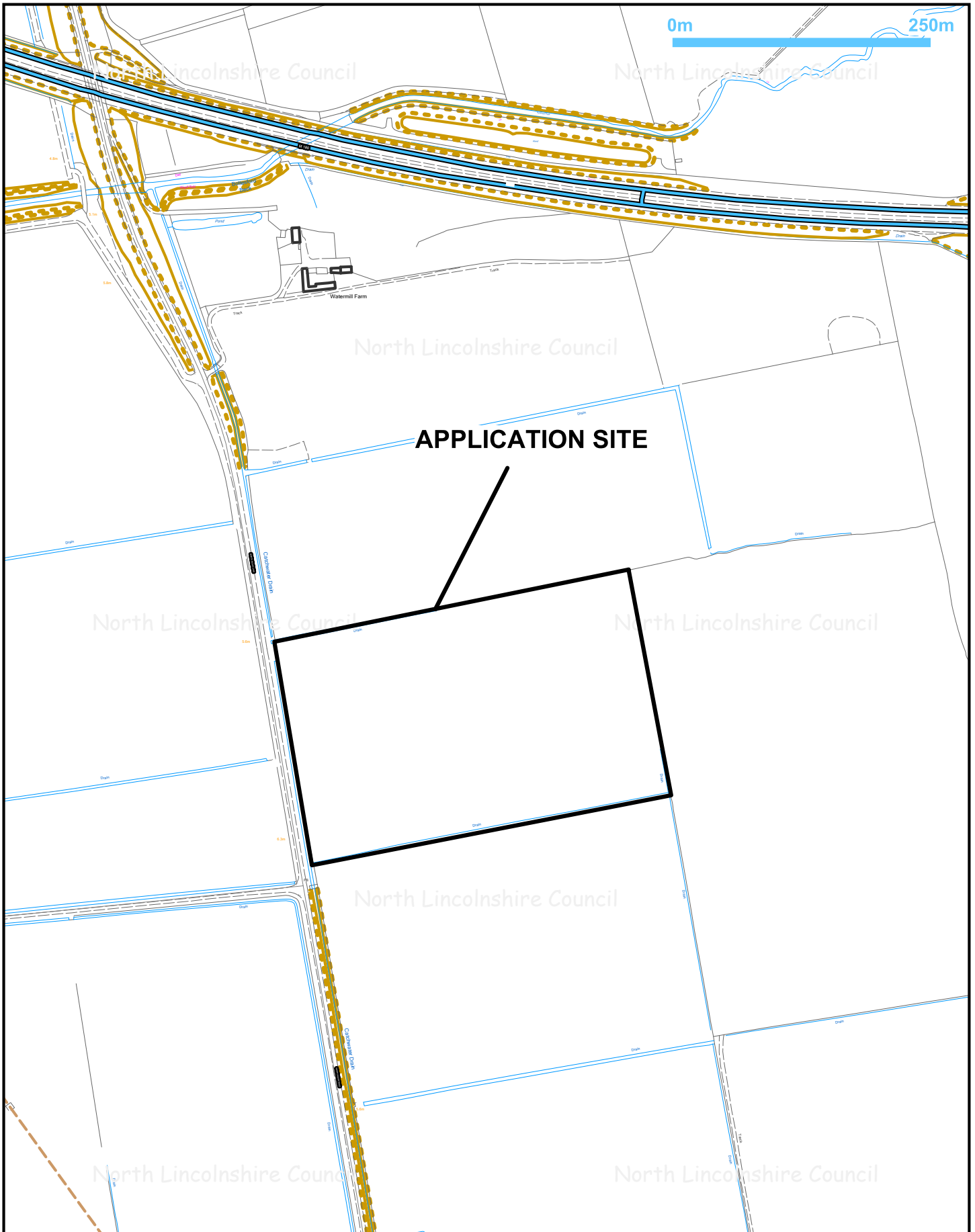
The proposed development shall be carried out in accordance with drawing no. KP/14/05 received by the local planning authority on 6 August 2014.

Reason

For the avoidance of doubt.

**Informative**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.



Title: PA/2014/0762			
Drawn by: Sue Barden	Date: 26/11/2014	Scale: 1:5000	

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**TOWN AND COUNTRY PLANNING ACT 1990**  
**FULL PLANNING PERMISSION**



**APPLICATION NO: PA/2009/0444**

**Applicant:** Act Fast

**Address/Agent:** Mr P Sembiante  
Act Fast  
69 Caistor Avenue  
Bottesford  
SCUNTHORPE  
DN16 3QN

**North Lincolnshire Council** hereby give notice that the application received on 21/04/2009 for:

**change of use to provide off-road motorcycle riding facility and to site storage containers on land adjacent to Bottesford Beck, North Moor Lane, Messingham**

has been considered and that permission for this development in accordance with the plans and written particulars submitted has been granted subject to the following conditions and reasons:

1.  
The development must be begun before the expiration of three years from the date of this permission.

**Reason**

To comply with section 91 of the Town and Country Planning Act 1990.

2.  
Within one month of the change of use being commenced on site, the applicant or their agent shall confirm in writing to the local planning authority the date of when the change of use took place.

**Reason**

To allow time to assess the impact of the development on the open countryside and in the interest of protecting the amenity of surrounding properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

3.  
The buildings and works hereby permitted shall be removed and the use hereby permitted shall be discontinued and the land restored to its former condition within 2 years of the change of use commencing.

**Reason**

To allow time to assess the impact of the development on the open countryside and in the interest of protecting the amenity of surrounding properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

4.

The development shall be carried out in accordance with the amended details received by the local planning authority on 16 June 2009.

**Reason**

To define the terms of the permission and to help ensure the development is in keeping with its surroundings in accordance with policy DS5 of the North Lincolnshire Local Plan.

5.

No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance with details to be submitted to and approved in writing by the local planning authority to prevent the material from spilling onto the highway. Once agreed and implemented these measures shall be retained.

**Reason**

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

6.

Any gates or gate positions at the vehicular access shall be set back a minimum distance of 10 metres from the edge of the nearside carriageway.

**Reason**

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

7.

The proposed facility shall not be brought into use until the vehicular access to it and the vehicle parking and turning space serving it have been completed in accordance with drawing number XU/05/04 of planning application PA/2005/1668 and, once provided, the vehicle parking and turning space shall be retained thereafter.

**Reason**

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

8.

No development shall take place until a scheme for the disposal of foul and surface water has been agreed in writing by the local planning authority and none of the dwellings shall be occupied until it is connected to the approved drainage system.

**Reason**

To ensure satisfactory drainage is provided in accordance with policy DS14 of the North Lincolnshire Local Plan.

9.

No development shall take place until a landscape and biodiversity management plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- (a) details of measures to avoid harm to protected species, including nesting birds, during the construction phase of development;
- (b) details of enhanced ditch management and habitat buffers to be left next to existing hedgerows and ditches;
- (c) details for the retention and management of existing boundary hedgerows, including the provision of native hedgerow trees;
- (d) details of proposed tree and hedge planting and aftercare;
- (e) details of the timing of the above works in relation to development of the site;
- (f) monitoring procedures and remedial measures triggered by monitoring, including monitoring of water vole activity and any landscaping amendments required to conserve potential water vole habitats.

The management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority.

Reason

To provide appropriate landscaping and protect features of recognised nature conservation importance in accordance with policies DS1, LC5, LC6 and LC12 of the North Lincolnshire Local Plan.

10.

No external lighting shall be erected on the site at any time.

Reason

To avoid light pollution in accordance with policies DS12 and DS1 of the North Lincolnshire Local Plan.

11.

No development shall take place until a noise impact assessment has been submitted to and approved in writing by the local planning authority. The assessment shall include the following details:

- (a) existing background noise levels in the vicinity of the site;
- (b) likely noise sources associated with the proposed development which may impact upon sensitive receptors and their respective noise levels;
- (c) mitigation methods to be employed to reduce impact on sensitive receptors;

- 
- (d) the resulting predicted level of noise at sensitive locations;
- (e) predicted noise levels shall be compared to relevant guidance levels contained within the World Health Organisation document 'Guidelines for Community Noise'.

Any approved mitigation measures shall be implemented in their entirety prior to development taking place and shall be retained thereafter.

**Reason**

To avoid unacceptable loss of amenity through noise disturbance to residential properties located within the vicinity of the site in accordance with policy DS1 of the North Lincolnshire Local Plan.

12.

The proposed motorcycle training facility shall not be operated outside the hours of 9am to 6pm Monday to Saturday, 10am to 4pm on a Sunday and at no time on a public holiday.

**Reason**

To define the terms of the permission and to avoid unacceptable loss of amenity through noise disturbance to residential properties located within the vicinity of the site in accordance with policy DS1 of the North Lincolnshire Local Plan.

13.

No more than 30 motorcycles shall be in operation on the site at any time.

**Reason**

To define the terms of the permission and to avoid unacceptable loss of amenity through noise disturbance to residential properties located within the vicinity of the site in accordance with policy DS1 of the North Lincolnshire Local Plan.

14.

No motorcycle shall be used anywhere on the site unless it is fitted with a silencer that enables the motorcycle to comply with the relevant sound level requirements of the Federation Internationale de Motorcyclisme (FIM), or when a motorcycle is being tested to determine whether it complies with this condition.

**Reason**

To define the terms of the permission and to avoid unacceptable loss of amenity through noise disturbance to residential properties located within the vicinity of the site in accordance with policy DS1 of the North Lincolnshire Local Plan.

15.

Within one month of the date of this permission the steel containers hereby approved shall be painted in a colour to be agreed in writing by the local planning authority and shall remain as such thereafter.

Reason

To ensure that the steel containers are in keeping with their surroundings in the interests of visual amenity in accordance with policies DS1 and RD2 of the North Lincolnshire Local Plan.

16.

Any excavation within the cross-hatched area shown on the attached plan (reference NLSMR 2009/0444) will be restricted to a maximum depth of 15 centimetres below existing ground level.

Reason

To comply with policy HE9 of the North Lincolnshire Local Plan and protect archaeological remains.

Dated: 19th August, 2009. Signed:



M Welton  
Head of Planning

**Informative:**

The development hereby granted planning permission requires works to be carried out within the limits of the adopted (public) highway. Therefore:

- before ANY construction works take place within the limits of the highway you MUST contact the highway authority on telephone number (01724) 296686 to arrange for the relevant permissions/licenses to be issued;
- before ANY service (utility) connections take place within the limits of the highway you MUST contact the highway authority on telephone number (01724) 297319 to arrange for the relevant permissions/licenses to be issued.

This decision (based on the plans and information submitted with and contained in the application) has, where appropriate, been considered against and meets the provisions of the following policy/policies contained in:

1. North Lincolnshire Local Plan: RD2, DS1, DS12, LC5, LC6, LC12
2. Regional Spatial Strategy for Yorkshire and the Humber: None

**WARNING**

THIS DOCUMENT DOES NOT CONSTITUTE ANY  
APPROVAL UNDER THE BUILDING REGULATIONS

## WARNING

This is a **PLANNING PERMISSION ONLY**. It does **NOT** convey any approval or consent required under any enactment, byelaw, order or regulation other than those referred to in the heading of this notice. It is **IMPORTANT** that you should read the notes concerning **APPEALS** below.

### Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

**Note: Householder Development\*** If your application was for Householder Development and you wish to appeal to remove or vary a condition or conditions attached to this permission then you must do so within 12 weeks of the date of this notice.

- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

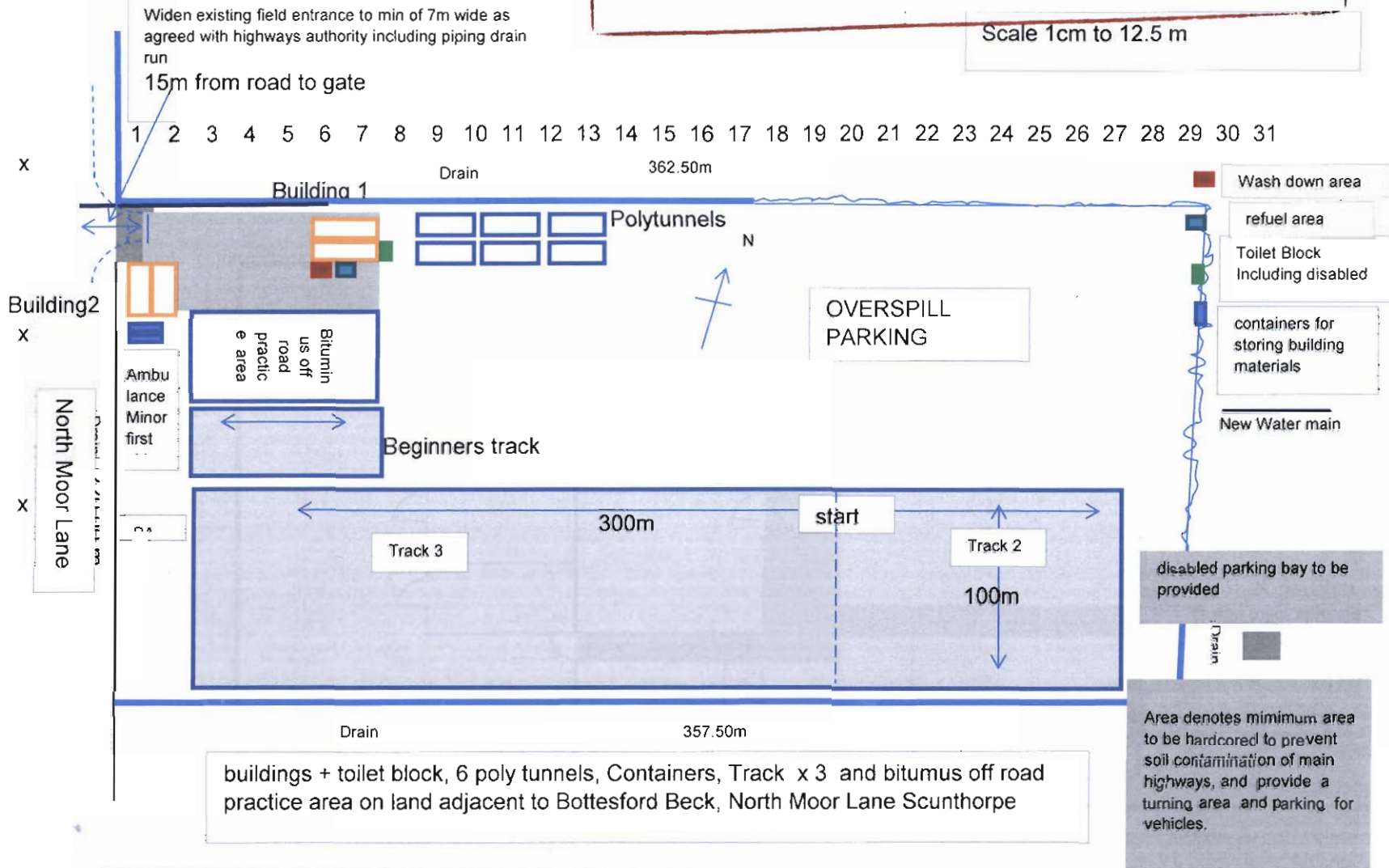
\* **Householder Development includes: dwelling house extensions, alterations, garages, swimming pools, walls, fences, vehicular access, porches and satellite dishes**

### Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part V1 of the Town and Country Planning Act 1990.

# AMENDED PLAN

Scale 1cm to 12.5 m

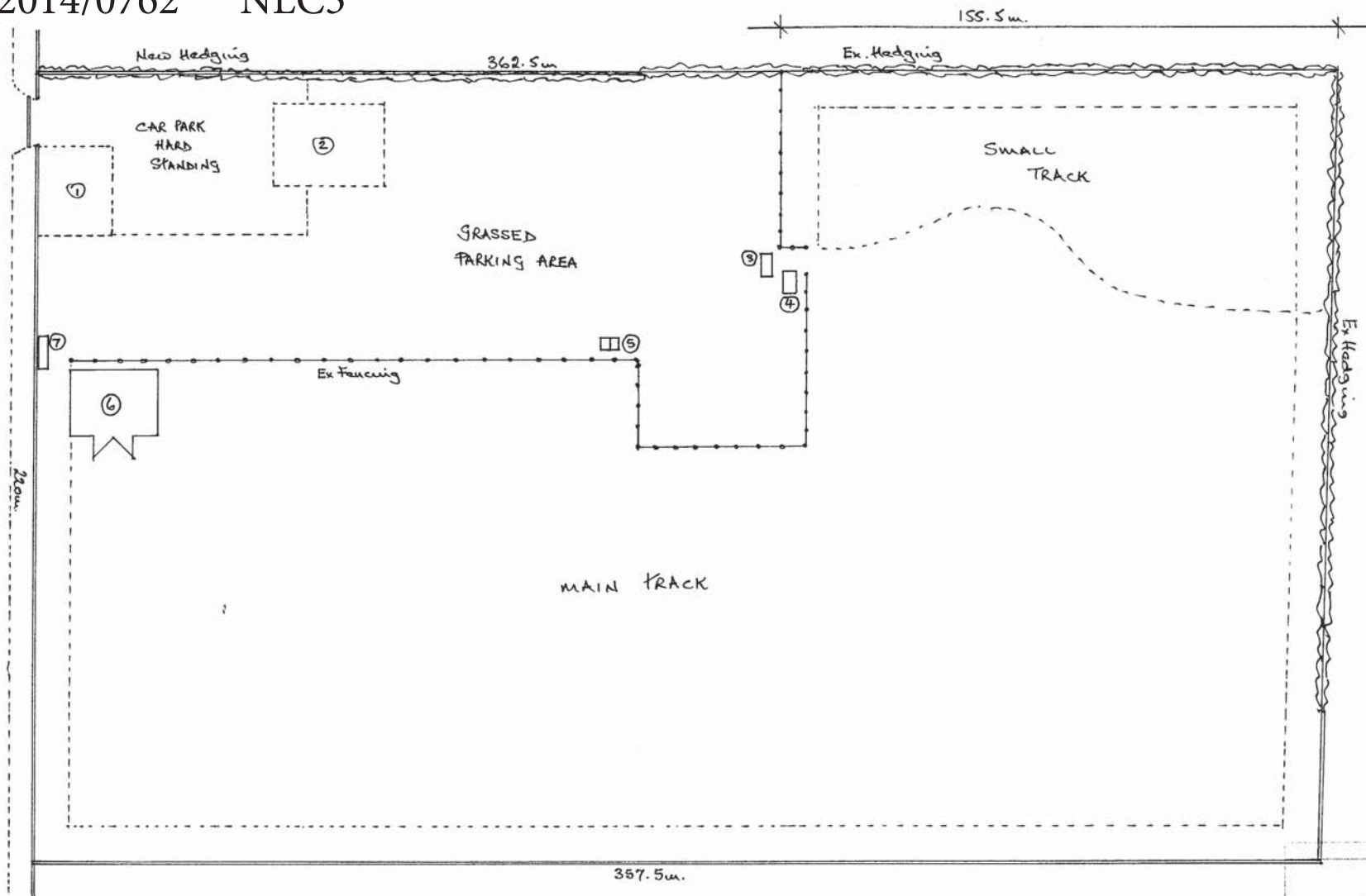


buildings + toilet block, 6 poly tunnels, Containers, Track x 3 and bitumus off road practice area on land adjacent to Bottesford Beck, North Moor Lane Scunthorpe

Area denotes minimum area to be hardcored to prevent soil contamination of main highways, and provide a turning area and parking for vehicles.

Amendments to development after consultation

PA/2014/0762 NLC3



- 1 = TRIALS BIKE AREA  
19m x 28.2m.
- 2 = HARDCORE BASE FOR NEW BUILDING  
18m x 24m.
- 3 = SIGNING ON CABIN  
2.3m x 5.7m.
- 4 = FIRST AID CABIN  
2.6m x 6m.
- 5 = 2<sup>ND</sup> PORTALOOS
- 6 = SECURE COMPOUND  
17.6m x 23.8m.
- 7 = WATER TANKER  
2m x 9m.

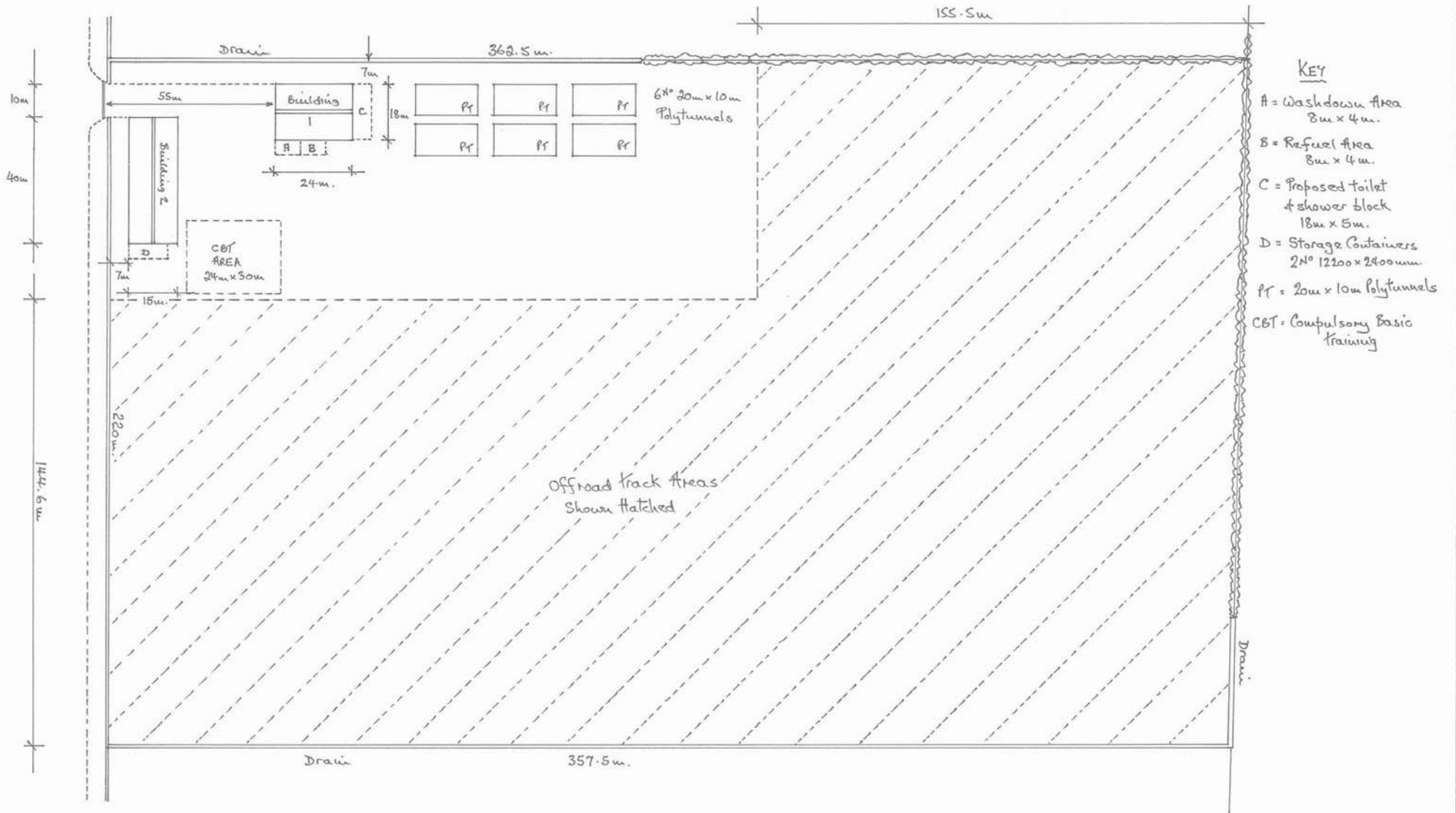
DEVELOPMENT CONTROL SECTION  
19 AUG 2014

2014/0762

<p>MR. P. SEMBIANTE KIERADAN PARK SCOTTER ROAD SCUNTHORPE</p>	<p>EXISTING SITE PLAN AS AT 18/08/2014</p>	<p>DRAWN BY: JEM MANAGEMENT SERVICES 45 OSWALD ROAD SCUNTHORPE 01724 282386</p>	<p>DATE: August 2014 SCALE: 1/1250 @ A3</p>	<p>DRG. N° KP/14/05A REV.</p>
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PA/2014/0762 NLC4



MR. P. SEMBIANTE  
KIERDAN PARK  
SCOTTER ROAD  
SCUNTHORPE

PROPOSED SITE PLAN  
KIERDAN PARK

DRAWN BY:  
JEM MANAGEMENT SERVICES  
45 OSWALD ROAD  
SCUNTHORPE 01724 282386

DATE: MAY 2014


SCALE: 1/1250

DRS.N°: KP/14/05

REV.

**RECEIVED**

By Development Control at 4:16 pm, Oct 22, 2014

I N T E R	<h1>MEMO</h1>	
O F F I C E		

To: Nicholas Lawrence, Development Control

From: Environmental Health (Commercial)

Your Ref: PA/2014/0762

Our Ref: PLU001196

Subject: Planning permission to vary condition 4 of PA/2009/0444

Location: Kieradan Park, North Moor Lane, Messingham

Date: 30 September 2014

I have considered the above planning application to vary condition 4 of the existing permission. The permission previously granted (PA/2009/0444) was to provide an off-road motorcycle facility.

Condition 4 states '*The development shall be carried out in accordance with the amended details received by the local planning authority on 16 June 2009*'.

The applicant is seeking to regularise his planning permission in respect of the current site layout relative to the site layout approved within the original permission.

The site is the subject of ongoing noise complaints arising from motocross activity which impacts on local residents in the villages of Messingham and Yaddletorpe. On the basis of the noise impact on local residents consideration has been given to whether the doubling of the original track area has had a direct impact on noise experienced by local residents, and whether there are any indirect impacts from the increase in the track size from that originally permitted.

### **Direct Impacts**

The "new" track size on its own would not be significant in terms of bringing noise sources closer to residents, the layout and scales involved are such that there is no significant difference in distance attenuation when comparing the closest boundary of the track to the closest residents for the two layouts.

Environmental Health have not been able to directly monitor what the noise impact would have been if the development had been undertaken in accordance with the original permission. No noise monitoring has been conducted with 30 bikes using the "original track layout" approved in 2009 compared to the existing current situation.

### **Indirect Impacts**

It is possible that 30 bikes on an area half the size of the current track would result in bikes having to ride more slowly thus resulting in a lower noise level than the existing situation. This effect has been seen during recent noise monitoring. Evidence showed that when the track was more crowded and bikes were riding at slower speeds the higher number of bikes did not result in a discernable increase in noise levels.

I note that the proposed site layout shows no detail in terms of the relative size and location of the 'small' and 'main' track areas and it is unclear from the application whether the applicant intends to operate the site with just one main track, further enlarging the area which will be used by the 'noisier' bikes. The current noise experienced by the residents differs dependent upon the types of bikes and riders on the track and this in turn is a consequence of the track that riders are using. In essence riders of the 'small track' cause less of an impact than those riding on the main track.

I am concerned that yet another increase in the size of the main track will result in increased noise from the site and it is important that the different tracks are correctly marked on the proposed plans and controlled by the use of a planning condition to ensure that there is no further increase in the size of the main track.

I am concerned that there is the potential for the site to result in a 'creeping background' noise through the submission of incremental planning applications seeking to vary planning conditions at the site.

It is also important to recognise that operation of the site during recent noise monitoring conducted by the council was in accordance with noise mitigation agreed with the applicant in response to noise complaints. It is therefore essential that the conditions prevailing at the time of noise monitoring are maintained, this includes the current layout of the track. In order to maintain current noise mitigation and continue to strive for improvements in noise outbreak from the site it is suggested that a noise management plan is submitted by the applicant to mitigate against the proposed changes contained within the current application.

In order to assess the impacts of this development a noise management plan should be submitted **prior to determination** of the application so that the content can be included as planning conditions.

The noise management plan will need to include but is not limited to the following

1. Location of separate track areas identified on the site layout plan, with information on the types of activity that will take place on the tracks. Information on where the 'training facility' will take place and areas of the track which can be used for commercial activity and the proposed operating hours of the two distinct activities.
2. Location and design of a designated, bunded noise testing area identified on the site layout plan which is positioned to minimise the impact on local residents.
3. Details regarding noise testing of visiting bikes and site owned bikes including the frequency of testing, the methodology to be used and the maximum noise level permitted to ride on the site. The specification of the sound level meter to be used, the frequency of full calibration and details of operator calibrations and the qualification and training of employees authorised to undertake noise testing of bikes.
4. Management controls taken in the event that bikes are above the permitted noise level or where bikes are thought to be noisy on the track.
5. Management records which will be kept which should include as a minimum, calibration information, the name of the person undertaking the calibration and each noise measurement thereafter, the type and cc of the bike and the measured noise level.
6. Details of staff training and ongoing competence in relation to 'competent persons' in respect of noise control.

If the above information is not submitted then Environmental Health would support a refusal on noise grounds.