

- a) **DOV/22/00669 - Alterations to existing track layout to include formation of banked turn and earth formed tabletop jump (retrospective application) - Lydden International Race Circuit, Dumbrill Hill, Wootton**

Reason for report – Number of contrary views (33) and called in by Cllr Beaney

- b) **Summary of Recommendation**

Planning permission be granted.

- c) **Planning Policy and Guidance**

Core Strategy Policies (2010): CP1, CP2, CP5, CP6, CP7, DM1, DM3, DM11, DM12, DM13, DM15, DM16, DM17

Land Allocations Local Plan (2015)

Dover District Local Plan (2002) Saved policies: CO8, ER6, AS13, OS7

Draft Dover District Local Plan (Regulation 19): SP1, SP2, SP4, SP6, SP12, SP13, SP14, SP15, CC1, CC2, CC3, CC4, CC5, CC6, CC8, PM1, PM2, PM4, PM5, PM6, E1, E2, E4, T11, T12, NE1, NE2, NE4, NE5, HE1, HE3

Kent Downs Area of Outstanding Natural Beauty Management Plan 2021- 2026

Kent Downs Landscape Design Handbook

Kent Downs Landscape Character Assessment

Countryside and Rights of Way Act 2000: Section 85

National Planning Policy Framework (NPPF) (2021): Chapters 2, 4, 6, 8, 9, 12, 14, 15, 16

National Design Guide & National Model Design Code (2021)

Kent Design Guide

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Planning and Compulsory Purchase Act 2004: Section 38(6)

Noise Policy Statement for England

- d) **Relevant Planning History**

DOV/20/00740 – Replacement of start/finish line gantry (existing gantry to be removed) – Granted

DOV/19/00861 - Erection of a marquee for use as a hospitality suite for a period of 3 years (retrospective) – Granted

DOV/19/00615 - Demolition of existing Circuit Offices and erection of replacement building comprising VIP Centre and additional use of the circuit for non-race activities and construction of new access road from existing access in Geddinge Lane – Granted

DOV/15/00827 – Erection of a part two storey, part three storey spectator hospitality building, two grandstands, a two storey building comprising competitor hospitality, administration and scrutineering facilities, 14no. two storey engineering units (Use Class B1 and B2), and a single storey site entrance building, formation of access road, together with associated hard and soft landscaping and drainage, retention of motor racing, and proposed use for drifting, driving schools (including beginner, advanced and police driver training), bicycle training and racing, 'track days' (including corporate and experience driving days), use for educational purposes, filming, non-driving based events (including car shows, craft fairs and hot-air ballooning) and ancillary camping - Refused

DOV/14/00415 – Section 73 application for the variation of condition 2 of planning permission DOV/12/00589, to allow: one additional hour of racing on Sunday 25th May 2014, between 4pm and 5pm (for the World Rallycross Championships); three consecutive weekends of two-day racing events in May 2014 (10th-11th May, 17th-18th May and 24th-25th May); three consecutive weekends of two-day racing events in June/July 2014 (21st-22nd June, 28th-29th June and 5th-6th July 2014) – Granted

DOV/13/00167 – Section 73 application for the erection of race control/ office tower, toilet/shower block, single storey workshop/store/scriutineering building, VIP centre/canteen building and associated landscaping with the variation of condition 2 to allow external changes to the appearance of the race control tower – Granted

DOV/12/00589 - Section 73 application for the variation of Condition 2 (part E) of planning permission DO/84/1109, to vary the opening times on a Sunday - Granted

DOV/11/01115 – Erection of race control/officer tower, toilet/shower block, single storey workshop/store/scriutineering building, VIP centre/canteen building and associated landscaping (existing race control building, toilet/shower block, scrutineering building, workshop and storage containers to be removed) – Granted

DOV/11/00463 – Certificate of Lawfulness (existing) for continued use of land for grass track racing – Granted

DOV/10/00650 – Erection of a catering building – Granted

DOV/09/00116 – Retrospective application for the siting of a two storey portable building – Granted

DOV/09/00115 – Retrospective application for the erection of two grandstands and associated hardstanding – Granted

DOV/99/00745 – Variation of condition 2 of permission DOV/96/1091 to enable the construction of the first section of the access road – Granted

DOV/99/00746 – Variation of condition 3 of permission DOV/96/1091 to enable the construction of the first section of the access road – Granted

DOV/99/00747 – Variation of condition 4 of permission DOV/94/0053 to enable the construction of the first section of the access road – Granted

DOV/96/01091 – Part details pursuant to condition (i) of planning permission DOV/94/0053 for research, development and production building (business B1 use), hospitality building and museum and the means of access thereto – Granted

DOV/94/00053 – Variation of conditions 2 & 3 of outline planning consent DOV/91/0257 to extend periods relating to submission of details and commencement of the development – Granted

DOV/94/00053A – Amended details of site access and Geddinge Lane/A2 junction – Granted

DOV/94/00053B – Further amended details of site access and Geddinge Lane/A2 junction, including introduction of traffic lights - Granted

DOV/91/01196 – Use of land for overnight camping in association with race meetings – Allowed at Appeal

DOV/91/00258 – Outline scheme for replacement circuit for motor racing and testing racing & testing; hospitality building & museum; pit complex; research, development & production building (Business B1 use); new access & improvements to existing access; landscaping, together with ancillary works – Withdrawn

DOV/91/00257 – Outline scheme for a replacement circuit for motor racing and testing; hospitality building and museum; pit complex; research, development and production building (business B1 use); new access and improvements to existing access; landscaping, together with ancillary works - Granted

DOV/88/00871 – New race control building and associated car parking – Granted

DOV/84/01109 – Continued use as a Motor Sport Centre together with associated toilets, buildings and car parks – Allowed at Appeal

e) **Consultee and Third-Party Representations** (Summarised)

Representations can be found in full in the online planning file. A summary has been provided below:

Denton with Wootton Parish Council – The first comment I would make is about this application being in retrospect. Several of my observations would have been relevant if submitted in advance of the work being completed as they may have resulted in some requirements or restrictions being placed upon any approved works. However as the work has already been completed and it is impossible to undo any harm caused, then the whole purpose of the planning process has been subverted. To take an example. The work involved excavating a large amount of chalk from one part of the circuit to build the bank which is the subject of the application. Given the proximity of the circuit to the ridgeway, which became a principal roman road, it would have been useful to undertake an archaeological survey of the excavation location. This is no longer possible as the location is now a 'disturbed' hole in the ground. Something that could have been required of the applicant as part of the planning process, is now therefore not relevant? In the same way, whilst dust associated with building work would not be grounds to object to the application, there could have been restrictions placed upon the way the work was undertaken to reduce the nuisance caused by the chalk dust released over

a wide area. As the applicant often applies for retrospective permission, is it possible for the Local Planning Authority to place some restriction or injunction upon any work being carried out in advance of a planning application? I see no other way for the planning process to have any value if such approvals are always sought in retrospect. In terms of the application the Parish Council are sensitive to the fact that the circuit operates within an Area of Outstanding Natural Beauty and so would ask that the Kent AONB is asked to comment on the application. We would raise concerns about the noise and disturbance resulting from the change in use. The nature of events involving driving over a bank must be different and so by implication will be the pattern of noise. The potential impact of such changes are not clear. The extraction of the chalk to construct the bank will potentially cause harm to the flora and fauna in the local environment. How this is to be managed is not clear. The extraction of the chalk to create the bank will also significantly disturb the ground and so harm any potential archaeological deposits in the area. How such damage will be managed or prevented is not clear. We believe that more details should be provided about the potential environmental and archaeological harm caused by this application. In addition more information provided about the impact of this change in use of the circuit before such an application can effectively be considered.

Shepherdswell with Coldred Parish Council – are unhappy that this is a retrospective application and would like reassurance that no environmental laws were broken in constructing the ramp.

KCC Archaeology – no response received.

KCC Highways and Transportation – having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority. (An informative is suggested).

KCC Public Rights of Way and Access Service – have no comments to make.

Environment Agency – have assessed this application as having a low environmental risk and therefore have no comments to make. The applicant may be required to apply for other consents directly from the EA (information to be included as an informative).

Environmental Health/Protection - When reviewing the application, we note that currently noise is monitored and therefore controlled by the presence of an abatement notice under the Environmental Protection Act 1990. We also note that further controls are planned under the yet to be agreed Noise Management Plan outlined in DOV/19/00615.

When reviewed the application information we note the statements made in the design and access statement under sections 8.8 and 8.9. I agree with both statements and therefore we raise no comment on this application.

Planning Policy Team - The proposed retrospective changes are to the physical circuit itself, with the addition of a banked turn and a tabletop jump, plus an area of new track. It is noted that there are no changes proposed to the number of race days, with existing noise controls maintained. Given that the objective of the works will be to attract new race events, the potential for intensification should be clarified. In the emerging plan, there are no policies relating specifically to the race circuit. Numerous policies are relevant, however, including: SP6, SP10, SP11, SP12, SP13, SP14, SP15, T12, NE2, NE4, HE1, HE3. This comment focuses on the policies in the emerging Dover District Local Plan. The Submission version was published for consultation at Regulation 19 in October 2022. You are aware of the weight that emerging plan policies can attract in decision making (limited but potentially variable for each policy) and relevant Court

Judgements, including *West Oxfordshire District Council v (1) Secretary of State for Housing Communities and Local Government (2) Rosconn Strategic Land Limited* [2018] EWHC 3065 (Admin).

The Council has consulted on its Regulation 19 submission draft Local Plan, but has not yet analysed the responses and is still unable to advise on the nature of objections received to the emerging policies. It seems unlikely that the decision on this application will seek to rely on the emerging Local Plan policies. This is because there is not a policy specifically written to apply to Lydden Race Circuit and the relevant planning issues and matters are substantially covered by national policy, adopted policy and primary legislation, including the Countryside and Rights of Way act 2000 (which confirms AONB purposes). Finally, it is noted that Policy E4 of the emerging plan also refers to any adverse impact on living conditions, and issues relating to noise and dust are relevant in this case. Policy PM1 refers to compatibility with neighbouring buildings, and paragraph 174 of the NPPF refers to air and noise pollution. Clearly, the Council must consult the Environmental Health Team to see if the existing restrictions, and Noise Abatement Notice are adequately managed and monitored, and this will inform the decision. As with the previous application, the Economic Development benefits will also be relevant to the decision.

Senior Natural Environment Officer – have no comments to make on this application as the works appear to be restricted to the area in the vicinity of the existing race-track with no direct impact on any semi-natural habitats except maintained grassland.

Tree and Horticulture Officer – have no objections to the above development that appears not to impact on the TPO trees.

Kent Downs AONB Unit – the application site lies within the Kent Downs AONB. Application needs to be tested against the purpose of the designation, to conserve and enhance natural beauty. Section 85 of the Countryside and Rights of Way Act 2000 requires local authorities to have regard to ‘the purpose of conserving and enhancing the natural beauty of AONBs’ in making decisions that affect the designated area. The National Planning Policy Framework (NPPF) paragraph 176 requires great weight to be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas. The scale and extent of development within these designated areas should be limited. Reference is made to NPPF Paragraph 11 d and footnote 7 and NPPF Paragraph 176, National Planning Practice Guidance, Core Strategy Policies DM15 and DM16 and the duties of the Countryside and Rights of Way Act. Principles MMP2, SD1, SD3, SD7 and LLC1 of the Kent Downs AONB Management Plan are considered to be of particular relevance to the application. The site lies within the East Kent Downs Landscape Character Area and information on the characteristics and landscape management recommendations for the area are provided.

The site lies towards the end of an attractive dry valley that is typical of the local landscape character area within which it is located, with dry valleys noted as one of the special characteristics of the Kent Downs AONB. It is surrounded by agricultural land with very sparse development other than an occasional house and farm buildings. Despite the proximity to the A2 dual carriageway, the land immediately surrounding the racetrack site has a very rural character. The site itself comprises part of the valley bottom, part of the northern valley side and a flat plateau area at the top of the valley. In terms of visual impacts, while relatively well contained in the wider landscape, views are nevertheless possible from outside of the site, including from Dumbrill Hill,

Geddinge Lane and Public Right of Way ER111, a designated byway that connects these two roads. The application proposes (retrospectively) a banked turn and earth formed tabletop jump, both on the part of the site located on the valley bottom, which limits their visibility in the wider landscape. Nevertheless, the proposal has resulted in a change to the natural landform of the site through the introduction of the banked turn and the raised tabletop feature which extends to a height of some 6 metres, introducing unnatural engineered features that contrasting with the natural flat topography of the valley bottom. Furthermore, the proposal introduces an extensive area of new track, approximately 175 metres in length and 15 metres wide on a currently undeveloped and grassed area, increasing the amount of hard infrastructure and reducing the amount of natural green space within the site. As such, it is not considered that the proposed alterations to the racetrack either conserve or enhance the landscape or visual beauty of the Kent Downs AONB and is in conflict with Management Plan Principles SD3 and LLC1. In addition to the landscape and visual impacts of the proposal, impacts on tranquility are also relevant. Tranquility is identified as one of the special characteristics and qualities of the Kent Downs AONB and principle SD7 of the AONB Management Plan advises that new development which impact on tranquility will be opposed unless they can be satisfactorily mitigated. Careful assessment of whether the alterations will result in an intensification of use of the site which would result in a deterioration of tranquility therefore also needs to be made.

Third Party Representations:

33 Representations of objection (including from the Wootton Environmental Protection Group) have been received and are summarised below:

- Inaccuracies - application is deficient in content, misleading. Application form states work has not started (however started 3rd May 2022 before application was submitted on 23rd May 2022 and was partially in use for the Clubman's RallyCross on 28th May 2022). States work will not be for a commercial purpose but was completed in time for the Nitro Rallycross event on 18/19 June 2022 (commercial event). States will not involve the carrying out of industrial processes when the large machinery involved to build new ramps and jumps created noise, significant vibration and very high levels of dust filling the air and coating the flora and fauna on Dumbrill Hill and Geddinge Lane with thick coat of dust (no mitigation plans for residents or impact on AONB are included) and road completely blocked one morning due to heavy plant waiting for access to the circuit. States it cannot be seen from public highway and bridleway but is clearly visible from both. Applicant has answered no to questions in the biodiversity and geological conservation section but the entire site is within Kent Downs AONB which affords the highest level of protection in terms of conserving and enhancing the natural beauty of the landscape. Paragraph 5.8 of application is inaccurate as grandstands were erected without planning permission which was granted retrospectively. Paragraph 7.10 Race Circuit may have been established on site for over 70 years but was never run on proper commercial basis until 2008 onwards. Can be seen from highway, long distance views and from several public rights of way and bridlepath.
- Retrospective – applications which are applied for retrospectively can only be used when a genuine mistake has occurred. Works already completed. Not the first time they have applied for retrospective applications. Disregard to due process. Circumventing normal planning application process
- Impact on AONB – does nothing to protect inherent tranquility which should be afforded to the area in the AONB. Alterations are not in keeping with AONB.

Inappropriate in sensitive area and unnatural in its form and position. Impact has already been significant.

- Impact on residential amenity – work was carried out from early morning to late evening, large vibrating roller was used which impacted on some residents. Will affect the enjoyment of property (due to noise, dust and traffic). Disruptive. Any additional noise is completely unacceptable. Concerns regarding air pollution
- Noise & dust/disturbance – virtually no reference to how these alterations will affect residents in terms of increased noise and dust. The nature of the events for which they have been created naturally incur more noise. Concerns regarding lack of noise management plan detailed on condition of DOV/19/00615 and no move made to establish Consultative Committee as required by condition. Nitro Rally Cross is by its nature inherently noisy and with emphasis on dirt, high-banked corners and large ramps, creates significant levels of dust which drift across the landscape. First event produced intrusive noise in Wootton village (tyre squeal which was high pitched and particularly intrusive could be clearly heard over 7.5 miles away in Covert Wood and in Swingfield Minnis). Tannoy was intrusive as interviews were being broadcast throughout the day over a big screen (louder than the agreed 40db limit). Will be even more noisy than it already is. High volume of noise is unpleasant, stressful and harmful to peace and tranquility of small village. Single event held demonstrated how intrusive racing is, complaints made to DDC after event were countered by standard response stating the noise levels were within those permissible – current noise assessment levels are flawed.
- Archaeology – materials used to implement track changes were mined from the site which has already produced several significant archaeological finds – no reference to any plan/mitigation in the application. Materials mined have left large scars on a sensitive area which hold significant archaeological finds
- The significant holes that have been dug out to provide the earth material for the bank and ramp have scarred the landscape and, nowhere in the application does it set out what action will be taken to mitigate these holes. Should instruct Lydden Hill Racing to restore site to previous condition
- Question economic benefits – works undertaken largely carried out by the owner, application states it will neither increase nor decrease number of employees, question assertion site provides permanent employment with few permanent staff, other staff including casual staff on zero-hours contracts and volunteers, event for which the alterations were implemented was not that well attended. Over-estimation of overnight stays generated by events. Site has its own entertainments licence, actively advertises camping on site, as well as food, alcohol and evening entertainments
- Damaging in terms of climate change
- Detrimental to wildlife (from noise)
- Health and safety concerns, local hospitals overstretched already, concerns regarding track safety with track repairs following events
- Concerns the track keeps seeking to broaden activity beyond permitted use.

131 representations in support of the proposals have been received and are summarised below:

- Established history of site and use - Race circuit has been part of Kent Motor Racing history for over 50 years – should be encouraging and helping Lydden Hill to move forward especially in the world stage. Circuit has been there since 1947 and considered the Home of Rallycross since the late 60's. With all motorsport venues under threat and the loss of many oval tracks across the country we need to support Lydden Hill to help keep motorsport alive in Kent

- Opportunities for other uses - Keen to use site for club based cycle sessions/events (attracting wider pool of riders) and possibility that international events could be held here in the future. Will add to variety of events that can be staged. Opportunity to hold modern events, attract new international championships such as FIA World Rally Cross and Nitro Rally Cross which are both predominantly electric
- Changes put in for an electric car series to move the circuit forward, promoting greener future as emissions from competing cars reduce
- Benefit to course and site – expansion of what is already there. Positive to the venue and not an ‘eye sore’. Not visually displeasing, cannot be seen from outside the grounds, causing no harm to anyone outside the venue. Alleged scarring of the chalk banks has become covered with lush grass
- Benefit to local economy, businesses/trade, tourism and community. Local asset providing employment, learning opportunities and entertainment
- Disruption is minimal. If anything, alterations have resulted in less noise due to cars being on full throttle much less now as they have to negotiate the banked turn and jump. New arrangement gave rise to much less dust in the air than the previous layout gave
- Alterations made of materials already at the site due to the works going on so no environmental damage can be claimed and not intrusive to people outside of the venue as no importation movements of material were required
- Access/traffic - Based next to A2 so access to circuit for work shouldn't be an issue

f) **1. The Site and the Proposal**

- 1.1 The site relates to Lydden International Race Circuit, located to the southeast of Dumbrill Hill in Wootton. The site is to the southwest of the A2 (Dover Road) and to the north of Geddinge Lane. The site is located within the Kent Downs Area of Outstanding Natural Beauty (AONB) and a public right of way (ER111) runs along the southern part of the site.
- 1.2 The site, which is a little over 35ha in size, lies within a valley bottom and extends up the northeastern side of the valley, which then rises to the south of the site. The existing site is used as a race circuit, operating under the limitations and conditions of a permission granted in 2014 (DOV/14/00415). The race track dominates the site, sitting in the bowl of the valley and extending up the slope of the valley on its northern side. There is a variety of supporting infrastructure at the site which includes parking areas, grandstands, toilet blocks and office. Permission has been granted under DOV/19/00615 for the development of the site comprising “Demolition of existing circuit offices and erection of replacement building comprising VIP Centre and additional use of the circuit for non-race activities and construction of new access road from existing access in Geddinge Lane”.

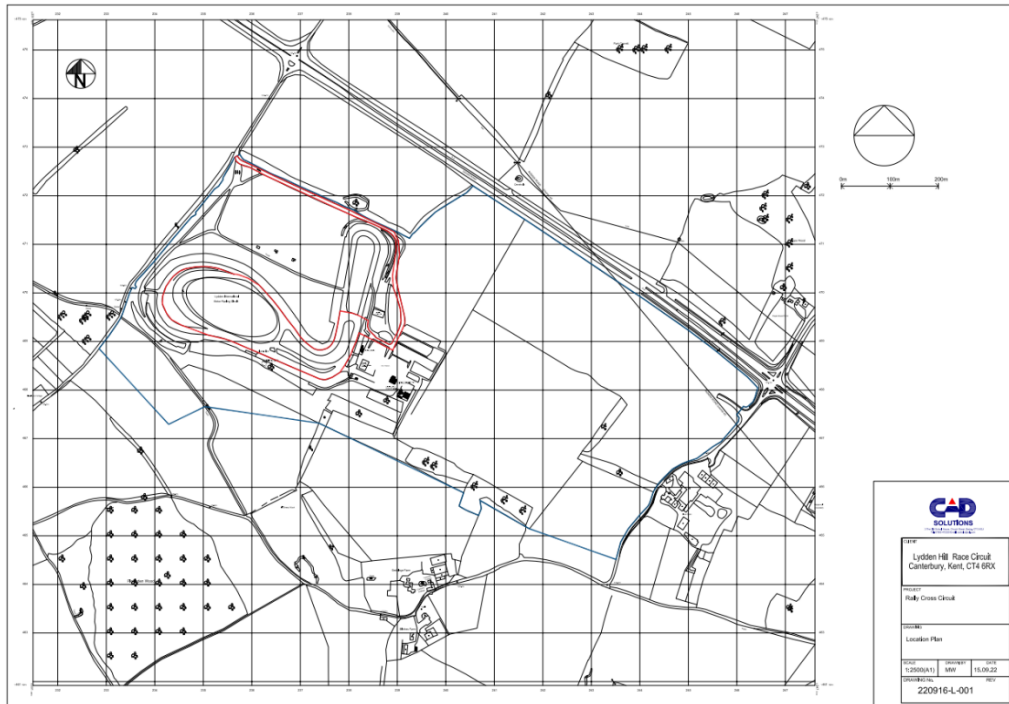


Figure 1. Site Location Plan

- 1.3 The applicant seeks consent for alterations to the existing track layout, which include the formation of a banked turn and an earth formed table top jump measuring approximately 6m in height. The works have been completed and the application is therefore retrospective.

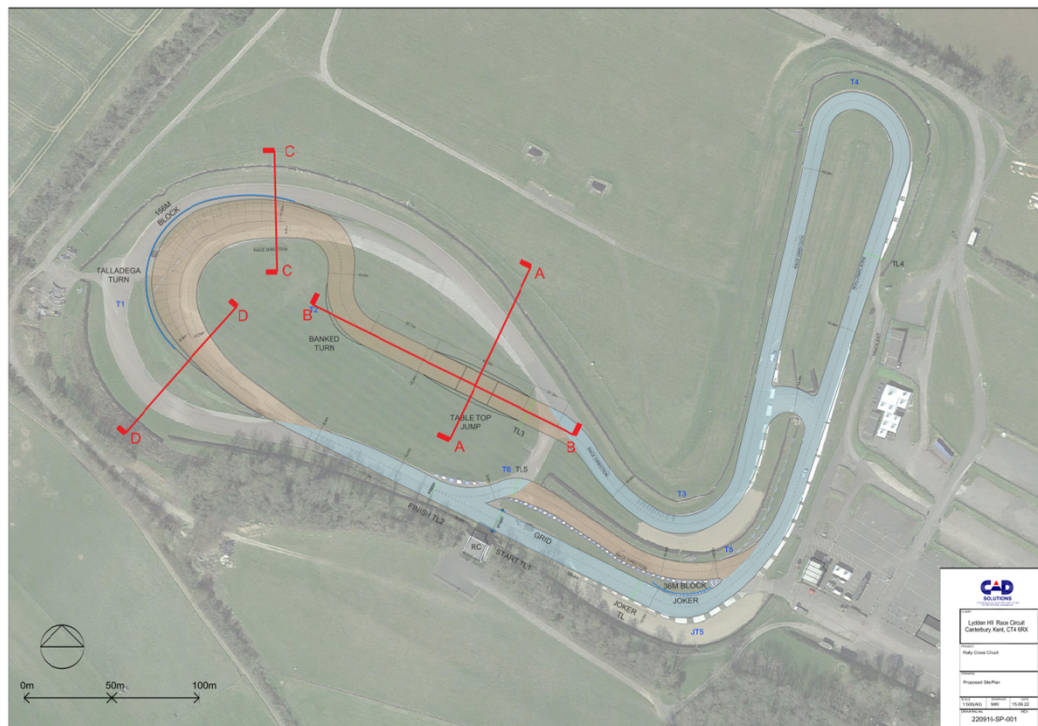


Figure 2. Proposed Site Plan

2. Main Issues

- 2.1 The main issues for consideration are:

- The principle of the development
- The impact on the character of the AONB
- The impact on residential amenity
- Other considerations

Assessment

Principle of Development

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.3 Policy CP1 sets out a settlement hierarchy and states that the location and scale of development in the District must comply with the settlement hierarchy. The policy sets out that in locations such as the application site, further development is not suitable unless it functionally requires a rural location. In this instance, the proposed alterations to the race circuit are considered to be ancillary to the existing use of the site, therefore functionally requiring this rural location, in accordance with the policy.
- 2.4 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located outside of the defined settlement confines and is not supported by other development plan policies, however the development is considered to be ancillary to the existing development and use of the site and as a consequence, is functionally required to be sited in this location.
- 2.5 Policy DM3 sets out that permission for new commercial development or the expansion of an existing business in the rural area will be given provided that it is located at a Rural Service Centre or Local Centre (as designated in the settlement hierarchy), it is consistent with the scale and setting of the settlement, or it is at a Village (as designated in the settlement hierarchy) provided it would not generate significant travel demand and is in other respects consistent with the scale and setting of the settlement. In all cases, development should be within rural settlement confines unless it can be demonstrated that no suitable site exists, in which event it should be located adjacent to the settlement unless there is a functional requirement for it to be located elsewhere. In this instance, the site is not within a Rural Service Centre, Local Centre or a Village, however the proposals result in alterations to the layout of the track and as such, it is considered the development is functionally required to be situated in this location, in accordance with the exceptions of the policy.
- 2.6 Policy DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. As set out above, the development is considered to functionally require the countryside location, with the proposals resulting in alterations to the race track and being in accordance with the exceptions of DM1, also accords with the exceptions of DM11. Notwithstanding this, the impact on parking and highways is discussed further at paragraph 2.31.

- 2.7 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would result in a limited adverse impact on the countryside (as detailed further in the report). Whilst it is considered that the development would have only a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.
- 2.8 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment, will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the development would have only a limited impact on the character of the countryside and no significant adverse impact on the landscape. Consequently, it is considered the development would not conflict with the objectives of DM16.
- 2.9 For the above reasons, it is considered the development would accord with Policies CP1, DM1, DM11 and DM16, however would conflict with DM15. It is considered that these policies are also the most important policies for determining the application.
- 2.10 The NPPF advises, at paragraph 11, that proposals that accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 8 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (as assessed by the Housing Delivery Test).
- 2.11 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply. The council have delivered 88% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.
- 2.12 Policy CP1 and the settlement hierarchies referred to within the policy was devised based on the services and facilities within settlements, as well as access to public transport. The policy is considered to accord with the broad sustainable development objectives of the NPPF and as a matter of judgement, it is considered the policy should be attributed only slightly reduced weight.
- 2.13 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver a greater number of dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in

tension with the NPPF, is out-of-date and, as a result of this, should carry reduced weight.

- 2.14 Policy DM3 seeks to locate commercial development in the rural area to the rural settlement confines, unless there are no suitable sites or there is a functional requirement for it to be located elsewhere. The restriction of development outside the confines is in tension with the NPPF, however the policy otherwise reflects the intension of the NPPF to promote development in sustainable locations. On balance, it is not considered that DM3 is out of date, however the weight to be afforded to the policy is reduced.
- 2.15 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intension of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy, having regard to the degree of compliance with NPPF objectives in the circumstances presented by this application, is reduced.
- 2.16 Policy DM3 seeks to direct new commercial development or the expansion of existing businesses within the rural settlement confines unless there is a functional requirement for it to be located elsewhere. The policy is considered to accord with the broad sustainable development objectives of the NPPF, albeit the settlement confines are considered to be more restrictive than the NPPF (as set out under Paragraphs 2.12 and 2.13). As such, it is considered the policy should be attributed slightly reduced weight.
- 2.17 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 174). There is some tension between this policy and the NPPF. In this instance the sites appearance affords a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.
- 2.18 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. It is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below. In this instance the sites appearance within wider

landscape character does afford a contribution to the character of the countryside.

- 2.19 Saved Policy AS13 (Dover District Local Plan 2002) is considered to be relevant to the determination of the application. It sets out that “Proposals to expand the use of Lydden Circuit for motor sports or intensify its frequency will be refused. Only development ancillary to its existing use will be permitted”. The proposed alterations to the layout of the racetrack are considered to be ancillary to the existing use of the circuit and as such, are considered to accord with the objectives of the policy. The policy was written having regard to the fact that the circuit is a long established venue to motor sports and adds to the visitor attractions in the Dover area, but that it lies within the AONB and that the constraints of the development at the circuit is disturbance to local residents, location in a very sensitive landscape and poor access. The preamble to the policy considers that given the changed circumstances since the permission for Lydden Circuit was first granted, future proposals for development should be assessed against policies of the development plan and in particular against policies (including national policies) for the AONB.
- 2.20 In line with the statutory duty provided by the Countryside and Rights of Way Act 2000 to require that regard be had to the purpose of conserving or enhancing the natural beauty of the area of outstanding natural beauty, the NPPF confirms that great weight should be given to conserving landscape and scenic beauty in the AONB (paragraph 176). The NPPF seeks that development avoid noise which would give rise to significant adverse impacts, having regard for the Noise Policy Statement for England. Equally, the NPPF requires that development which would cause severe cumulative transport impacts should be refused. However, Policy AS13 places a blanket presumption against the expansion or intensification of the site, does not emulate the NPPF’s support for the economy and, in particular, the rural economy and does not require that an assessment is made to consider whether the development would cause harm in respect of noise, landscape and scenic beauty or highways. When this policy was written, it was part of a more comprehensive plan, which took account of other material factors (building up a more nuanced approach overall). However, in isolation, whilst the policy (and the justification behind the policy) reflects parts of the NPPF, it lacks the balanced and nuanced approach of the Framework. As such, there is a degree of inconsistency between AS13 and the NPPF and as a result, it is considered that AS13 should attract reduced weight.
- 2.21 It is considered that policies CP1, DM1, DM11, DM15, DM16 and AS13 are to a greater and lesser extent in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date, and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged.
- 2.22 The Draft Local Plan was published in October 2022 and has been subject to Regulation 19 stage consultation. The draft Policies are considered to be a material consideration in the determination of the application, as the policies are based on up to date information, housing numbers and the most recent NPPF.
- 2.23 Draft Policy NE2 sets out that proposals should demonstrate particular regard to the Landscape Character Area, as defined by the Dover District Landscape

Character Assessment 2020 and the Kent Downs AONB Landscape Character Assessment Review, in which they are located. Development within the AONB will be supported where it is sensitively located and designed to avoid or minimise adverse impacts on the AONB and its setting; the location, form, scale, materials and design would conserve and where appropriate enhance or restore the special character of the landscape; the development would enhance the special qualities, distinctive character and tranquility of the AONB and where the development has had regard to the AONB management plan and associated guidance. Discussed further in the report at paragraphs 2.25 onwards, it is considered the development, due to its scale, siting and appearance, would minimise adverse impacts, conserving the special character of the AONB. The draft Policy is considered to attract moderate weight at this stage in the process towards the adoption of the Local Plan, being devised in line with the current NPPF and AONB Management Plan documents.

- 2.24 NPPF Paragraph 11 identifies that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 clarifies that the policies referred to relate to AONB, amongst other designations. For the reasons discussed and conclusions below at Paragraph 2.25 onwards, it is not considered that the policies in the framework provide a clear reason for refusing the application (which would disengage the tilted balance approach set out above). Consequently, it is considered that the development plan policy most important to the determination of the application (Policy DM1) is out of date and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged.

Impact on Character and Appearance

- 2.25 Due to the rural location of the application site, Policies DM15 and DM16 are relevant to the determination of the application. These policies seek to prevent development which would result in the loss of, or adversely affect the character and appearance of the countryside and wider landscape area. Furthermore, the NPPF identifies that “decisions should contribute to and enhance the natural and local environment by... recognising the intrinsic character and beauty of the countryside” (Paragraph 174). As discussed, the site is located within the Kent Downs AONB. NPPF Paragraph 176 states that “Great weight should be given to conserving and enhancing landscape and scenic beauty in... Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues”. Further guidance is found in the Kent Downs AONB Management Plan and Moreover, Section 85 of the Countryside and Rights of Way Act 2000 places a duty on Local Planning Authorities to ‘have regard’ to the ‘purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty. In addition, Regulation 19 draft Local Plan Policy NE2 is a relevant material consideration which seeks for proposals to demonstrate regard to Landscape Character Areas and to the purpose of conserving and enhancing the natural beauty of the Kent Downs AONB.



Figure 3. Photograph of race circuit

- 2.26 The development is positioned in the southern half of the site, within the previous extents of the race track. This part of the site is set within a valley, away from most public vantage points and screened to the south by mature trees and hedgerow such that there are limited views from the wider landscape area and AONB. The jump has been constructed using compacted earth, with the sides of the jump laid to grass, minimising any visual impact of the development in glimpsed views of the site. Similarly, where the banked turn and track connecting to the jump has been formed, the previous section of track has been removed and laid to grass. Whilst concerns have been raised by the Kent Downs AONB Unit in relation to the change to the natural landform of the site through the creation of the banked turn and increase in hardstanding (particularly relating to Management Plan principles SD3 and LLC1), the works (shown in Figure 3) are not prominent and are considered to be ancillary to the existing facilities and infrastructure at the site, satisfying the exception requirements within Policies CP1, DM1, DM3 and AS13 (and due to their nature, scale and setting, are not considered to constitute major development in respect of NPPF Paragraph 177).
- 2.27 For the reasons set out above, it is considered that the development, which is seen within the context of the existing race circuit within the AONB, results in no additional harm to the character or appearance of the AONB. Consequently, having had regard to the Section 85 duty to have regard to the purpose of conserving or enhancing the natural beauty of the area of outstanding natural beauty, it is considered there would be no conflict with the previously referred to policies in the Development Plan, draft Local Plan or the objectives of the AONB Management Plan and NPPF which seek to protect the character of the AONB and countryside.

Impact on Residential Amenity

- 2.28 As set out above, the works to the track are located within the previous extents of the circuit and are set away from public vantage points, screened by vegetation to the south. The banked turn and table top jump are located within the valley basin and are seen within the context of the existing race circuit and

associated infrastructure and buildings. Whilst the jump is approximately 6m in height, given the sloping nature of the site, the position of the jump within the relatively level, lower section of the track and the distance to nearby dwellings and screening from boundary planting, the jump and banked turn are considered unlikely to result in an overbearing impact, overshadowing or loss of privacy to nearby residents, in accordance with the amenity objectives of NPPF Paragraph 130(f).

- 2.29 Concerns have been raised in representations in relation to noise and disturbance from the use of the jump and banked turn and wider site (including in relation to Kent Downs AONB Management Plan principle SD7 which seeks to conserve and enhance tranquility and dark night skies). The changes have been made to the track for a Nitro Rallycross event (which would take place as one of the approved 52 race days within the race circuit calendar and would not result in any additional operating hours). The application has been subject to consultation with Environmental Protection, who note the noise is currently monitored and controlled by the presence of an abatement notice under the Environmental Protection Act 1990. They note that further controls are planned under the noise management plan outlined in DOV/19/00615. As such, having had regard to NPPF Paragraphs 174, 185, 187 and 188, it is considered the existing controls in place, or controls required under DOV/19/00615 if/when implemented, would address any concerns in relation to noise from the use of the circuit. The change to the track would not change the noise limits which the track must adhere to.
- 2.30 Concerns have also been raised in public representations in relation to dust, in terms of the impact during the construction of the banked turn and jump and from the use of the track. The construction works related to this application have been completed. The agent has clarified that the new section of circuit is not hard infrastructure and is chalk with a thin layer of road plainings placed on top making it highly permeable. They state that the circuit will continue to be treated for dust before and during events as it is currently, using Dustex (an environmentally friendly binder for dust made with tree sap).

Impact on Parking/Highways

- 2.31 The development relates to alterations to the track only, with no changes proposed to the number of race days, or to the existing access or parking areas/capacity. As such, it is considered unlikely that the proposals would result in a change in traffic associated with the race track. KCC Highways and Transportation have been consulted on the application and advise that having considered the proposals and the effect on the highway network, they raise no objection. An informative is suggested and would be included on the decision notice if permission is granted.

Ecology

- 2.32 No ecological information has been provided in support of the application. Notwithstanding this, the proposals have been subject to consultation with the Senior Natural Environment Officer. They have advised they have no comments to make as the works appear to be restricted to the area in the vicinity of the existing race-track with no direct impact on any semi-natural habitats except maintained grassland. As such, it is not considered necessary to require further information in this respect.

Impact on Flood Risk

- 2.33 The site is located in Flood Zone 1 which has the lowest risk of flooding from rivers and the sea. The Design and Access Statement considers the flood risk of the site, the location of watercourses and that the site lies within source protection zone 3.
- 2.34 The Environment Agency has been consulted on the application, advising that they have assessed the application has having a low environmental risk and therefore have no comments to make. They advise that the applicant may be required to apply for other consents directly and should permission be granted, this information would be included as an informative.

Archaeology

- 2.35 The site contains areas of archaeological potential and KCC Archaeology have been consulted accordingly, although no response has been received. The applicant has advised that the earth used to form the table top jump was chalk taken from the digs from the soakaways which had already been signed off by archaeologists as a condition of the planning permission for the new access road. Furthermore, the works have been carried out within the centre of the existing track, which has been previously disturbed in the construction of the track itself.

Given the works have taken place, it is not considered reasonable in this instance to suggest the imposition of a condition in relation to archaeology.

Other Matters

- 2.36 An Environmental Statement was submitted with the proposal under DOV/19/00615 and it is therefore necessary to consider whether there would be a cumulative impact arising from this proposal in accordance with the Environmental Impact Assessment Regulations 2017. However, the alterations to the track are not considered to be of a size where an additional screening might be required and in the context of the scale of the proposals approved under DOV/19/00615, it is not considered there would be a cumulative impact arising so as to require an additional formal assessment.
- 2.37 The changes made to the track have enabled the circuit to run a round of the Nitro Rallycross event in 2022 and the circuit has been able to secure a round of the FIA World Rallycross event for July 2023. These international events would attract visitors, bringing tourism and employment opportunities to the district which are considered to attract weight in favour of the development.

Planning Balance

- 2.38 The site is located outside of the settlement confines of DM1 and is within the Kent Downs AONB. The alterations made to the race circuit track, which include the formation of a banked turn and earth formed table top jump are considered to be ancillary to the existing use of the site and existing development and are functionally required to be in this location, according with the exceptions of Policy DM1, DM3, DM11 and saved policy AS13. The works are positioned in the valley basin and due to their siting, scale and appearance, as well as distance from public viewpoints and existing trees which screen views of the site from the south, the development is considered to result in no additional harm, thereby conserving

the character and appearance of the AONB and the scenic beauty of the countryside, in accordance with the objectives of NPPF Paragraphs 174 and 176 and policies DM15 and DM16. Regard has been had to the duties of section 85 of the Countryside and Rights of Way Act in relation to the need to conserve or enhance the natural beauty of the AONB, as well as the objectives of the NPPF, the AONB Management Plan and associated guidance and draft Policy NE2. For the same reasons, and as existing controls are in place in relation to noise (and other mechanisms to control noise are planned should uses permitted by a latter planning permission be implemented) the impact on residential amenity is considered to be acceptable, having had regard to the objectives of NPPF (particularly Paragraph 130(f)). The impact on highways, ecology, archaeology, flood risk and other material considerations has been considered and found to be acceptable.

- 2.39 Overall, it is considered that the disbenefits of the development do not outweigh the benefits, with material considerations indicating that permission should be granted.

3. Conclusion

- 3.1 As outlined above, the alterations to the track that have been completed are considered to be ancillary to the existing use of the site as a race circuit and are functionally required to be in this location, in accordance with Policies DM1, DM3, DM11 and AS13. For the reasons set out above, the development is considered to have an acceptable impact on the character and appearance of the countryside, AONB, residential amenity and in respect of other material considerations addressed above. The tilted balance approach set out at Paragraph 11 of the NPPF is considered to be engaged as the Policies most important for determining the application are, to varying degrees, considered to be out of date and conflict to a greater or lesser extent with the NPPF. The impact of the development on the AONB and the application of policies in the NPPF which protect areas or assets of particular importance (set out in footnote 7) are not considered to provide a clear reason for refusing the development. As such, in light of Paragraph 11 of the NPPF and taking into account other material considerations, it is considered the benefits of the development outweigh the disbenefits and it is recommended that permission be granted in line with the recommendation.

g) Recommendation

- I PERMISSION BE GRANTED subject to conditions:
- 1) List of Approved Plans
- II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Rachel Morgan