

**From:**

**Sent:** 11 September 2020 16:50

**To:** George Smith <George.Smith@Cherwell-DC.gov.uk>; Planning <Planning@Cherwell-DC.gov.uk>

**Subject:** FAO George Smith: Objection to the application for a Lawful Development Certificate for an Existing Use for Wroxton Motocross Track - Cherwell District Council Ref 20/02126/CLUE.

The Cottage

Church Lane

Hornton

OX15 6BY

11 September, 2020

Dear Mr Smith

We have lived in the village of Hornton for 30 years and we wish to protest in the strongest possible terms against the application for a Lawful Development Certificate for an Existing Use for Wroxton Motocross Track - *Cherwell District Council Ref 20/02126/CLUE*.

It is no exaggeration to say that the way the track has changed out of all proportion over the last three or four years has led to life becoming unbearable in the village when the track is operating. Were the applicants to be granted their requested 24 days' racing a year plus unlimited so-called 'practice' days, it would permanently blight our quiet, rural community and other neighbouring homes.

Our garden faces south, towards the track. We'd like to say, at the outset, that we have never been against a motocross track operating on the site – as long as it was designed and operated in the way that it has been for almost all of its existence. Until three or four years ago, it was primarily a local facility that local enthusiasts enjoyed. Although we could hear some noise, it was tolerable for the limited number of days it operated each year. In fact, we used to call the noise made by the bikes the "buzzy bees" because that's what the bike engines sounded like. You could clearly hear them every time they used the track but, on a live-and-let-live basis, they could not be called unacceptably intrusive for the limited number of days the track operated and the volume of noise generated.

But in the last three or four years, the track has been so fundamentally transformed that it has, in effect, *become an entirely new facility and the present track should be treated as a material intensification of the site*. What was a little local track, predominantly for local riders, has become a national sporting facility, attracting riders from all over Europe, hundreds of spectators, much bigger bikes – and creating much more noise, traffic and

disruption. Depending on where you live in the village and the climatic conditions, the noise levels will change but in most of the village and most of the time it's nothing short of unbearable and has been over the past three or four years. And it has to be borne in mind that this noise goes on continuously for hours.

If you log on to this Youtube film:

<https://www.youtube.com/watch?v=DPAmEK9MhwM>

and spool through the first two minutes, you'll see just what the track looks like now. It talks about how Wroxton attracts riders from all over Europe and it's clear that the track is now about as far removed as it's possible to get from the small scrambling circuit that used to occupy the site. These changes have taken place in the last four years.

And Cherwell can confirm this – from the timing of complaints about the track. Planning enforcement officer Nick Addis checked in the records for me and says that, apart from one complaint early in the decade - opened in 2012 and closed in 2013 – there were no complaints about the track received by Cherwell until 2019.

The track and the way it is operated have fundamentally changed in four ways over the past four years:

**1. The size of the site, and the length, width and topography of the track have been transformed.**

Not that you would know that by reading the evidence from the applicants. In her statutory declaration, the landowner, Sandra Kerwood says, *'An existing permanent track has been in place for over 20 years. A small number of changes and improvements are made to the track each year but the basic construction remains the same.'*

Brian Pounder, who runs the Banbury Motocross Club, says *'Since 2007 we have made a small number of changes and improvements to the track that exists on the site.'*

These statements do not reflect the reality and cannot go unchallenged. It is a matter of fact that the overall site has become much bigger, the track longer and wider, and – crucially - the topography of the site has changed dramatically. During the months of lockdown, even more work was done to make the track faster – indeed, it became so fast that some of the jumps had to be remodelled again to make it safer.

Mr Pounder and Mrs Kerwood must know this – in fact, the track is now promoted by them in motocross circles as one of the top tracks in the country, with emphasis on how much bigger, better and more exciting it has become. These are not the 'small changes' claimed by the applicants and there are photographs and eye witness accounts that confirm this. Clearly the current application is of significant commercial importance to the applicants and should be viewed accordingly.

And all these changes have taken place in the absence of appropriate permissions and on a piece of land which has a restrictive covenant stipulating that it should only be used for agricultural use.

## **2. The number of race meetings has increased.**

Given that the applicants' evidence is so at variance with the facts in regard to the way the design of the track has been transformed, we suggest you examine very carefully Mr Pounder's list of meetings that he has compiled for the last ten years.

We simply don't accept his list of an apparently large number of meetings taking place in the early years of the decade. The number then was much nearer the 14 allowed under Permitted Development rules. If there had been more, we would have known about it – because we could hear the bikes each time they raced around the track, even though, until three or four years ago, the noise was at an acceptable level.

Accordingly, we would ask that Cherwell requires the applicants to provide:

- (a) *contemporaneous* evidence – bills, receipts, entry forms etc *from that time* to prove the existence of each of those races
- (b) details of who was using the track at each meeting, revealing how many of the meetings were organised by Mr Pounder and his club and how many were organised by outside clubs or competitions renting the facility
- (c) details of the specifications of each bike in each race and how many bikes were racing in each race.

Asking for this information is not unreasonable. The legal onus on the applicants is to provide proof that what they say in that application is accurate and we consider the Council would be failing in its duty if it took Mr Pounder's "chart" at face value without detailed, contemporaneous evidence. We also consider this evidence would reveal just how the use of the track has intensified - so much so that it has been transformed into an entirely different sporting facility.

But, even before you do that, you can get some idea of just how many more big race meetings the Wroxton track has hosted in the last year or so, compared with the earlier years of the decade, by consulting *TMX* magazine. It's the world's leading off-road weekly newspaper and only features the really big motocross meetings in Britain and around the world. If you go to:

<https://www.tmxnews.co.uk/>

and search for "Wroxton" you'll find 40 search results for 2010 onwards – but they're not evenly distributed year on year. In 2010 there were 2, 2011 4, 2012 2, 2013 3, 2014 1, none for 2015 or 2016. There were 2 in 2017 – *then 11 for 2018 and 14 for 2019.*

They include the edition of May 9, 2019, when readers were told that 'Round two of the Bridgestone British Masters of Motocross series travels to Oxfordshire this weekend and the spectacular Wroxton track with its fantastic jumps and elevation changes.'

This shows that the track that now exists on the site is a very different facility from the one that used to be there.

## **3. The people using it have changed.**

The track is not "local" any longer. Mr Pounder gives the impression that his club runs it but, much of the time, the track is rented out to motocross clubs from all over the country as a private sporting facility or as a venue for heats or finals of nationwide competitions. As a result...

#### **4. The type of races staged there has changed significantly.**

That's because the non-local organisations run meetings featuring bigger and noisier bikes and many more outside spectators. This reflects the fact that they need to attract those travelling from away.

Take August 10 and 11, 2019, for example. On that weekend, the track wasn't being used by the local Banbury MX Club. It was being rented out as a commercial enterprise to Portsmouth Motocross Club – based more than 100 miles away.

The noise was simply unbearable. August 11 was a warm and sunny Sunday when old friends came to visit us for lunch in the garden of our home - but we couldn't sit outside. The constant engine noise from the track that echoed round the village was so bad that we had to shelter inside with the windows closed – and play music in an attempt to drown the engine noise out. Last year, that happened time and time again - much of the time, not at meetings run by Banbury Motocross Club but by other organisations and clubs hiring the track. If the applicants get their wish to race on 24 days a year plus an unspecified number of practice days, we can expect – at the very least – for one weekend in two during the spring and summer months to be ruined by noise from the track. It will become *impossible* – and we choose that word carefully – to enjoy aspects of ordinary life in our quiet rural village.

And the operators have already made it clear that they regard the 24 days' racing in their application as just the start. In 2019, they proudly proclaimed that, for the first time, they were starting a “new winter season”. Unsurprisingly, the noise was even more intrusive then because there are no leaves on the trees in winter to deaden and mask the sound. They intend to repeat this expanded use of the track unless controlled by Cherwell.

Meanwhile, the operators do nothing to try to mitigate the noise. In fact, it's constant when meetings take place. As soon as one race has started, the riders for the next are brought down to the start line and rev up until their race starts off. At 3minutes 27 seconds into the above Youtube film, the riders are turning into the first corner from the start and, at the top of the screen, you can see the riders for the next race going down to the start line. At latest meeting, on the weekend of August 22/3 2020, when the track was rented out by British Schoolboy Motorcycle Association, 36 riders were filmed revving on the start line for *five* minutes, in addition to the noise echoing around the valley from the race going on at the same time.

The applicants accept that the noise is sufficiently detrimental to Hornton that, at a Parish Council meeting, Mrs Kerwood offered to avoid meetings on days when the village notified the track operators of specific village events. But why should the residents of Hornton be put in that totally unreasonable - and unworkable – position which recognises the unacceptable noise intrusion and offers to deal with it only occasionally at the landowner's complete discretion? A village's quality of life should not depend upon the whim of one person.

The applicants include in their submission the fact that they have been given codes of practice by Cherwell's environmental protection officer, Amrik Bilkhu. What they don't say is that they have not always followed them.

Take the code of practice from the Local Authorities Coordinators of Regulatory Services (LACORS), which Mr Bilkhu has also passed on to us on September 3, albeit only at our

specific request once the existence of the Codes was disclosed by applicants in the current application. They recommend, for example:

- *Limit to a certain number of activity days per year (examples ranged from one to twelve)*
- *No more than one event each weekend*
- *Minimum break between events (e.g. 14 days or 4 weeks)*
- *No events to be held during summer months June-August*
- *Imposing a one hour break on activities*
- *Prior notice to be provided to parish council 7 days in advance*

The owner and operators of the track have not adopted any of these practices during the last four years.

If the noise is so bad that Mrs Kerwood herself recognises the problem, you might also ask why is it that the environmental protection officer from Cherwell District Council didn't find it to be unacceptable? That's because he's only been to the village on two or three occasions – days when we happened to be spared really loud noise from the track. That can happen because the wind, which usually blows in the direction of the village, is blowing another way or is billowing and gusting sufficiently strongly that the constant sound of motor cycle engines is mitigated.

But this is the exception rather than the rule – and Cherwell would have plenty of evidence by now if the officer in question had informed us in time that there was a *Noise App* we could download to our smartphones to monitor the noise and send the results directly to him. Instead, he only told about this right at the end of the 2019 season.

And let's just pause for a moment to remember this: *the landowner and operators of the track have absolutely no permission from Cherwell District Council to be carrying out any of these activities at all.* A planning system designed to ensure that different communities and interests live harmoniously alongside each other has been flagrantly ignored by the applicants and continues to be so. For several years, Hornton Parish Council has told the landowner and track manager about the concerns and disturbance caused in our village, to negligible effect.

This track does virtually nothing for the local economy of our area. With the possible exception of buying some takeaways at the Indian Queen restaurant on the Stratford Road, the participants bring everything they need for a weekend's disruptive motorsport with them in their large vans and motorhomes.

It does make our local roads more hazardous, however. Dozens of enormous vehicles have to lumber out onto the A422 Stratford Road at a point where traffic is travelling at speed, and many of the road users will have no idea that so many large, slow vehicles will be turning onto a road at a junction entirely unsuitable for traffic like this. In fact, it would be difficult to design a more inappropriate and dangerous junction for such traffic.

Finally, may we say how shocked and disheartened we are that officials in our local authority not only decided not to take enforcement action of any kind against the owners and organisers of this track *but also failed to inform the people who had complained to them of this decision.*

Complaints have been raised with Cherwell, clearly and emphatically, about track impact and intensification but its officials failed to keep Hornton informed of what they were – and were not – doing. For instance, in 2019, your officer in planning enforcement was in frequent dialogue with the chair of Hornton Parish Council and another parishioner but never told them that another CDC officer had made up his mind, back in 2018, *on the basis of one visit to the village*, we understand, that he was not going to pursue enforcement action on noise grounds at that stage. He told the track operators this but by 2019 he still hadn't told anyone in Hornton, even though Cherwell had by then received consistent complaints from villagers and the Parish Council about intolerable noise. We now learn, only when the council was asked specifically, that all these 2019 complaints were simply filed and not acted upon directly and that the track was then invited, by your planning enforcement department, to apply for a Lawful Development Certificate as if no issues were present. How can this be?

What's more, we now understand that you have been given none of those letters of complaint and they will not be considered in this application unless the writers send another copy to you! We were two of the parishioners who wrote, in good faith, to Cherwell's planning enforcement officer, complaining about the track and we attach another copy of that complaint to ensure that its timing and contents can be considered. But how can you come to a proper conclusion on this matter if an officer in your own department has a file full of letters about it and doesn't pass them to you?

Because the operators have transformed the track so much in the last three or four years that it has been materially changed into an entirely different facility, the council must now reject their application for a Lawful Certificate for an Existing Use.

And Cherwell needs to properly police the track in future. The operators have shown themselves to care so little about the impact their activities have on our lives that only a rigorous regime of controls will ensure that our environment is preserved and Hornton is not forever and increasingly blighted.

It's completely unacceptable to us and the village of Hornton for Cherwell's planners to adopt some great "British compromise" solution and adopt a course of action somewhere between the 24 days a year requested by the applicants and the 14 days they are entitled to operate under general Permitted Development rules. The applicants openly admit they have been breaching planning rules – and it seems clear that Cherwell has singularly failed in its legal responsibility to stop them. That must not go on.

## **Summary**

We are not NIMBYs in Hornton. We are content for this track to continue but only if it reverts to the way it used to operate prior to four years ago and once more becomes a small local track for local enthusiasts, used a maximum of 14 days a year, under the 14/28 day 'permitted use' rule. We would also require that strict rules, regulations and guidelines are put in place and rigorously enforced by you, given the way the operators have turned a small local track into a major commercial enterprise and a national sporting facility, ignoring the

views of local people and flouting planning law. This situation would not have been allowed to develop in relation to say a garage or house built without planning permission and this track should be treated no differently.

Regards

Lynn and Roger Corke

----- Forwarded Message -----

**Subject:**The Moto Cross track near Hornton

**Date:**Tue, 10 Sep 2019 10:22:40 +0100

**To:**[nick.addis@cherwell-DC.gov.uk](mailto:nick.addis@cherwell-DC.gov.uk)

The Cottage

Church Lane

Hornton

Oxon OX15 6BY

Dear Mr Addis

We understand that you are the planning enforcement officer for Cherwell District Council who is examining the operation of Wroxton Moto Cross track.

We have lived in Hornton for almost 30 years and we'd like to say, at the outset, that we have never been against the track operating - as it has done for almost all of that time. Until recently, it operated a few times a year - around a dozen - and was clearly a local facility that local enthusiasts enjoyed. The disruption was minimal and, although we could hear some noise, it was tolerable for the limited number of days it operated each year.

Recently, however, a small local facility has turned into a national sporting facility - a facility that the organisers are proud to boast is one of the top three moto cross tracks in the country. The number of meetings has increased, the number of spectators and their vehicles has exploded in size and the noise from the track is now quite extraordinary. Not surprisingly, one of the top three tracks in the country attracts bigger bikes, with bigger engines and more bikes racing at any one time. It is no longer a small track run by enthusiastic amateurs but a significant commercial enterprise, attracting hundreds of people from all over the UK.

The organisers have tried to claim in the Banbury Guardian that there has been no change in the type of racing that has been carried out over the last few years. If that is the case, how can they account for the increase in the volume - and the change in character - of the noise from the track? We used to call the noise made by the bikes at a meeting the "buzzy bees" because

that's what they sounded like. You could hear it but, on the live-and-let-live basis, it could hardly be called intrusive. Now the noise is akin to what you'd hear at Brands Hatch. On one Sunday in August, the noise was so loud that, when we had friends round, we couldn't sit outside in the garden. And around half the weekends in late July/August were ruined because of the noise - sometimes on both days. So, at the very time of year when the weather was good enough for us to sit out in our gardens after a week's work, the noise from the track over the hill stopped us from being able to do so.

And the amount of traffic now going to and from the site is much greater than it used to be - and far too much for the narrow country roads leading to and from the track. Neither does it help that some vehicles and trailers go in and out from the main Stratford Road. The road layout there - on a stretch where cars are often travelling at 60mph quite legally - is not designed for large numbers of big vehicles, often with trailers, to pull in and out safely and they can't.

The operators of the track know all this, so we find it difficult to understand how they can claim to you that the noise, disruption and traffic - which they must know has grown exponentially recently - is no more intrusive now that it was a few years ago. If they were running the track back then - and we understand that they were - they must know that is untrue.

They must also know that, if they are operating under permitted development rules, then they are only able to operate on 14 days a year, be on site for another 14 days and clear every item relating to moto cross off the site between meetings. They must know that, for any more meetings than this, they need to apply for full planning permission.

They must also know that, if they are attracting crowds of up to 1000 people, they need a licence, yet they have not applied for one.

They continue to ignore all these rules and regulations which are designed to ensure that everyone can co-exist peacefully together, without one group's hobby being stopped or another group's peace and quiet being disrupted unfairly.

We are not NIMBYs in Hornton. We are happy for the track to continue but only if it operates under strict rules, regulations and guidelines - all of which now need to be rigorously enforced by you, given the thoughtless and selfish way the operators have been flouting them recently.

It is most unfortunate that you have to take enforcement action in this case but please can we have your assurance that you will do so as soon as possible.

Regards

Roger and Lynn Corke