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4 August 2022

**Re: Planning application 21/00517/F – Wroxton Motocross Track**

1. We have seen the list of draft conditions (v26.7.22) made available to us by our local member (Cllr Phil Chapman) and consulted with Counsel. We have also read the letters to and from BBWOT dated 20.5.22 and 25.7.22 respectively which have been uploaded onto the application webpage. Our comments are set out below.

**Draft Conditions**

2. The starting point is the terms of the planning committee's resolution of 17.6.21 (as recorded in the minutes)

“It was proposed by Councillor Reynolds and seconded by Councillor Brown that application 21/00517/F be approved subject to an amendment of condition 1 to limit the total number of days the track could be used for racing or practising to be no more than 20 days in any calendar year where the motocross track is used for racing or practising with the timings and frequency of these 20 days to be agreed in consultation with the Ward Members for the Cropredy, Sibfords and Wroxton Ward, and the Applicant.

In reaching its decision the Committee considered the officer's report and presentation, the addresses of the local Ward Member and the public speakers and the written updates.

**Resolved**

That authority be delegated to the Assistant Director for Planning and Development to grant permission for application 21/00517/F subject to:

## CONDITIONS

1. The site shall not be used for motocross purposes for more than 65 days in any calendar year and that 65 days shall be comprised of no more than 20 days on which the motocross track is used (that is, for racing or practising) in any calendar year. The timing and frequency of these 20 days to be agreed in consultation with the Ward Members for Cropredy, Sibfords and Wroxton Ward, and the Applicant. The site shall not be used for motocross purposes for more than 18 days in any three-month period and in that three month period the motocross track shall not be used (that is, for racing or practising) for more than 6 days.

Reason – In the interests of highway safety, the general amenity of the area, the living conditions of local residents, and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

.....

4. There shall be no further practising or competitive racing unless and until a landscaping scheme has been submitted to the Local Planning Authority. The scheme for landscaping the site shall include: -

.....

15. The noise levels at or from the site shall not exceed 96dB(A) and the track shall only be used for motocross purposes between the hours of 9:00am and 6:00pm.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.”

3. The condition now proposed to be included is:

1. Prior to the first use of the site in any individual calendar year, a schedule of proposed activity and events for that calendar year shall be submitted to and agreed in writing by the Local Planning Authority. The submitted schedule shall include details of each event, including:
  - i. the intended programme of track use including practicing and racing;
  - ii. likely number of participants and spectators, and
  - iii. a written supporting statement demonstrating how the proposed programme of events has been designed to ensure that there are

periods of inactivity between race events.

Notwithstanding the details of any agreed schedule, the activity upon the site shall not exceed 65 days in any calendar year of which no more than 20 days shall be used for practice or race days

Reason – In the interests of highway safety, the general amenity of the area, the living conditions of local residents, and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

**Informative:**

(1) You are advised that there is an expectation that there will be a maximum of 6 race days within any 3 month period. Any Schedule of proposed activity and events submitted under this condition that seeks to secure approval of a programme that fails to accord with this frequency should set out: (i) why this is necessary; and (ii) what mitigations are proposed to protect the amenity of local residents.

(2) The Local Planning Authority's assessment of any submission made under this condition shall include consultation with the Parish Council.

4. It is clear that there are material departures from the approach resolved by members on 17.6.21. Therefore, the proposed conditions must go back to committee – to issue the permission with the condition in this form would not be in accordance with the members' resolution and therefore outwith the powers delegated to officers by the committee. Of course, we accept that the committee could still approve the new form of conditions – but the point is that this is a matter for members and not officers.

5. Under the new draft condition 1:-

- a. There is no requirement to keep to the agreed schedule. What there is, is the 'long-stop' of 65 days of which no more than 20 for practice or racing. This needs to be reworded by deleting the opening words and re-positioning the sentence 'up front'.
- b. The draft is silent as to what happens if track use starts before the schedule is agreed. The condition needs to be clear that no events shall take place. The obvious approach is for the owners to submit the schedule the year before – ie to plan ahead. In the event that the schedule is not approved, the owner needs time to appeal. This indicates a need to 'bake in' time for such an appeal in the timetable for the submission of the schedule.
- c. The limit on 6 race days in any 3 month period is now an "expectation" and departure from this in a submitted draft annual schedule requires an explanation. If that explanation is not accepted, then the obvious inference is

that the draft schedule would not be approved. But the approval would be by officers, albeit having consulted the Parish Council.

- d. The officer 'red text' comments on the draft are simply wrong with regard to the committee resolution not specifying a maximum of 6 race days within any 3 month period.

6. Consequently, in our view the new condition 1 should read:

"The use of the site hereby permitted shall not exceed 65 days in any calendar year of which no more than 20 days shall be used for practice or race days and there will be no more than 6 race or practice days within any 3 month calendar period.

Twelve months before the first use of the site in any individual calendar year, a schedule of proposed activity and events for that calendar year shall be submitted to and agreed in writing by the Local Planning Authority. The submitted schedule shall include details of each event, including:

[i] the intended programme of track use including practicing and racing;

[ii] likely number of participants and spectators, and

[iii] a written supporting statement demonstrating how the proposed programme of events has been designed to ensure that there are periods of inactivity between race events.

No race days or practice days shall take place other than in accordance with an approved schedule.

Reason – In the interests of highway safety, the general amenity of the area, the living conditions of local residents, and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Below new condition 7 is:

**Officer Note:**

Conditions 4, 5, 6, 7, 8 and 9 from the published committee report have been condensed into one condition

8. Original condition 4 contained a prohibition on racing/practicing until the landscaping scheme was submitted. There is now no such prohibition. It should be re-instated.
9. Further, in new condition 8 the words "unless otherwise agreed in writing by the Local Planning Authority" should be removed – they are unlawful (see Mid-Counties Co-op v Wyre Forest DC [2009] EWHC 964 (Admin) at para 66 to 75).

10. New condition 12 concerns noise and hours of use and reads:

“The noise levels at or from the site shall not exceed 96dB(A) and the track shall only be used for motocross purposes between the hours of 9:00am and 6:00pm.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.”

11. As previously advised, this condition needs to specify:

- a. Whether the 96dB(A) limit is LAeq (and if so over what time period) or LAm<sub>ax</sub>, and
- b. Where the measurement is to be taken from. We suggest a designated point on the public footpath adjacent to the track.

12. Further, the use of the words “motocross purposes” is vague – what is needed is a prohibition on “racing and practising” (as per the other conditions).

### **BBOWT Position**

13. The committee resolution of 17.6.21 stated that officers only had delegated powers to issue a permission once the objection from BBOWT had been resolved.

14. The latest letter from BBOWT (25.7.22) shows that its objection has not been resolved. Matters remaining outstanding are:

- a. **Potential impact on the biodiversity of the Sor Brook and on Horley Local Wildlife Site, which lies downstream on the Sor Brook** - a strengthened condition is required.
- b. **Net gain in biodiversity** - further work is required towards an acceptable solution (which appears to be possible).

15. Plainly, BBOWT’s position needs to be reflected in the new draft conditions.

Yours faithfully

John Offord  
Chair of Hornton Parish Council