

[REDACTED]
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Hornton
Banbury
OX15 6DB

4th May 2022

Dear Sirs,

To: The Head of Planning Services and The Head of Legal Services, Cherwell District Council

Land Used For Motocross, Stratford Road A422, Wroxton, OX15 6HX

Planning Application 21/00517/F

Enforcement Investigation 20/00386/ENF

1. Thank you for your letter dated 26 April 2022 signed by Mr Alex Chrusciak replying to my letter of 15 March 2022. I now write further to my letter by email on 21 April 2022.
2. We are grateful for the explanation of where matters have got to in respect of the extant planning application. We are not certain of the basis on which you have concluded that BBOWT has “withdrawn” its objection (the latest consultation response on the application webpage does not use the term expressly), nor are we clear what information you have recently been given by the applicant or are expecting “in the coming days”. We look forward to hearing from our local members that the consultation on the final draft of the conditions will proceed at pace upon the completion of the local elections this week.
3. Your letter in a number of places expresses optimism that a planning permission can be issued before the first planned event at the track on 21 May 2022. We wish we could share your confidence, but we note the explanation you give for it. We urge you to keep this matter under close review. As you appear to indicate, any failure to have a planning permission in place to regulate use of the track in 2022 would be sub-optimal. We would go further – it would be of very great significance in any consideration of the expediency of taking enforcement action that would be effective immediately.
4. We take issue with your suggestion that any planning harm that would or could arise “would not be immediate” or “irreparable”. The Committee has resolved to impose conditions on any grant of planning permission to safeguard matters of public importance including highway safety (draft conditions 1, 2, 3, 14) and local residential amenity (conditions 1, 15, 16). In our opinion it

is simply irrational to confine “immediate” or “irreparable” harm to matters of environmental protection.

5. Your letter does at least leave open the possibility of your taking enforcement action at some point in the near future. We understand the desire to focus on achieving the outcome foreshadowed by the Committee’s resolution of 17 June 2021 (ie the issue of a planning permission). However, we would urge you to undertake some ‘contingency planning’ in the background against the need to take enforcement action with some urgency.
6. The need for urgent action in the future is not difficult to anticipate. For example, the Committee’s very firm view was that there should be no more than six track-use days in any three-month period. At present, as we have previously advised, the public announcements from the organisers describe planned track use on 21 & 22 May, 4 & 5 June and 11 & 12 June. That would amount to 6 days use. On that basis the proposed further use on 25 & 26 June, 9 & 10 July and 6 & 7 August would amount to a breach of proposed Condition 1. There would be a very short window between 12 June and 26 June (or even 9 July) for the Council to take effective action, and certainly insufficient time if the Council’s internal processes had to begin from a ‘cold start’.
7. Your letter also deals with the question of the applicability of the 4 or 10 year “rule” in the context of immunity for enforcement for engineering operations undertaken on site. We agree with you that there may well have been operations on the site that could be argued to be immune already. Our desire to ‘stop the clock’ is to ensure that more recent works do not fall into the immune category by dint of further delay. Although the applicant withdrew its application for a certificate under s191, it has not been determined what the lawful use of the site is and what engineering works are immune. We remain concerned that inaction by the Council on this score will come to be regretted in due course.
8. Finally, we urge you to give some thought as to when you should call “time” on the application process and take enforcement action. We re-iterate that the Committee in June 2021 plainly had in mind that the 2022 ‘summer season’ should be regulated by the conditions on the planning permission it resolved to grant. We do not believe that the Committee would support yet another year in which there were no effective controls in place. We remind you, respectfully, that officers are under a continuing duty to consider whether a matter should be referred back to committee with an ‘update’ to seek the Committee’s further instructions and/or to explain the action that has been taken under delegated powers.
9. Even once a planning permission is issued, there will be a need to monitor the use of the track to ensure compliance with conditions. We do not believe the LPA should simply be ‘reactive’ to complaints. Please would you ensure, for example, that there is a ‘proactive’ programme in place for June 2022 for officer visits and monitoring, including noise-level monitoring pursuant to draft condition 15 (which will need specialist equipment).

Yours faithfully

John Offord
Chair of Hornton Parish Council