

Eastgate
Hornton
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12 February 2023

Dear Ms Magnuson and Mr Seckington

Wroxton Motocross Track - Application No: 21/00571/F Re: Draft List of Conditions, 31 January 2023 Submission II

In my previous submission, last week, I covered areas of ambiguity, omissions, lack of clarity and loopholes in the draft Conditions in their current form.

In this letter, I am focusing on two areas – 'Days/Hours of Track Usage' and 'Enforcement Proactively & Transparency'.

A. Days/Hours of Track Usage

As your draft Conditions stand, ambiguously worded, they allow up to 20 days of practising/racing per year, with no more than six days in any three month period) and 9am to 6pm on each of those days.

1. We are all aware that most motor sports activities in England operate within the scope of the general permission granted by the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). This permits use of any land, subject to a number of specified exclusions, for any purpose for not more than 28 days each calendar year, of which not more than 14 may be for 'motor car and motorcycle racing, including trials of speed, and practising for these activities'.

In fact, most outdoor motor sport clubs realise that some sites cannot support 14–28 days of motor sport use a year and work to self-imposed limits much lower than legally allowed.

So my first question is why, even at this stage, the track cannot revert to this 14-28 day rule? This question is pertinent because the local Banbury MX Club has ceased to operate so there are no local riders or events to be staged at this Wroxton site any more - just large, lucrative events, involving distant clubs and riders.

Considering incorrect assumptions made by some councillors in the June 2021 Committee meeting, is this not a very strong reason to take this application back to the Planning Committee for review on this fundamental point?

2. If you consult the annual MX fixture calendar (see Dirt Hub Event Diary - <https://www.dirthumb.co.uk/event-page/>) you will see that many of the major commercial MX events are one day rather than two: either a Saturday or a Sunday.

So, under your current ambiguous stipulation, it would be possible for the MX noise on six days across a three-month summer period (June to August inclusive), the peak of the MX

season, to disturb either half of the weekends in the summer for an entire day (9am to 6pm) or some combination of weekends and single days during this period.

I suggest you add a restriction that allows only three days during the height of summer, June to August - to protect the residential amenity of nearby villagers and residents who are most likely to be out in their gardens at this time of year. If, during this period, the three days were further limited to one per month, that would mean only one weekend per month might be ruined for local residents. A blessed reprieve.

3. Furthermore, please stipulate that racing/practising may NOT take place on any Bank Holidays, including those falling during this peak summer period and including the May Day Bank Holiday that you have already listed. The residential amenity rationale is the same.

4. We are appalled by the prospect of racing/practising for nine continuous hours, from 9am to 6pm, and I have already underlined the threat this poses to wildlife, especially GCN living on the track site.

Where exactly did your draft 9am to 6pm guideline come from? We don't think you have consulted other local authority examples nor motorsport codes of practice, eg. where hours of operation are required to be from 11:00 to 16:00. The rationale is simple: 09:00 is an early start at a weekend and 11:00 to 16:00 is cited in SNS case study: <https://www.statutorynuisancesolutions.co.uk/case-studies/moto-cross-circuit/>

Please also consider this example:

Use of agricultural land for motor racing Arun District Council May 1997 Appeal ref:
APP/C/95/C3810/640200-02 :

...On each day of use the activity was permissible only between 1130 and 1800 hours, with a 45 minute period before and after use to allow vehicles to be moved on and off the site.

5. What is the definition of each one of the 20 days of racing or practising? We assume a 'day' is not only the full permitted hours of racing/practising but also any number of hours up to that prescribed limit – ie. the club or managers cannot 'carry over' non-raced hours from one day into another? A 'day' is a full day or part thereof?

B. Enforcement Proactively & Transparency

Swathes of evidence have demonstrated how the team at the track have ignored or neglected countless land management and motorsport codes and rules. Naturally, you are not going to just 'take their word for it' that they have ticked every condition box? However, you do not say how auditing and enforcement will be conducted at these crucial stages:

7. **Before** the track is given a green light to re-open commercially, how will the myriad of conditions be audited and signed off and by whom? Will you involve the specialist officers in checking their conditions – eg. in ecology, landscaping, drainage, highway

access, biodiversity, etc.?

How will these thorough checks be made public and will Hornton Parish Council be both consulted, as a witness, and informed? Given the huge degree of public concern and interest, it is vital that you reassure local residents, of course.

How will any outstanding requirements, thus discovered, be dealt with? How long will the applicant be allotted to make amends and when will they be re-audited?

8. Early on, **during** the first racing season, will you attend race events to check on noise and conduct the noise assessments using the appropriate methods (see Hornton Parish Council submission and others)?

You are not just going to rely on the MX team policing their own events, surely? What can they – and we – expect in terms of diligence? We assume, in light of the history of this application, a high degree of proactivity?:

9. CDC Enforcement also needs to be ready to react quickly in **response** to residents' complaints. Should complaints arise, how will they be dealt with? Where should residents direct such complaints and what information should they submit, in what form, depending on whether they are monitoring noise nuisance, waste disposal, hours of operation or other infringements? Many local homeowners will want to be involved in this surveillance. They need guidance.

Finally, in this regard, please be aware of these case studies:

Case Study I:

An arable farmer in the east of England benefited from 'set aside' grants to cease farming on a section of his land and to develop it (c 20 hectares) as a moto cross practice track, where young people could ride motor cycles around a circuit that was properly organised and supervised. The southern edge of this circuit was approximately 200 metres from the rear gardens of a row of six bungalows. Initially the moto cross circuit was used informally by the farmer's son and his friends at weekends. But over time the popularity of the track grew and so the farmer sought to regularise its use as a motocross track by obtaining planning consent for it.

The council viewed the planning application favourably. They viewed the provision of leisure amenities as being worthwhile for the community and so granted planning consent subject to conditions restricting the use of the track to Saturdays between 11.00 hrs and 16.00 hrs, in addition to an aggregate of 8 weekdays between April to September.

The track soon became well established and well used as a practice circuit by local clubs. Two years after planning permission was granted some of the bungalows were sold to new owners. They complained to the council that the noise generated by motor cycles using the circuit at weekends was excessive. The local council monitored the noise from the circuit from the rear gardens of the bungalows and concluded that the noise amounted to a statutory nuisance. The council subsequently served an abatement notice on the landowner under the provisions of s. 80 of the Environmental Protection Act 1990 requiring him within a period of 90 days to:

"Abate the nuisance and to prohibit the recurrence of the same."

The notice was appealed and David Horrocks was commissioned by the farmer to undertake an independent assessment of the noise levels. Additionally he scrutinised the measures that were being employed to minimise noise. He concluded that the noise did constitute a statutory nuisance

and devised a comprehensive schedule of measures that would be effective in mitigating the noise impact of the circuit's operations in accordance with best practicable means principles.

... the original abatement notice could be withdrawn by the Council and replaced by an agreed notice. The measures set down in the new abatement notice included the following:

- all machines using the circuit to comply with static noise test limits stipulated in the Noise Council's Code of Practice on Noise from Organised Off-Road Motor Cycle Sport, published in 1994, and measured in accordance with the protocol devised by the Auto-Cycle Union. Details of static noise tests performed during meetings to be logged in a format agreed with the council and such records to be provided to the council, on request;
- machine manufacturer's silencers or better to be used on all machines and no machines with customised silencers to be allowed onto the circuit;
- the maximum number of machines allowed onto the circuit in any session shall be 30 and entry onto circuit shall be one machine at a time;
- a noise barrier to be erected along the southern aspect of the circuit as indicated on the scale drawing; this barrier to be a minimum of 5 metres in height and constructed using 500 kg bales of straw tightly abutted and linked together. These works to be completed within a period of 3 months and by 1st April each year a programme of repairs and maintenance of this barrier to be agreed with the council;
- the configuration of the circuit shall not be altered without the council's express consent.

Following the implementation of this schedule of measures, no further complaints were received from the residents and hence a sustainable solution to this problem was achieved.

Case Study II: Extract from Cheshire Replacement Structure Plan – Policy TR11 Sports Nuisance

Facilities for outdoor activities and sports which, because of their nature, can adversely affect the amenity of residents or users of public open space will normally be allowed only where all the following circumstances apply:

- a) it would not be within four hundred metres of a significant number of dwellings, a visitor attraction or other environmentally sensitive areas including conservation areas that would be seriously affected by the proposals;
- b) it would not cause unacceptable traffic congestion or generate traffic flows which would be harmful to the environment, particularly if there would be heavy traffic flows on a minor road through a village or past a significant number of houses;
- c) sufficient off-street parking is provided;
- d) it would not cause permanent damage to the environment and endanger people and property;
- e) there would be no conflict with agricultural interests.

We look forward to hearing from you on all of these points and to Hornton Parish Council, a Consultee in this matter, being properly consulted on the next iteration of the Conditions.

Yours sincerely

Chris Brayshay (Ms)