

Appendix B for Item No. 6 application no. CB/14/03678/VOC

Development Committee Meeting 14 January 2015 Item 6 - Planning Application CB/14/03678

Purpose of this paper

To question the basis of the conclusion outlined on page 25 of the Officers Report that:

“Whilst it is correct that Breach of Condition Notices have been served on the applicant, these have since been complied with and as such do not constitute a material planning consideration.....Furthermore this demonstrates that the local Planning Authority is capable of enforcing its own planning conditions”

Background Information.

2012 :

The applicant began operating the site in April. Immediately he operated outside the permitted hours and put more than the 7 permitted bikes on the track.

Local residents complained but no Planning Enforcement action was taken throughout the six month summer period.

In September the operator made a Planning Application for more hours, more bikes and winter usage (CB/12/03419). This application was refused in November but he continued to operate although clearly knowing he was operating illegally.

Eventually after more complaints from local residents a Breach of Condition notice, regarding not operating in the winter period October/March, was issued in January.

The track eventually stopped operating in February

2013:

The track began its permitted summer (April through September) operation on 1 April and immediately there were more than 7 bikes on the track operating outside the permitted hours.

A CBC Public Protection Officer witnessed this but was refused entry to the site.

As CBC Planning Enforcement records show, local residents complained throughout the summer, provided pictorial evidence of more than 7 bikes on the track but Planning Enforcement took no action.

The site continued to operate into October in contravention to the Breach of Condition notice issued nine months earlier.

Eventually after numerous complaints by local residents CBC warned the operator, he would be taken to the Magistrates Court. He continued to operate.

CBC made the same threat again and but motocross continued.

Eventually CBC threatened a High Court Injunction and the track closed for the winter.

2014:

The track opened for business in April and immediately operated outside its permitted hours and with more than 7 bikes. Local residents complained and CBC acted and issued two further Breach of Condition notices during that month.

The site generally complied with its planning conditions during the summer. There were some days when noise levels indicated there were more than 7 bikes on the track. Hence there were fewer noise complaints to CBC.

On 21 September I witnessed more than 7 bikes on the track and informed CBC Planning (Messrs Andrew Davie, Michael Bailey and Ms Sue Cawthra).

None of the recipients responded or acknowledged the complaint and no action was taken even though it contravened the Breach of Condition Notice.

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Conclusion

An impartial observer might conclude:

1. The applicant has a long history of ignoring his planning conditions right up to 21 September 2014
Similarly he has a long record of ignoring CBC warnings.
2. Whilst CBC Planning Enforcement is clearly capable of acting to enforce conditions – it has a statutory duty to do so – the above evidence would suggest it is certainly not proactive and has an unfortunate habit of ignoring local residents complaints despite relying on their input.

Relevance of the above history

Given the past behaviour of the applicant outlined above and the difficulties CBC Planning Enforcement and CBC Public Protection historically have had in monitoring the track, it is essential that whatever planning conditions are approved, they are capable of being monitored, be it noise, opening hours, days or months.

Noise, however remains a key issue. If local residents could not hear the bikes there would be no issue with motocross. But it is common knowledge that motocross and noise nuisance go hand-in-hand. That is why many Councils are restricting or closing motocross tracks.

The Officers Report contains the outline of a draft Noise Management Plan.

It is essential that this Plan includes **Boundary Noise Levels**.

These should be set for nearby residential properties (those most effected by the noise) and would enable CBC Public Protection to monitor noise levels over a realistic period without having to warn the track operator or seek his permission to enter the track.

The actual Boundary Noise Levels should be taken from the listed readings recorded at nearby residential properties and contained in the independent Noise Report conducted by CBC. This report is the foundation for CBC Plannings' contention that 18 bikes are no nosier than 7.

CBC Planning claim the report provided scientific and objective measurements of the normal operation of the track with up to 18 bikes being ridden.

To set Boundary Levels other than those detailed in the Noise Report would question the validity of the report and therefore the basis of CBC Plannings' contention that 18 bikes are no nosier than 7.

Dr Richard Brewer
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