

**REPORT TO THE NORTHERN AREA HUB
PLANNING COMMITTEE**

Report No.

Date of Meeting	29 January 2014
Application Number	13/05325/FUL
Site Address	Whites Farm Grittenham Chippenham Wiltshire SN15 4JW
Proposal	Retention of Motorcross Circuit (Resubmission of 13/00278/S73A)
Applicant	Mr S Nichols
Town/Parish Council	BRINKWORTH
Grid Ref	402332 183207
Type of application	Full Planning
Case Officer	Chris Marsh

Reason for the application being considered by Committee

The application has been called in by Cllr Sturgis, in order to consider the impact of the proposal on the residential amenity of local residents.

1. Purpose of Report

To consider the above planning application and recommend that permission is GRANTED, subject to conditions.

2. Report Summary

The main issues in considering the application are:

- Principle of development
- Impact on the character and appearance of the area
- Impact on residential amenity
- Impact on highway safety

The application has attracted 18 public objections, relating principally to the noise and traffic impacts of the use for which retrospective permission is sought. An additional representation

objecting strongly to the application has been received from Brinkworth Parish Council. No objection is raised by the Council's Highways or Environmental Health Officers, subjected to suitable conditions, and no objection is raised on ecological or archaeological grounds by the relevant subject matter experts.

3. Site Description

The application site is located to the immediate North of the M4 motorway, close to its intersection with the unclassified road linking the hamlet of Grittenham with the village of Brinkworth to the North. The site, which extends to around 5ha in size, lies to the immediate West of the array of barns, cabins and hard standing known as White's Farm and until relatively recently had been classified as agricultural land. Access is obtained via the existing access onto the road to the East, which crosses the motorway a short distance further South, at the northern edge of the main White's Farm complex. Competitors and spectators then travel a short distance across the existing hard standing to arrive at the site itself.

At present, the land accommodates a substantial motocross track featuring several large ramps and jumps arranged throughout its full length, with competitive events held regularly, particularly during the core motocross season spread across the period March – October. The track is laid out across the southern portion of the site – occupying around a third of its total area – with the remaining land providing a general area for parking, overnight stays and general technical/maintenance activities during the events.

Retrospective planning permission was granted in 2012 (N/11/03051/S73A refers) in respect of a change of use for this purpose, regularising the physical engineering works, subject to a number of conditions to control the impacts of its use on the amenity of local residents. As no agreeable Event Management Plan (EMP) was forthcoming within the relevant timescales, as required by Condition 3 of the original permission, that permission has now expired, however. A subsequent application to regularise the use with an amended set of conditions, and the prospect of mitigating earthworks, was subsequently refused on amenity and landscape character grounds (N/12/00278/S73A refers).

4. Planning History

N/04/01435/ENF	Appeal Against Enforcement Notice A - Change of Use of Land from Agriculture to Mixed Use Agriculture and Road Haulage Business – Appeal
N/04/01436/ENF	Appeal Against Enforcement Notice B - Engineering Operations Comprising Hard Surfaced Areas, Mounds and Bunds – Appeal
N/05/02329/AGN	Erection of Agricultural Building for Storage of Hay & Silage – Planning permission not required.
N/06/00991/FUL	Alterations and Extensions to Workshop – Permitted
N/08/00809/FUL	Extension to Buildings to form Two-Storey Link to form Office, Mess Room and Storage Facilities – Permitted
N/11/03051/S73A	Retention of Motorcross Circuit (Retrospective) - Permitted
N/11/04065/WCM	Proposed Waste Transfer Station – Refused
N/13/00278/S73A	Retention of Motorcross Circuit (Revision to Planning Permission 11/03051/S73A) – Retrospective – Refused

5. The Proposal

Planning permission is sought in respect of the ongoing and permanent use of the site for competitive motocross, using the existing infrastructure and track profile to host regular events. It is proposed that the site operates in physical terms much as it has done both lawfully and unlawfully in the past 2-3 years, with the existing operational access obtained and dedicated parking and technical area retained. Confirmation has been provided that occasional earthworks undertaken on site in the past year or so have been a matter of repair and maintenance to the approved sectional profile of the track, and the current application is made on the basis that the physical landform of the site will remain unchanged. This layout was previously approved (N/11/03051/S73A refers), although the relevant permission was subsequently extinguished by non-compliance with one of the conditions. A subsequent application for an almost complete relaxation of those conditions was refused earlier in 2013 (N/13/00278/S73A refers) due to its inadequacy of mitigation.

Moreover, the current proposal therefore represents a proposed revision of the planning conditions originally imposed, taking account of the anticipated operational requirements of the facility as well as concerns raised locally and by the previous refusal. Starting with Condition 1 of the original permission, it is now volunteered by the applicant that the 14-day ceiling is retained on the number of events per year, but that these should be allowed to take place at any time of year so as to better reflect the seasonal nature of competitions and the implications of events being postponed, most often by inclement weather. Instead of a month-by-month allowance, it is proposed that no more than two events should take place on successive weekends, with a subsequent break of at least one weekend where two events take place back-to-back.

Turning to the second condition of the earlier permission, the hours of operation are to be increased and amended to reflect the demands for track practice time in association with actual competitive racing. This tends to occur during the late morning, with races occupying much of the afternoon schedule. By its nature, to the casual observer (or listener), such practice appears to differ little from competitive racing, and typically includes around the same number of riders at any one time. As such, the joint use of the site can reasonably be viewed as a whole.

An Event Management Plan (EMP) has been submitted with the application, detailing how individual events are to be run in practice. Issues covered include the times and frequency of events, together with the means of controlling on-site traffic and noise and engaging with the local community to minimise disturbance. Principally, the document sets out the standards to be put in place to ensure that events run smoothly, safely and with minimal disruption to the local area in general and largely reflects the objectives of Condition 3 to the original approval.

6. Planning Policy

The following planning policies are relevant:

- Policy C3 of the adopted North Wiltshire Local Plan 2011 (Development Control Core Policy)
- Policy NE15 of the adopted North Wiltshire Local Plan 2011 (The Landscape Character of the Countryside)
- Policy NE18 of the adopted North Wiltshire Local Plan 2011 (Noise and Pollution)
- Policy T2 of the adopted North Wiltshire Local Plan 2011 (Transport Assessment & Travel Plans)
- Policy BD7 of the adopted North Wiltshire Local Plan 2011 (Farm Diversification)

Sections 3 (Supporting a prosperous rural economy) and 11 (Conserving and enhancing the natural environment) of the National Planning Policy Framework are relevant.

Core Policy 51 (Landscape) of the emerging Wiltshire Core Strategy may also be afforded some limited material weight in respect of the application.

7. Consultations

Brinkworth Parish Council – objections
Highways – no objection, subject to conditions
Environmental Health –
County Ecologist – no objection
County Archaeologist – no objection

8. Publicity

The application was advertised by site notice and neighbour notification.

18 letters of objection were received, raising the following planning points:

- Impact of noise, both from racing/practice and public address system, on residential amenity;
- Impact of traffic implications on the local highway network and highway safety;
- Visual impact and stability of earthworks;
- Loss of agricultural land;
- Lack of local benefit from events;

Other points raised concern the prospect of future development of the site and the applicant's having previously breached planning conditions. Although related to the current proposal, these aspects are not material planning considerations pertinent to the determination of the application.

9. Planning Considerations

Principle of development

It is the Officer's view that the principle of development has already been established by the original permission. This explicitly stated that "*The proposal is considered to be an acceptable form of development in this particular location*", adding that "*Whilst comprising an alteration to the landform of an agricultural field, the visual effect of development is not considered to be unacceptable in the context of the adjoining M4 corridor.*" It has previously been considered that the immediate proximity of the motorway to the southern site boundary rather lessens the sensitivity of the site and its immediate surroundings, both in visual and noise terms. Overall, therefore, this site is considered to be reasonably appropriate for the proposed use, insofar as suitable sites are ever available. No significant changes to the physical landform of the site are to be made, nor is the level of activity in terms of visitors and vehicles likely to increase substantially, relative to that previously acknowledged, and for these reasons, it is considered that the fundamental use of the site for the purposes proposed is acceptable. The site is located in undesignated open countryside and therefore it is considered that limited-scale activity of this type is consistent with Policies C3 and NE15 of the adopted Local Plan.

Nonetheless, for reasons led by the physical works that in turn attract a higher-profile type of event and an associated increase in noise, visitors and traffic, it remains the view of the Council that the proposed use amounts to substantially more than the lower-key events possible under permitted development rights. Rather than what might be considered a local practice or recreational activity, the operation at White's Farm has become established on the national motocross circuit, catering for regional-level competitive events. It is therefore reasonable to consider the proposal in its own right, mindful of the fallback position in terms of permitted development rights (although these are of course contingent upon the land returning to agricultural use between events).

Impact on the character and appearance of the area

In terms of the physical appearance of the site, it is not considered that there has been any material change in circumstances that would affect its acceptability since the original permission was granted. No change to the site profiling originally undertaken has occurred, beyond routine repair and maintenance, since its creation and therefore its impact on the general landscape is considered to remain acceptable. As previously mentioned, the adjacent motorway and haulage yard compromise the site in visual terms to such an extent that the limited re-profiling works are not considered to represent a detrimental scar on the landscape. It is not considered that the policy position has changed in such a way that the appearance of the site should be viewed as having any greater or lesser value in determining planning applications, and as such the originally-approved engineering works remain acceptable.

Perhaps more prominent than the earthworks themselves, due partially to their temporary but numerous appearance during events, are the private vehicles, trailers, caravans and campervans used by competitors and spectators. The application site extends well beyond the area occupied by the track itself due to the need to accommodate suitable parking, technical and overnight stay areas incidental to the events themselves. Undoubtedly, such a proliferation of vehicles, some large, carries with it a visual effect that impacts significantly on the overall character of the site, and is considerably greater than that which might be associated with a less prestigious event possible under permitted development rights. However, this general effect is not inconsistent with the temporary use of agricultural land for, for instance, car boot sales, which have an equivalent tolerance in terms of number of days permitted per year. Although the vehicles will be very apparent when in situ, no permanent surfacing is required (the assumption being that where the ground is too wet or icy to park/turn, the track would not be fit for racing) and there is no reason to believe that vehicles would be present for any more than a single day either side of an event. For these reasons, it is considered that this temporary effect is acceptable in landscape terms and moreover, the proposal accords with Policy NE15 of the adopted Local Plan in particular.

In terms of the general character of the area insofar as it concerns noise, this is dominated by the use of the M4, which is very busy for significant proportions of the day and despite its adjacent embankments gives rise to an almost constant hum of vehicle noise perceptible for several miles to either side. Nonetheless, it is acknowledged that the character of this noise is distinctly different to that of the motorbikes used at the site, whose noise emissions tend to be more sporadic and at a higher pitch. Whilst it is considered that overall, this occasional increase in noise levels does not have any significant implications for the general character of the area, the most sensitive receptors are likely to be nearby domestic properties and therefore this issue is considered in greater detail under 'Impact on residential amenity,' below.

Under the previous application, reference N/13/00278/S73A, a 3m-high earth bund was

mooted as a potential means of attenuating on-site noise emissions; to be situated across the entire northern site boundary. Notwithstanding that it was considered that the visual implications of such an extensive engineering operation would be detrimental to the landscape character of the area, it is doubted by the Council's Environmental Health Officer whether such a method would be effective in practice. Due to the elevation and distance of the village of Brinkworth, it is likely that the bund would have little to no effect – its only meaningful benefit in noise reduction effectively relating only to the land immediately behind it – and therefore not a prospect the Council would be minded to entertain. It must also be acknowledged that the principle of the use has also been established without any perceived requirement for physical means of attenuation, and in the interests of consistency it is reasonable to consider the current proposal on the same basis.

Impact on residential amenity

The critical consideration in terms of the impact of the development on residential amenity is the noise emitted through the active use of the track by motocross bikes. The individual facets of this include the volume, frequency (pitch), intermittency and duration of bikes practicing and racing, and there is also a cumulative consideration where events take place frequently and even on successive weekends. Objections have been received from residents of Brinkworth and Callow Hill, both around 2km north/northeast of the site, as well as Grittenham, which lies closer but on the opposite side of the motorway to the southwest, following a relatively intensive spell of unauthorised events during the peak-season months of July-August 2013.

Assessing the level of noise emanating from the site as a differential volume relative to the background noise of the motorway, the motocross activity makes little impact and thus it is highly unlikely would result in a statutory noise nuisance in this respect. Such a nuisance would be possible to pursue under the relevant legislation set out in the Environmental Protection Act 1990, and this measure is a suitable means of testing the proposal with regard to this matter. It is acknowledged, however, that due to the various factors explained above, the activity could also result in a subjective noise nuisance to local residents. This is exacerbated by the natural coincidence between the best days for racing and those on which residents are most likely to be enjoying their outside space – namely at times when the weather is warm and dry. As such, it is necessary to reach a balanced judgement to ensure that any subjective noise nuisance does not reach a threshold at which it deprives nearby occupiers of a reasonable level of residential amenity.

The submitted Event Management Plan (EMP) proposes to increase the number of hours during which the track may be used in any one day, relative to the original permission, although the use is to cease considerably earlier than previously consented. It has now been agreed between all parties (including, to the best of the Officer's knowledge, local residents) that there should be no discrimination between the activities of practicing and competitive racing on the track for the purposes of the application, as the intensity of the use, and thus noise emissions, are similar in either case. The EMP proposes an upper limit of 40 motorbikes for either activity and therefore a simple operational time limit of 0930 – 1700 is now proposed, with the operator free to determine how that period is divided between racing and practicing. For the avoidance of doubt, this restriction would apply to the entire site, rather than just the track. These hours represent an overall increase of 1½ hours relative to the previously-permitted allowance (1400 – 2000) but it is considered that a 'quiet' period of 1700 – 2000 offers greater amenity value to residents than that between 0930 and 1400. Aside from residents generally being able to enjoy sitting out, etc, in the early evening, these hours coincide with the time when small children might be put to bed and are generally characterised by being quieter, with less noise intrusion from lawnmowers, etc, and lighter traffic on the nearby motorway.

Taken with the overall restriction on the total number and distribution of events, it is considered that the above time restrictions are acceptable in planning terms and do not represent any material threat to residential amenity, particularly taken in relativity to those conditions previously approved. Adopting an absolute cut-off at either end of the day will ensure that any such restriction is possible to monitor and enforce. Some concern is felt, however, in respect of the proposed distribution of events and their potential to cumulatively result in a noise nuisance, technically enabling 4no. 15-hour weekends within a 5-week period at its most intensive. Nonetheless, rather than imposing limits by the calendar month, it is considered reasonable to offer some freedom on the timing of events due to the probability of postponement. To this end, it is suggested that a condition is imposed providing for at least one weekend 'off' between events and, where the use occurs over two weekends in three weeks, a subsequent gap of two clear weekends to the next event.

The observations above relate specifically to the use of the site for testing, practicing and/or racing, which it is considered reasonable to contain to weekends only. However, there is no objection in principle to the associated setting up and packing down taking place on the Friday before and Monday after an event respectively. This is particularly useful given the congregation of events around bank holidays and would not result in additional material harm. There are also highways benefits to lengthened events, reducing the likelihood of a concentrated 'rush hour' around the beginning and end of a single event as vehicles arrive and depart on a more staggered basis. An upper limit of 14 days' racing per calendar year would remain, and therefore, for instance, an hour-long practice from 1600 to 1700 on a single day would still count towards this total entitlement. Whilst events are generally arranged over a full two days, the applicant would of course be entitled to use just one day of this allowance during a weekend, carrying over the 'spare' day to a subsequent event.

Turning to the matter of noise emissions from an on-site public address system, it is now proposed that this equipment is used only for the purposes of issuing urgent notices in times of emergency. Previous objections have indicated that when the public address system has been used for commentary the content of the announcements has been audible word-for-word. This would suggest that this element of the EMP is enforceable as any breach would be detectable, albeit that a judgement may have to be made as to what constitutes an 'emergency'. In visual terms there is no objection to the retention of a physical PA system on site and therefore it is considered reasonable to simply control its use by condition, on the basis that a common-sense approach to enforcement is adopted should it be used in genuinely exceptional circumstances.

In summary, it is considered that the proposed mitigation measures now proposed and pertaining, crucially, to the proactive management of the facility in consultation with the local community, go sufficiently far as to prevent any unacceptable impact upon residential amenity, subject to suitable limitations on use. It is considered that these matters can be adequately secured by condition and thus enforced against if breached. For the above reasons, it is considered that the proposal accords with Policies C3 and NE18 of the adopted Local Plan.

Impact on highway safety

The nature of weekend events held at the site is such that traffic movements are generally concentrated around the Saturday morning and Sunday evening, with many attendees staying overnight, although events taking place on bank holiday weekends tend to create a more dissipated traffic flow. The road junction and condition of the adjacent highway are such that these movements can be safely accommodated, provided suitable on-site arrangements are made for traffic management. To this end, it is considered that the

submitted Event Management Plan (EMP) includes adequate measures to attenuate traffic flow and ensure that access to the site is obtained as safely as possible. The use of marshals to direct traffic during the peak hours of movement should avoid any significant congestion or risk to highway safety as a result of vehicles queuing out onto the highway. It is also noted that there is a substantial area of hard standing within the applicant's control, which could be used as temporary 'overflow' provision in extreme circumstances.

It is the view of the Council's Highways Officer that the proposed limit of 14 days' active use in any one calendar year represents an acceptably low overall volume of traffic, which can be accommodated by the existing highway network and access arrangements. On the basis that the proposed change of use effectively rescinds the permitted development rights that might otherwise be exercised at the site – for car boot sales, for instance – it is considered that there is to be no cumulative impact caused by the holding of further events in excess of the 14-day limit. Overall, the current proposal will incur no further highways impact than the previously approved scheme, which it is noted did not include specific measures for managing site access. For this reason, the proposal is considered acceptable in highways terms.

Other matters

It is agreed that the proposal offers little, if any local benefit beyond the income generated to the landowner. The relatively isolated location of the site, together with the focused nature of its use, is such that visitors are unlikely to make use of local services. Many visitors attend with campervans and caravans, enabling the self-sufficiency of overnight accommodation, catering, etc, for instance. Whilst this consideration certainly does not work against the proposal per se, a use that clearly offered more than a negligible economic or social local benefit could perhaps strike a more favourable balance on sustainability grounds. That, of course, is not to say that the proposal is necessarily unsustainable but that it should be considered on its other merits.

It has been intimated in the public representations that the proposal represents the loss of good quality agricultural land. Whilst as a matter of principle, this has already been accepted under the original retrospective permission, it is not considered that there has been any material change in circumstances in this regard since that time in any case. The National Planning Policy Framework emphasises at Paragraph 112 the need to assess the economic and other benefits of the best and most versatile agricultural land. Whilst it is not possible to tell from a desk-based study whether the land falls within this policy, being Grade 3 land of 'good to moderate' quality, the reversibility of works and clear economic advantages of this type of diversification warrants no further investigation on this issue, in which respect it is considered the proposal is acceptable. In this regard, it is considered that the proposal is also consistent with Policy BD7 of the adopted Local Plan, relating specifically to farm diversification.

Previously, the issue of permitted development rights has arisen, although one can only speculate as to what other uses may be intended for the land. Having given some consideration to the matter, however, it appears clear that with the grant of planning permission for use as a motocross facility the land would become a *sui generis* use under the Use Classes Order 1987 (as amended) due to its specifically falling outside of Class D2 (assembly and leisure) of the legislation. As such, any such rights would be extinguished until such time as the development was reversed and the land restored to agricultural use.

In accordance with the advice provided by the relevant County subject matter experts, it is not anticipated that the development will impact significantly upon site archaeology or ecology, and therefore no conditions or informatives are recommended on such grounds.

Conclusions

In summary, it is considered that the current proposal, subject to the conditions set out below, represents a reasonable compromise that reflects the established principle of development without compromising the residential amenity or landscape

RECOMMENDATION

That planning permission is GRANTED, subject to the following conditions:

- 1 Within 3 months of the date on which the land subject to this permission has not been used for the purposes approved for a period of 6 months, the use/activity hereby permitted shall cease, all equipment and materials brought onto the land for the purposes of such use shall be removed, the engineering works shall be reversed and the land restored to its former agricultural condition.

REASON: To ensure the reversibility of the development in the interests of visual and residential amenities.

- 2 The land subject of this permission shall be used for the racing and/or practice of motocross motorcycles up to a maximum of 14 days in any one calendar year.

REASON: In the interests of residential amenity.

- 3 The development hereby permitted shall not be first brought into use in any calendar year until a full schedule of events for that year has been submitted to and approved in writing by the Local Planning Authority. Any alterations to the approved schedule shall be notified to the Local Planning Authority no less than 7 days prior to the rescheduled event.

REASON: In the interests of residential amenity and to enable the Local Planning Authority to monitor the distribution of events.

- 4 Events shall not take place on consecutive weekends. No more than 2 Events shall take place in any 5-week period. For the avoidance of doubt and the purposes of this condition, an 'Event' is defined as a single day or two days of racing/practicing within the period Saturday to Monday inclusive.

REASON: In the interests of securing an environment free from intrusive levels of noise disturbance

- 5 The use hereby permitted shall not take place on the days of Tuesday to Friday inclusive. No testing, practicing or racing of motorcycles shall take place on the site on any day other than Saturday, Sunday or Monday.

REASON: In the interests of visual amenity, highway safety and to secure an environment free from intrusive levels of noise disturbance.

- 6 No sound-amplifying equipment, loudspeaker, public address system shall be operated in association with the development hereby permitted.

REASON: To ensure the creation of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 7 The development hereby permitted shall be implemented and the site operated in full accordance with the submitted Event Management Plan (LPC, December 2013), in perpetuity.

REASON: In the interests of residential amenity and highway safety.

- 8 The mobile toilet block indicated on the site location plan shall be completely removed from the site no later than the date 6 weeks after the most recent event. At such time it shall be removed completely from the site and shall not be reinstalled on the site until the recommencement of events on the site thereafter.

REASON: To ensure the removal of a temporary structure when the site is not in use, in the interests of visual amenity.

- 9 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan
LPC/2798/2 - Site Layout Plan
LPC/2798/3 - Sections 1

Received 24 October 2013

REASON: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVES:

- 1 It is the view of the Local Planning Authority that the development hereby approved represents a change of use of the land to sui generis, as set out in the Planning (Use Classes) Order 1987 (as amended). As such, all permitted development rights set out under Class B of Schedule 2, Part 4 of the Planning (General Permitted Development) Order 1995 (as amended), are effectively rescinded. Use of the land subject of this application for such purposes will therefore require a separate planning application.

- 2 The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.



