



Appeal Decisions

Inquiry held on 23 & 24 August 2022

Site visit made on 24 August 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal A Ref: APP/D2320/C/21/3279304 & Appeal B 3279305

Chisnall House Farm, Croston Lane, Charnock Richard, Chorley PR7 5HJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended ('the Act'). The appeals are made by Mr Andrew Walsh (Appeal A) and Mr Lee McGarry (Appeal B) against an enforcement notice issued by Chorley Borough Council.
 - The notice was issued on 21 June 2021.
 - The breach of planning control as alleged in the notice is unauthorised material change of use of Land and associated unauthorised operational development and storage to facilitate that unauthorised material change of use to a permanent Racetrack and Recreational Motorcycle Track, on the Land outline [sic] in red for on PLAN 1 attached to the notice.
 - The requirements of the notice are set out in Annex 1.
 - The periods for compliance with the requirements are set out in Annex 2.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - Appeal B is proceeding on the grounds set out in section 174(2)(c), (d), (f) of the Town and Country Planning Act 1990 as amended.
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Appeals A & B: Summary Decisions

1. The appeals are dismissed and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decision.

Applications for costs

2. At the inquiry, an application for costs was made by Chorley Borough Council against Mr Andrew Walsh. This application is the subject of a separate decision.

Preliminary Matters

3. Evidence at the Inquiry was taken under affirmation.
4. Although the appellant for Appeal A initially appealed under ground (a), this was withdrawn in writing prior to the close of the Inquiry.
5. The appellants make reference to an appeal under ground (g), which, on page 16 of their Statement of Case, is stated was made partly to safeguard their position in the event that lawfulness is not confirmed. However, it was confirmed during the inquiry that the appellants have not appealed under ground (g).
6. It is not disputed that the alleged material change of use has occurred within the site and the appellants have not appealed under ground (b). The Council has drawn my attention to *Tidswell v Secretary of State for the Environment & Thurrock BC* [1977] JPL 104, where a distinction was drawn between what is

the beginning of a permanent user, which is not covered by the General Development Order, and what is a general and temporary casual user, which is. The physical changes to the site, together with literature published advertising Kawasaki MX Experience, indicate a clear intention to operate the track on a permanent basis. Moreover, the appellants accepted during the Inquiry that the works were undertaken with the intention of making a more formal and permanent track, which meets Auto-Cycle Union (ACU) standards and have advanced their case on the basis that the site is a permanent use as a motocross site and has been for at least 10 years.

7. Given the above, I shall therefore consider the appeals on the basis of grounds (c), (d) and (f) only.

Matters concerning the notice

8. The notice alleges the unauthorised material change of use of Land and associated unauthorised operational development, however, the operational development is not defined. I raised this matter with the parties in a pre-inquiry note and set out suggested wording. During the inquiry, the parties agreed that the wording of the notice should be amended to identify the operational development which has taken place and I am satisfied this can be done without causing injustice. The appellant suggested that the allegation does not need to include storage, since any storage is part and parcel of the motocross use. I agree it is unnecessary for it to be included in the allegation or requirements, since it is not a primary use of land and shall correct the notice accordingly.
9. The Council confirm that the portacabins had been removed by the time the notice was served and therefore do not need to be specifically identified in the allegation or requirements. This was not disputed by the appellants and so there is no likelihood that the failure to require their removal would inadvertently grant planning permission for them under section 173(11) of the Act.

Ground(c)

10. An appeal under ground (c) is made on the basis that the matters stated in the notice, if they occurred, do not constitute a breach of planning control. The main thrust of the appellants' case under ground (c) is that the works to the track and the laying of hardcore is a use of land, not an engineering operation and since the material change of use of the site is lawful by virtue of the passage of time, and a Lawful Development Certificate (LDC) has been issued to that effect, the mounds, track and laying of hardcore are lawful. In addition, the fencing is permitted by The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)('the GPDO').
11. In legal grounds of appeal, such as (c) and (d), the onus is on the appellant to make out their case, on the balance of probabilities. Their evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
12. The appeal site comprises a parcel of land approximately 6.6ha which is accessed via a bridge which passes over the M6 Motorway. The land is undulating and is bound by mature vegetation, with a number of public rights

of way passing through the site. A track has been constructed within the site to create a motocross circuit, hardstanding laid and fencing erected. During the Inquiry, the parties agreed that the appeal site comprises a single planning unit and on the basis of the evidence submitted and my inspection of the site, I concur.

13. Section 55(1) of the Act sets out the meaning of 'development' for the purposes of the Act, which means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
14. It was held in *Fayrewood Fish Farms Ltd v Secretary of State for the Environment* [1984] J.P.L 267 that the term engineering operation should be given its ordinary meaning in the English language. It must mean operations of the kind usually undertaken by engineers, i.e., operations calling for the skills of an engineer. This does not mean that an engineer must actually be engaged on the project, simply that it is the kind of operation on which an engineer could be employed, or which would be within his purview. Engineering operations involve works with some element of pre-planning, which would generally be supervised by a person with engineering knowledge.
15. I saw that the earthworks that have been carried out at the site are substantial and are likely to have been carried out using machinery. Indeed, the appellant confirmed during the Inquiry that a bulldozer and excavator were used. The mounds have been shaped to create ramps and have been located within the site to form part of a circuit. Where the land is naturally higher than the track, it appears to have been cut away, to create the track. This would have involved an element of pre-planning. Therefore, as a matter of fact and degree, I consider they constitute an engineering operation and are therefore development for the purposes of the Act.
16. The Council issued a Lawful Development Certificate (LDC), reference 17/00580/CLEUD, on 17 November 2017, for engineering operations to operate a motocross track. Section 191(6) of the Act states that the lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed. This means that the works described in the LDC are shown to have been protected from enforcement action on the date of the application, and will remain so unless and until there is a material change in circumstances.
17. Although there are no detailed plans, including cross sections, showing the works which were subject to the approval of the LDC, an LDC can only confirm the lawfulness of the works that had been done by the date of the application. It does not authorise works which have been carried out subsequently.
18. The Council has drawn my attention to a series of aerial photographs, including one dated July 2017, identified as 'Plan 3' attached to the enforcement notice. Mr Walsh confirmed during the Inquiry that between July 2017 and the issuing of the LDC, he may have installed a drain but did not alter the track. It is therefore likely that the July 2017 aerial photograph is representative of the site at the date of the LDC application.
19. Mr Walsh says that, in 2020, he brought Mr McGarry in to build a larger, more professional facility, which would accord with ACU standards. Mr Walsh, confirmed during the Inquiry that in September 2020, it took Mr McGarry, and

a few (clarified as 2) people, around 8 days to carry out the works to the track, using bulldozers and excavators. The Council has provided me with a copy of the Auto-Cycle Union (ACU) Minimum standards for the operation & management of off road motorcycle facilities, updated August 2019, which provides advice regarding track layout, including that 'Course width must not be less than approximately 5 metres for solos and approximately 6 metres for sidecars and quads'.

20. The aerial photograph, identified as 'Plan 2' attached to the enforcement notice, shows the land after the works have been carried out. The track shown in 'Plan 2' appears significantly different to the track as it appeared in 2017 on 'Plan 3', with jumps, widened and extended track, substantial areas of hardstanding and removal of areas of vegetation evident in 'Plan 2'. During my visit, I saw that a series of mounds have been constructed along the new sections of track. The mounds which have been constructed are substantial in height and have been shaped to create jumps.
21. In a Facebook post, dated 28 September 2020, the appellant, Mr McGarry, states 'I've been building a new track for a week...' he goes on to comment 'as you can see so far the track has had a major change and the facility won't be ready until next year as still lots of work going on'. Significantly, Mr Walsh accepted during the inquiry that the track could be described as a 'new track'.
22. Considerable quantities of hardcore have been laid within the site to create accesses into the site and to enable the parking of vehicles. In order to create the parking area, it is highly likely that the ground would have been prepared by the stripping of grass and top soil and the placing, followed by compacting, of the hardcore material, to create an even platform. Such works involve an element of pre-planning and are, in my view, engineering operations.
23. Thus, as a matter of fact and degree, I find that a new track has been created and new hardcore has been laid, as a result, there has been a material change in circumstances since the LDC was issued. The works to the track and the hardstanding are operational development for which planning permission is required. The appeals under ground (c) with respect to the track and the hardcore must therefore fail.
24. The appellants suggest that the 'safety fencing' is permitted by The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)('the GPDO'). Part 2, Class A of Schedule 2 permits the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.
25. However, Article 3(5) states that the permission granted by Schedule 2 does not apply if (b) in the case of permission granted in connection with an existing use, that use is unlawful. Whether permitted development rights were available to the appellant will depend upon the lawfulness of the use of the site, I shall consider this further in relation to ground (d) below.

Ground (d)

26. An appeal under ground (d) is made on the basis that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. The main thrust of the appellants' case is that the site comprises a permanent use

as a motocross site and the use has continued for the requisite 10 year period, and since 2006. While the Council doesn't dispute that motocross has taken place at the site, its position is that up until late 2020, the use was permitted by the GPDO.

27. The ground (d) appeal will turn on whether the appellant can show on the balance of probabilities that the material change of use of the land began on or before 21 June 2011¹ and, if so, whether it continued without significant interruption for at least 10 years thereafter.
28. Part 4, Class B of Schedule 2 of the GPDO permits the use of any land for any purpose for not more than 28 days in total in any calendar year, of which not more than 14 days in total may be for the purposes of (b) motor car and motorcycle racing including trials of speed, and practicing for these activities, and the provision on the land of any moveable structure for the purposes of the permitted use.
29. The GPDO grants temporary permission for up to 14 days for motor racing. It is not a single permission that is granted afresh each calendar year. Its effect is to allow up to 14 changes of use on each of the days permitted per year. Thus, there is a grant of as many planning permissions as there are changes of use up to that level.
30. Permitted development rights are available for temporary uses, even if these are facilitated by permanent physical changes to the land, provided the works do not prevent the normal permanent use from continuing for most of the year. The critical factors are the duration of the temporary use and reversion to the normal use in between times.
31. The appellant states that the ACU Club and members, along with his input, began 'building' the track in 2005, which consisted of hiring in machines to prep initial layout of the track, bringing in tarmac planings for the access road, purchasing ropes and posts to mark out the track, buying land drains and chestnut paling, hiring a mower to cut the grass, purchasing signs etc [sic].
32. The LDC confirmed that there had been operational development within the site, consisting of 'engineering operations to create a motocross track'. The Council's decision doesn't provide much further detail regarding the works which have been carried out, except to state that 'the motocross track within the red edge shown on the location plan received on 02 June 2017 has been in situ for a period of over four years prior to the submission of this application i.e. since 02 June 2013'.
33. It is therefore not clear on what basis the Council considered the works to constitute engineering operations and the lawfulness of the works are only conclusively presumed on the date of the application. Since the application was made on 2 June 2017, the certificate only shows that the engineering works had, on the balance of probabilities, been carried out by 2 June 2013. It does not show that such works had been carried out by 21 June 2011.
34. Aerial photographs show that a track of some description was in place from 2006, however, the layout of the track appears to change between 2006, 2009 and 2015. Indeed, Mr Walsh states that over the years the track has changed and improved in an attempt to make it more appealing to the average rider,

¹ Namely 10 years prior to the date of issue of the notice.

and 'I had done the work up to the point of when I applied for a Certificate of Lawfulness in 2017'.

35. Although there was a track present in 2006, this is not itself evidence that development, at that point, had taken place. The site naturally undulates and although a series of jumps and other alterations to the site have now been carried out to enable the course to comply with ACU requirements, I see no reason why it would not have been possible for the site to be used without such features.
36. An interested party suggests that the site has been used minimally over the years with agricultural use in between races, that sheep have grazed on the land and the grass has been grown for silage. However, the individual states that they have lived at their property since September 2020 and so it is not clear how they would have knowledge of the use of the site prior to 2020.
37. Mr Walsh states that he is not a farmer and has not farmed the land since he created the track in 2006. Although an aerial photograph shows an area within the site which has been cut, Mr Walsh advised that during event days, individuals would park in the area where the grass was cut. Mr Walsh's evidence in this regard was given under affirmation and so I attach considerable weight to it.
38. Nevertheless, while the appellants suggest that the land is unsuitable for the growing of crops due to its undulating nature, during the inquiry Mr Walsh accepted that it would have been possible to have used the land for the grazing of sheep between events. Although Mr Walsh chose not to, it would have been possible for the site to revert to its previous normal use. Aerial photography shows that, prior to 2020, much of the site remained grassed over and so I consider it is likely it would have been suitable for agriculture between race events.
39. A letter, dated 4 October 2006, to Mr Walsh states that the Amateur Motor Cycle Associated Limited (AMCA) Limited will lease the site commencing on 1 October 2006, for a period of five years, on the condition that no other clubs or promoters are allowed to use the site for off road motorcycle events or for practice.
40. Although the AMCA leased the site from 2006, there is a paucity of documentary evidence to show actual use between 2006 and 2008. The Council refers to complaints received between 2006 and 2008, however, an investigation it carried out confirmed that the use of land was taking place in accordance with permitted development rights, pointing towards limited use of the site.
41. A contract, dated 1 January 2014, and signed by Mr Walsh and the AMCA Events Ltd General Manager on 10 and 15 January 2014 respectively, sets out the terms of the AMCA leasing the land and states 'For the purpose of motocross and other motorcycle sports, AMCA Events Ltd and its affiliated clubs will have exclusive use of the area. The terms go on to state 'AMCA Events Ltd and its affiliated clubs will develop the area into a suitable motocross track, which will comply with the AMCA Rule Book Standing Regulation and Sporting Code', which suggests that the AMCA anticipated making changes to the track.

42. The appellants have provided an email from the General Manager of the AMCA, which details events held at the site between 5 April 2009 and 3 September 2016. In 2009, 4 different dates are identified, 2010, 3 different dates, 2011, 7 different dates, 2012, 3 dates, 2013, 2 dates, 2014 3 dates, 2015, 9 different dates, although two of these recorded no attendees, 2016 8 different dates, although 2 of these recorded no attendees. The appellant has also provided the cover of a programme for AMCA events at the site on 16 April 2017, 18 June 2018 and 21 April 2019.
43. There was much discussion regarding the nature and duration of events during the Inquiry. Although the AMCA document identifies each event with an individual date, Mr Walsh advised that each event could last up to 3 days, with participants often taking part in practice events prior to race days. Although this would mean that the records provided may underestimate the total number of days spent motorcycle racing at the site, Mr Walsh agreed during the Inquiry that, with the exception of 2011, the total number of days the site was used each year for events did not exceed 14.
44. Mr Walsh appears to have been well aware of the limitations of the GPDO and refers to 'the 14 day rule' in correspondence with the Council. He suggests his understanding of permitted development rights was that he could hold no more than 14 **events** in a year (my emphasis), which does not include private hires, ride days, training days or personal use. During the Inquiry, it was advanced that any personal use of the site by Mr Walsh and his family and friends would 'use up' one of the 14 days.
45. Mr Walsh described his personal use of the site as comprising him and his sons using the track, along with friends, to ride for 'a couple of hours'. For a Material Change of Use to have occurred, there must be some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. The Council points out that there was an absence of complaints after 2010 up until October 2020, when the construction works commenced, suggesting low levels of usage of the site.
46. While Mr Walsh may have used the site for recreational motorcycling, the personal use of the site by a limited number of people over a period of two or three hours is unlikely to have constituted a material change in the use of the land and would not, therefore, have been development. Moreover, the appellant has not quantified his use of the site in this regard or shown that his use of the site in this way was continuous.
47. The appellants describe motocross as a 'year round sport', however, the evidence provided shows very limited use, generally over spring and/or summer months, although which months varies. There is no quantifiable evidence in relation to the use of the site between 2006 and 2008 and evidence provided in relation to 2017-2019 points towards very limited use.
48. Thus, for the reasons given above, although the land did not revert to agricultural use between motocross events, given the limited duration of the events, I consider that prior to 2020, the motocross use was a temporary use of the land, which benefited from planning permission by virtue of Schedule 2, Part 4, Class B of the GPDO.
49. Furthermore, as established in *Swale BC v First Secretary of State* [2005] EWCA Civ 1568, a lawful use must be 'affirmatively established'. A use can only

become lawful if it continues throughout the ten² year period, to the extent that the Local Planning Authority could have taken enforcement action at any time³. If the use ceased during that period, as a matter of fact and degree, the time could not count towards immunity. Even if it is assumed that each event lasted 3 days, one event in a single year does not, in my view, demonstrate continuous use, since the period of non-use, around 362 days, was not *de minimis*.

50. Consequently, even if I had found the material change of use had occurred prior to 2020, given the very limited, sporadic use of the site for motocross, it has not been demonstrated, on the balance of probabilities, that the material change of use of the land began on or before 21 June 2011 and continued without significant interruption for at least 10 years thereafter. Consequently, the appeals under ground (d) must fail.
51. Since the use of the site as a permanent Racetrack and Recreational Motorcycle Track is unlawful, it follows that the erection of the fencing within the site is not development which is permitted by the GPDO and the ground (c) appeals in this respect must fail.

Ground (f)

52. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
53. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms... of any planning permission..., by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach.
54. The notice requires the use to cease and the land to be restored to its previous agricultural status, including the planting of bushes and trees which have been removed. It is therefore clear that the purpose of the notice is to remedy the breach.
55. Although fencing is permitted by the GPDO, as set out above, it was erected to separate riders and spectators and therefore facilitated the material change of use. As established in *Murfitt v SSE & East Cambridgeshire DC* [1980] JPL 598⁴, where an enforcement notice is issued in respect of a material change of use and works were carried out to facilitate the material change of use, the enforcement notice may require that the ancillary works are removed in order that the site is restored to its previous condition.
56. The fencing does not exceed 2m and, once the enforcement notice is complied with, the appellant could erect fencing up to 2m. However, I see no reason why the appellant would choose to do so, given its position within the site is

² The relevant immunity period

³ *Thurrock BC v SSETR* [2002] EWCA Civ 226

⁴ *Somak Travel Ltd v Secretary of State for the Environment* [1987] J.P.L 630 and *Kestrel Hydro v Secretary of State for Communities and Local Government* [2016] EWCA Civ 784 also cited.

intended to delineate spectators from riders. Since the fencing facilitates the unauthorised use, its removal is necessary in order to remedy the breach.

57. The restoration plan attached to the enforcement notice identifies 4 Areas (the Areas), within which heavy standard trees and whips are to be planted. The appellants state that the requirement to plant thousands of trees is grossly disproportionate and suggests that what was removed from the areas was scrub and bramble, with the large trees left *in situ*. The appellants have provided a number of photographs of the vegetation alleged to have been removed, which appear to show predominantly bushes rather than mature trees. During my visit I was able to see that a number of mature trees have been retained within the site.
58. The Areas appear widely drawn and appear to include grassed areas. The Council advise 'it is not the intention that the woodland planting...should seek to 'replace' the removed trees on a direct like for like basis as it is not possible to do so. Rather the intention is to recreate a multi-layered woodland where this has been removed.' However, the enforcement regime is intended to be remedial, not punitive. The recipient of the notice cannot be required to undertake works that would go beyond remedying the breach. Requiring the appellant to create a multi-layered woodland and to plant the number of trees specified would, in my view, be excessive.
59. The appellants suggest the planting of up to 200 trees would be more than adequate. However, the notice can do no more than require the restoration of the land to its condition before the breach took place. Requiring the trees, bushes and hedges that have been removed to be replanted would restore the land to its condition before the breach took place. The appellants have the best knowledge of the site and are best placed to know what was removed and what would need to be replanted. I shall therefore vary the requirement to require the trees, bushes and hedges which have been removed to be replanted and shall delete the reference to the scheme of restoration. I shall also delete Appendix 1.
60. Requirements v), vi) and vii) make reference to Plan 3. I shall delete the reference to the LDC, since it is unnecessary and misleading, as it suggests the LDC comprised a grant of planning permission. This correction would not alter the substance of the requirements and so would not cause either party injustice.
61. It is unnecessary to require the cessation of any further unauthorised operational development and the importation of any further hardcore or soil since it would be open to the local planning authority to taken enforcement action if further breaches occurred. I shall therefore delete requirement ii), as well as the reference to requirement ii) in the corresponding time for compliance. Since this would not expand the requirements, there would be no injustice in deleting the requirement in its entirety.

62. Thus, the appeals under ground (f) succeed to the extent set out above.

Conclusion

63. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the

enforcement notice prior to upholding it. The appeals on ground (f) succeed to that extent.

Appeal A & Appeal B Decisions

64. It is directed that the enforcement notice is corrected and varied by:

- At section 3 of the notice, the deletion of 'Unauthorised material change of use of Land and associated unauthorised operational development and storage to facilitate that unauthorised' and the insertion of 'The making of' and 'and the construction of hardstanding areas, extensions to the existing track and bunds and the installation of a water tank' and the deletion of 'for' after the words 'outlined in red' and the insertion of 'd' after 'outline' so that it reads 'The making of a material change of use to a permanent Racetrack and Recreational Motorcycle Track and the construction of hardstanding areas, extensions to the existing track and bunds and the installation of a water tank, on the Land outlined in red on PLAN 1 attached to the notice.'
- At section 5 of the notice, delete requirement ii).
- At section 5 of the notice, requirement iv) of the notice, delete 'permanently cease the use of the Land for storage purposes and' and delete 'in the area outlined in Green for identification purposes on the Land on PLAN 2, on the Land outlined in red on PLAN 1 attached to the notice.' so that requirement iv) reads 'Remove the bulldozers, portable floodlights and other miscellaneous plant, equipment and materials including but not restricted to plastic containers, cubicles, palettes, drum containers, wooden posts, pipes and fencing materials'.
- At section 5 of the notice, requirement v), delete 'granted permission by way of a certificate of lawfulness by way of decision notice dated 17th November 2017 application reference 17/00580/CLEUD'.
- At section 5 of the notice, requirement vi), delete 'granted permission by way of a certificate of lawfulness by way of decision notice dated 17th November 2017 application reference 17/00580/CLEUD'.
- At section 5 of the notice, requirement vii), delete 'granted permission by way of a certificate of lawfulness by way of decision notice dated 17th November 2017 application reference 17/00580/CLEUD'.
- At section 5 of the notice, requirement viii) after the words 'trees and hedges' insert 'which have been removed to facilitate the unauthorised material change of use' and delete 'in accordance with the scheme of restoration for the Land at Appendix 1', so that it reads 'Replant all bushes, trees and hedges which have been removed to facilitate the unauthorised material change of use'.
- At section 6 of the notice, delete '5a. ii)'.
- Delete Appendix 1.

65. Subject to the corrections and variations above, the appeals are dismissed and the enforcement notice is upheld.

M Savage

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Brian Sumner	Agent
He called:	
Andrew Walsh	Appellant
Brian Sumner also gave evidence	

FOR THE LOCAL PLANNING AUTHORITY

Piers Riley-Smith	Of Counsel
He called:	
Mark Bray	Planning Enforcement Consultant

DOCUMENTS SUBMITTED AT THE INQUIRY:

1. Auto-Cycle Union Minimum Standards for the operation & management of off road motorcycle facilities: Updated August 2019
2. Council's opening statement
3. Written confirmation of the withdrawal of ground (a)
4. Costs application on behalf of the Council
5. Closing submissions on behalf of the Council

Annex 1: Requirements of the Notice

- i) Cease the use of the Land as a Racetrack and Recreational Motorcycle Track other than that permitted by Part 4 Class B (b) of the General Permitted Development Order 2015
- ii) Cease any further unauthorised operational development and the importation of any further hardcore or soil.
- iii) Remove the unauthorised development from the Land consisting of hardcore hardstanding areas in the areas (Outlined in Blue and Green on PLAN 2) and restore the Land by rotavating and re-seeding with a mixture of wildflower mix or 60% to 40% mix of wild flower and grass seed to resemble its former agricultural status.
- iv) Permanently cease the use of the Land for storage purposes and remove the bulldozers, portable floodlights and other miscellaneous plant, equipment and materials including but not restricted to plastic containers, cubicles, palettes, drum containers, wooden posts, pipes and fencing materials in the area outlined in Green for identification purposes on the Land on PLAN 2, on the Land outlined in red on PLAN 1 attached to the notice.
- v) Remove the unauthorised development consisting of the water tank, widened and raised areas of racetrack and earth bunds and restore to reflect the image dated July 2017 (PLAN 3 granted permission by way of a certificate of lawfulness by way of decision notice dated 17th November 2017 application reference 17/00580/CLEUD). The areas of widened and raised Racetrack and earth bunds are shown on PLAN 4.
- vi) Remove all areas of unauthorised development consisting of Racetrack modifications (extensions) and restore to reflect the image dated July 2017 (PLAN 3 granted permission by way of a certificate of lawfulness by way of decision notice dated 17th November 2017 application reference 17/00580/CLEUD). The areas of Racetrack modifications (extensions) are shown on PLAN 4.
- vii) Restore the Land back to the condition reflected in the image dated July 2017 (PLAN 3 granted permission by way of a certificate of lawfulness by way of decision notice dated 17th November 2017 application reference 17/00580/CLEUD), in all areas where the unauthorised development has been removed in respect of the widened and modified (extended) Racetrack by rotavating and re-seeding with a mixture of wildflower mix or 60% to 40% mix of wildflower and grass seed to resemble its former condition.
- viii) Replant all bushes, trees and hedges in accordance with the scheme of restoration for the Land at Appendix 1.

Annex 2: Periods for compliance

- i) In respect of 5a.i) and 5a.ii) within 1 (one) day after the notice takes effect
- ii) In respect of 5a.iv) within 1 (one) month after the notice takes effect
- iii) In respect of 5a.iii) within 3 (three) months after the notice takes effect.
- iv) In respect of 5a. v), vi) and vii) within 6 (six) months after the notice takes effect
- v) In respect of 5a. viii) within the first planting season after compliance with Part 6a. iv).