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# Appeal Decisions

Inquiry held on 25 July 2012

**by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 3 August 2012**

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**Appeal Ref: APP/C3105/C/12/2173710**

**Arncott Motoparc, Murcott Road, Upper Arncott, Oxfordshire, OX25 1PL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Schyde Investments Ltd against an enforcement notice issued by Cherwell District Council.
- The Council's reference is 12/00062/ECOU.
- The notice was issued on 7 March 2012.
- The breach of planning control as alleged in the notice is the material change of use of the land in 2010 by reason of intensification from a use for motocross racing and practising to a use comprising materially more noisy and more frequent motocross racing and practising amounting to a definable change in the character of the use of the land.
- The requirements of the notice are to ensure that no motocross racing and practising shall take place on the land on more than 14 days in a calendar year.
- The period for compliance with the requirements is 8 weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (d) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.**

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## The appeal site

1. The Motoparc lies within the area of two local authorities. The major part of the site lies within Cherwell District Council and the other part, comprising such things as the entrance way and parking areas, is within Aylesbury Vale District Council. The notice relates to the land within Cherwell District only. The site is within the area of Arnott Parish Council.

## Procedural matters

2. The Inquiry was originally scheduled to last for three days to consider an appeal in relation to the enforcement notice referred to above together with two Lawful Development Certificate (LDC) appeals<sup>1</sup>. In the event, on the first day negotiations took place between the principal parties culminating in agreed corrections to the notice which I was invited to endorse.
3. The diary of events scheduled for the remainder of the year (August – December 2012) was amended during the negotiations<sup>2</sup>. The Appellant also

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<sup>1</sup> APP/C31505/X/12/2170522 and APPJ0405/X/11/2167122

<sup>2</sup> Tab 35 of Mr Anderson's proof – Document 1

undertook to provide a management plan to Cherwell Council every year for approval governing any motocross use of the land in the year next following which would include, among other things, an undertaking that no motocross use would be carried out other than in accordance with the approved management plan.

4. Although there was no appeal on ground (f), the corrected requirements were agreed between the Appellant and Cherwell Council and the corrected requirements remedy the breach of planning control as provided for by s.173(4) of the 1990 Act. I am satisfied that the corrections do not result in any injustice to the Appellant and/or Cherwell Council and I will correct the notice accordingly pursuant to my powers in s.176 of the 1990 Act.
5. As agreed between the principal parties, the outcome of the enforcement appeal therefore is that the notice is upheld as corrected and the appeal is dismissed.
6. The two LDC appeals were consequently withdrawn by the Appellant.

### **Decision**

7. It is directed that the enforcement notice be corrected by:
  - a) In part 2, the insertion of 'Arcott Motoparc' before 'Murcott Road'.
  - b) The deletion of part 5 (1) in its entirety and the insertion of:

5 (1) Ensure, insofar as any motocross racing and practising takes place on the land, that it takes place only as follows:

    - (a) During the remainder of 2012 (August-December), only on the dates identified in the 2012 diary<sup>3</sup> as set out in the Schedule below.
    - (b) From 1 January 2013, on only:-
      - (i) 30 Wednesdays at most in any calendar year, such Wednesday use limited to 10.30-15.30 and a maximum of 15 motorcycles or quad bikes on the track at any one time.
      - (ii) 20 weekend days at most for practising in any calendar year, with any such weekend practising use limited to one day over any given weekend, between 10.30-15.30 and a maximum of 35 motorcycles or quad bikes on the track at any one time. No practising on consecutive weekends.
      - (iii) 6 weekend days at most for competitive racing in any calendar year, with any such weekend racing limited to 09.00-17.30 and a maximum of 40 motorcycles or quad bikes on the track at any one time. No racing on consecutive weekends.
  - c) In part 6, the substitution of 'one day' for '8 weeks'.

### ***Schedule of diary events***

August 2012

1, 8, 15, 22, 29 – Drug rehab : Ley Project 10.30-15.30

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<sup>3</sup> Document 1

4, 18 – Mark Thomas Training School 10.00-14.00

10 – Private hire : kids birthday party

12 – Kensworth MX Club Race Meeting

26 – Practice

September 2012

5, 12, 19, 26 – Drug rehab : Ley Project 10.30-15.30

9 – Nora Quads Race Meeting

15, 29 – Mark Thomas Training School 10.00-14.00

23 – Coventry MX Race Meeting

October 2012

3, 10, 17, 24, 31 – Drug rehab : Ley Project 10.30-15.30

13, 27 – Mark Thomas Training School 10.00-14.00

14 – Stevenage MX Race Meeting

28 - Banbury MX Race Meeting

November 2012

4 – Kensworth MX Race Meeting

7, 14 - Drug rehab : Ley Project 10.30-15.30

10 – Mark Thomas Training school

18 - Practice

December 2012

9, 23 - Practice

Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

*Gloria McFarlane*

Inspector

**APPEARANCES**

FOR THE APPELLANT

Miss S Clover                      Counsel, instructed by Mr A Anderson of Pegasus  
Planning Group Ltd

FOR CHERWELL DISTRICT COUNCIL AND AYLESBURY VALE DISTRICT COUNCIL

Mr S Whale                      Counsel, instructed by both District Councils

FOR ARNCOTT PARISH COUNCIL

Mr N Wicks                      Director, Enforcement Services  
BTP Dip Law MRTPI

**DOCUMENTS SUBMITTED AT THE INQUIRY**

Document 1 -                      Amended diary  
Document 2 -                      Corrections to the notice