

Committee: Environment Committee

Agenda Item

Date: 16th March 2010

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Title: Claypits Plantation Saffron Walden

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Item for decision

Summary

1. This report seeks asks the Committee to consider the unauthorised construction and use of a BMX track at Claypits Plantation.

Recommendations

- (1) That Immediate action to be taken to make the site safe and to restore the land to its former condition and to reinstate the public footpath.
- (2) Officers shall seek to establish a dialogue with local BMXers to discuss BMX facilities in the District.

Background Papers

2. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

RoSPA 'BMX Safety and Planning Guide'.

Impact

Communication/Consultation	SW Town Council to be advised. Audley End Estate to be advised and consulted on the restoration of the land. ECC Highways to be advised of the reinstatement of Footpath 15. UDC's insurers to be advised of action being taken. A local press notice to be issued. Establish dialog with local BMXers regarding the provision of facilities.
Community Safety	Removal of earthworks will remove risks associated with the unauthorised BMX track.
Equalities	None
Finance	The cost of remedial works estimated to be in excess of £2,000.

Health and Safety	Works of removal to be undertaken in accordance with good H&S practice.
Human Rights/Legal Implications	None
Sustainability	The woodland is intended to be managed for nature conservation
Ward-specific impacts	Saffron Walden Shire
Workforce/Workplace	None

Situation

3. Claypits Plantation is located on the southern edge of the town between Ross Close and Debden Road. It is owned by the Audley End Estate and is currently leased to the District Council under an agreement entered into in 1993. Under the terms of the lease the Council is required to “use and keep the land as woodland and to manage the same in accordance with good silvicultural practice for the maintenance and promotion of a mixed broad-leaved woodland” and to “permit members of the public to have (without charge) pedestrian access to the whole of the land for quiet informal recreation or educational purposes”.
4. The woodland is identified in the District Plan as important and subject to Policy ENV8-Other Landscape Elements of Importance for Nature Conservation. This seeks to protect sites against development unless the need for that development outweighs the need to retain the flora and fauna and mitigation measures can compensate or reinstate the nature conservation value.
5. During the course of 2005 officers became aware of unauthorised activity within the woodland. A series of earth banks, ramps and ditches had been constructed forming the jumps and obstacles of a BMX (Bicycle Moto Cross) dirt track. This type of track is associated with BMX trials and ‘dirt jumping’. Officers revisited the site in 2009, and again earlier this year, and found that the track and associated earthworks had been significantly extended to cover an area in excess of 1,000m².
6. The construction and use of the track and associated activities has significantly affected the woodland. Ground flora, on and adjacent to the track, has been destroyed; trees and understory plants have been cleared.
7. Parts of the BMX track impinge on the definitive line of the public footpath (Footpath No.15) which runs along the southern edge of the plantation. The Highways Authority (Essex County Council) is aware of the obstruction of this public right of way and has asked to be advised of the District Council’s intentions in the matter. The committee should be aware that obstruction of the public right of way is an offence under the Highway Act 1980.

8. The BMX track is unlawful as it requires planning permission which has not been obtained. It would breach Policy ENV8 and therefore would be unlikely to receive permission.
9. BMX by its very nature is a high risk activity. The Royal Society for the Prevention of Accidents (RoSPA) provides guidance in their publication 'BMX Safety and Planning Guide'. The basic safety requirements for BMX, as recommended by RoSPA, are not being met by this track. The Council has a duty of care in respect of persons using the site and as the lease holder has full occupier's liability. The Council's insurers have advised that UDC would be potentially liable for any public liability claims at this time.
10. There are no BMX track facilities within the District. The nearest BMX tracks are the national track at Braintree and the regional track at Royston. The One Minet Park in Saffron Walden does allow BMXers, however, BMX 'Park' is a separate discipline from 'Trails' or 'Dirt Jumping'. It is recognised that trail riders building their own 'dirt jumps' is part of the attraction of the sport.
11. The provision of a BMX track at Claypits Plantation does not accord with the terms and conditions of the lease of the land. The suitability of such a facility within this woodland is incompatible with the District Plan Policy ENV8.
12. The legal implications are that the District Council is arguably in breach of its obligations under the lease and that the Council could be held liable if someone were to suffer death or personal injury.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Persons being injured on the site.	4. High risk activity	4. District Council liability for unregulated activity	Removal of the earthworks associated with the BMX track.
Action against UDC for obstruction of a public right of way	3. Obstruction of public right of way is an offence under the Highways Act 1980.	3. District Council has full occupier's liability	Removal of earthworks and reinstatement of the definitive line of footpath 15.
Action against UDC by landowner for breach of condition of land lease agreement	3. The construction and use of the BMX is in contravention of the lease agreement.	3. The District Council is liable as the lease holder.	Restoration of the land to a satisfactory condition and maintenance of the land for quite informal recreational or educational purposes.

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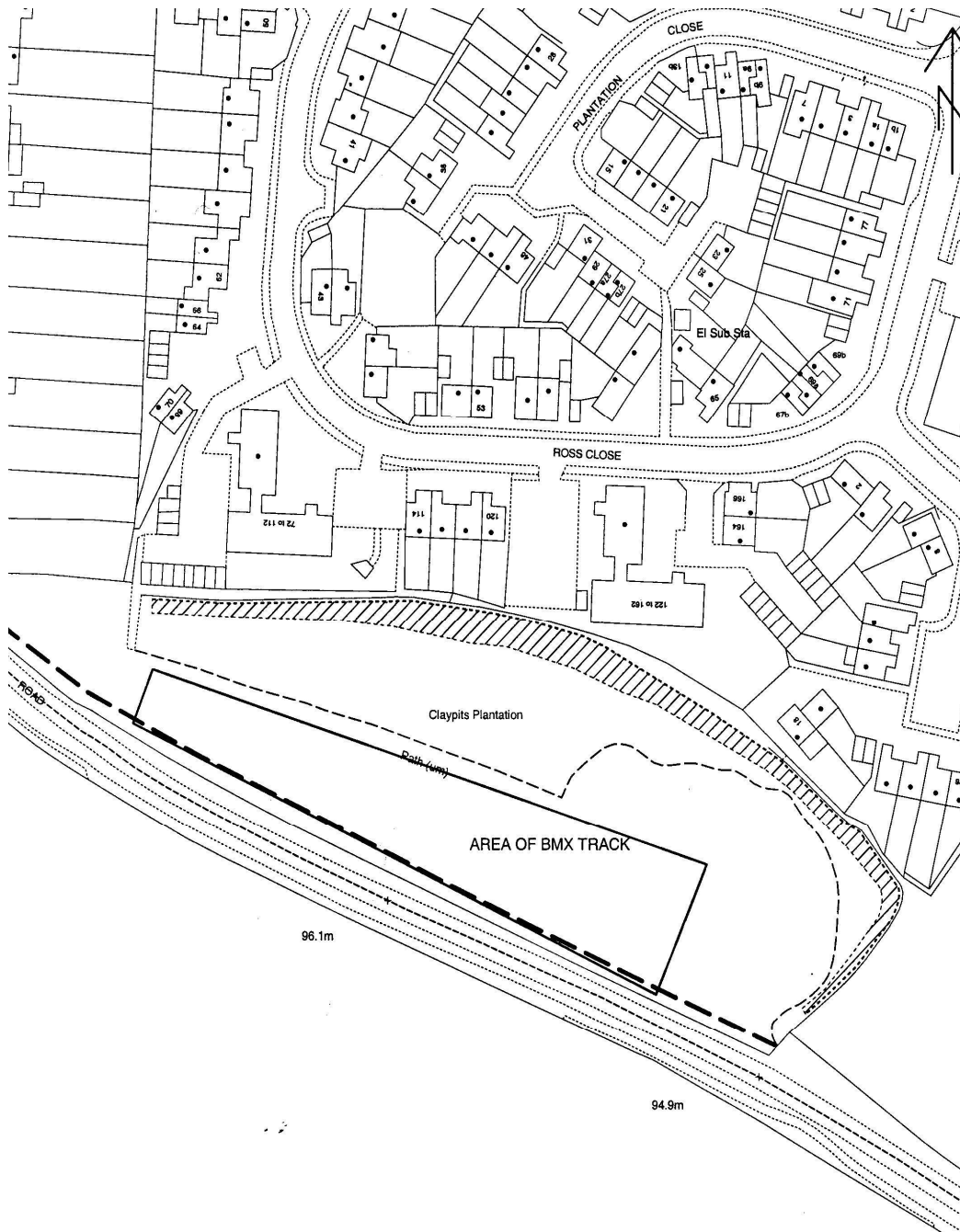
1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Appendix One: Location of track



Appendix two: Photographs of track

