

**Committee:** Environment Committee

**Agenda Item**

**Date:** Tuesday 8 June 2010

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**Title:** **BMX track, Claypits Plantation, Saffron Walden**

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## Summary

1. This report recommends that the Committee approve the use of the BMX track created by users in Claypits Plantation, provided that the user group is prepared to become involved in maintaining and managing the use of site

## Recommendations

2. The use of the BMX track created by users in Claypits Plantation be approved, subject to resolution of any obstruction of the public right of way and written confirmation of no objection from the Audley End Estate as owners;
3. The Director of Development be delegated to seek contributions from the user group and identify savings in the committee budget to balance the associated unbudgeted costs in 2010/11.

## Background Papers

4. 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.

BMX track safety inspection report for Uttlesford District Council dated 12 April 2010 produced on behalf of RoSPA by PlaySafety Ltd.

Representation letters and e mails

## Impact

- 5.

Communication/Consultation	Consultation has been carried out with the BMX user group Saffron Trails, Audley End Estate from whom the council leases the site, Essex County Council (rights of way officer, and schools children and families directorate) and Saffron Walden Town Council
Community Safety	Site provides activity opportunity for young

	people
Equalities	
Finance	No provision in the budget for costs associated with management of this site for BMX use, or for removal of the BMX jumps. Unbudgeted expenditure will need to be balanced by identified savings elsewhere in the Committee's budget.
Health and Safety	Track safety inspection report obtained. BMX use is high risk but of high play value. Ongoing management of risk essential
Human Rights/Legal Implications	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. Exchange of letters required with Audley End Estate to confirm that, notwithstanding the terms of the lease, it agrees to the continuation of BMX trail activity.
Sustainability	Some loss of nature conservation value but balanced by local facility with high play value
Ward-specific impacts	Saffron Walden
Workforce/Workplace	Staff resource will need to be allocated to resolve the issue and in ongoing management

## Situation

6. 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".
7. The woodland is identified in the Local 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.

8. 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 1,000m<sup>2</sup>.
9. 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.
10. The definitive line of the public footpath (Footpath No.15) runs along the southern edge of the plantation. The Highways Authority (Essex County Council) has established that there is a degree of obstruction of this public right of way. The committee should be aware that obstruction of a public right of way is an offence under the Highway Act 1980.
11. The committee resolved on 16 March that:
  - a. Further information be obtained regarding the following issues:
    - Insurance liability, rights of way, car parking and anti social behaviour,
  - b. Advice be sought from RoSPA in relation to the BMX activities.
  - c. Members of the committee arrange to visit the site.
  - d. A further meeting be arranged in about 3 weeks time to determine the future use of the site, and
  - e. Until that meeting is held the BMX use of the site should cease.
12. A number of work streams have been pursued.
13. A safety assessment has been procured from RoSPA. This has confirmed that a number of matters need to be addressed.
14. This type of site is inherently high risk but due to high play levels this is acceptable although RoSPA recommends reducing risk levels with improved control methods where possible.
15. The Claypit Plantation track is currently scored at 25. The maximum acceptable score is 20, so it is necessary that the site remains closed to BMX use until changes have been made to reduce the risk score to 20.
16. Meetings have been held with the BMX users and their mentor Jane Clark to discuss the findings.
17. The score can be reduced readily by various low cost measures, such as a sign advising users of key information: that it is a high risk activity, that the course is only intended for expert riders and that novices should use the skateboard park and code of behaviour (only one user on the course at a time, users should circulate the course only in one direction). Some litter removal is required. Litter bins need to be provided and regularly serviced to manage the risk of reoccurrence. A few tree stumps need to be removed in the vicinity of

jumps. Some cutting back of vegetation and branches on access routes to the track is needed. Some loose logs need to be cleared (not those in use as seats).

18. The BMX users are prepared to use their own resources to re-engineer aspects of the course and collect litter and remove various ropes from trees (unrelated to the BMX track).
19. The council would need to be prepared to provide signage, litter bins and collect waste from the site.
20. RoSPA advice is that frequent inspections (at least daily), good maintenance and adequate control methods must be maintained at all times by council appointed officials. The users are prepared to act as the appointees for this purpose, and take on the inspection work and provide documentary evidence to the Council for review on a weekly basis. They are also prepared to manage potential problems with car parking by ensuring that no users cars are parked on site.
21. Good practice requires that users are trained in site safety inspections and that periodic site safety inspections are commissioned from RoSPA.
22. Enquiries of other authorities with similar sites on their land, particularly Cambridge City Council, have established that it is feasible to run such sites provided risks are at an acceptable level (even though these facilities are inherently high risk), and adequate control measures are in place.
23. The Council's insurers have confirmed on the basis of an action plan to address the recommendations identified in the track safety report that they are happy to provide cover for this site, subject to a one off premium of £500 and insurance premium tax. In the insurance year starting September 2010, claims would be covered by the council's existing long term public liability cover for the premium already agreed. The council's public liability claims will then be monitored over the next few insurance periods to monitor for any impact.
24. The right of way was marked out on site on 21 May by the County Council's contractors. An oral report will be made to the committee.
25. The Audley End Estate has been kept informed of the work programme and the possibility of the council needing to reach agreement in relation to its lease.
26. The police have confirmed no reports of anti social behaviour associated with the BMX use of the site.
27. The total start up costs of signage, waste bin provision, user site inspection training, and one off insurance premium are estimated to amount to £1,250.
28. Ongoing costs will be quarterly site inspections by RoSPA (£395 per inspection) and management of vegetation growth.

## **Risk Analysis**

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Risk	Likelihood	Impact	Mitigating actions
Accidents to users of the site	2 Activity inevitably involves some likelihood of an accident occurring due to the inherent nature of the activity	3 Accident could result in injuries to users	Routine site inspections to detect and initiate action to remove any unnecessary risk such as obstructions on the track, broken glass, loose stones.
Public liability claims against the Council	2 Relates to likely occurrence of an accident, but reduced by acknowledgement of users that BMX trail activity can result in an accident	3 If the Council was found to be negligent there could be significant financial and reputational risk	Action plan
Action against UDC by landowner for breach of condition of land lease agreement	1 Discussion held with Audley End Estate	3. The construction and use of the BMX is potentially in contravention of the lease agreement. The lease may be liable to forfeiture or the Council may be ordered to pay damages	Exchange of letters required with Audley End Estate to confirm that, notwithstanding the terms of the lease, it agrees to the continuation of BMX trail activity.

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.

## ACTION PLAN

### BMX TRACK, CLAYPITS PLANTATION, SAFFRON WALDEN

RoSPA inspected this site for Uttlesford District Council on 12 April 2010.

The inspection indicated a current risk score for the site of 25, compared to a maximum target level of 20.

The risks identified by RoSPA are capable of being mitigated as follows:

Risk (with level where assessed by RoSPA)	Action recommended by RoSPA	Action agreed	Timescale for implementation
▪ <b>General</b>	▪	▪	▪
Obstruction of access paths (Low)	Cut back tree branches along access paths to allow riding to the facility	Agreed	Within 3 months of use recommencing
Inadequate guidance as to user precautions, skill levels necessary, important information for users.	Install sign advising conditions of use, code of conduct and contact number in the event of an incident	Agreed	Before site use recommences
Injury from litter, particularly if it includes sharp objects	Clear site of litter and provide facilities for deposit of litter.	Agreed - arrangements to be made for collection of waste on a regular basis.	From recommencement of use of the site
Loose logs and branches close to track represent an unnecessary potential hazard to users	Remove these potential hazards	Agreed	Before site use recommences
Several jumps are adjoining which may lead to collisions; riders finishing a lap may be tempted to cross the track or	Site should be reduced to follow a circuit; track should be continuous and should be designed to be one way only	Code of conduct to allow only one user on track at a time (single trip sprint); start and finish points to be defined	From recommencement of use of the site

ride backwards to get to the start.	with distinct start and finish areas, preferably close together		
Rope swings hanging from trees (Medium)	Remove ropes	Agreed, although ropes are not related to use of the site by BMX user group	Before site use recommences
Site use is uncontrolled	Daily site management	User group to accept responsibility for site management, including exclusion of irresponsible users	From recommencement of use of the site
Hazards arise and are not addressed in a timely manner	Weekly inspection regime by council appointed officials	Council to appoint user group reps to carry out weekly documented inspections and submit completed checklists to the responsible council officer who will appraise the reports and carry out periodic verification. User group to take initial responsibility for implementing necessary actions. Actions to be recorded by users and e mailed to the responsible council officer.	From recommencement of use of the site
Conflict between users with different skill levels	Consider a novice area away from the main track; remove low ramps at the north end	Conditions of use to state that site is for expert users only; novices should use the skatepark	From recommencement of use of the site

▪ <b>Specific features</b>	▪	▪	▪
Injury to users from exposed stumps in east end berm (Medium)	Remove stumps	Agreed	Before site use recommences
Injury to users from loose branches at side of ramp at Step Up	Remove loose branches	Agreed	Before site use recommences
Injury to users of large bowl	Infill holes and remove loose logs from Large bowl	Agreed	Before site use recommences
As above	Remove loose small ramp	Agreed – example of equipment introduced by novice users not part of main user group	Before site use recommences
Injury to users from tree stumps at bottom of the jump, brambles and wood retainer	Remove stumps, cut back brambles and cut back retainer flush with ground	Agreed	Before site use recommences
Root hazard	Remove litter, infill holes and cover roots	Agreed	Before site use recommences
Conflict with other users on landing area at combination jumps 2 and 2 (Medium to high risk)	Remove jumps	Reconfigure jumps to make it clear how the feature is intended to be used.	Before site use recommences

The above actions are anticipated to result in the following risk score reductions:

- Signage – by 3 points
- Exclusion of non expert users from the track – by 4 points
- Litter collection facilities – by 2 points
- Removal of glass, tins and debris from the site – by 2 points
- Total potential reduction in risk points from 25 to 14, well below maximum acceptable level of 20 points.