

PEAK DISTRICT NATIONAL PARK AUTHORITY

URGENT BUSINESS ITEMS SUB-COMMITTEE

26 APRIL 2002

REPORT OF THE ASSISTANT NATIONAL PARK OFFICER - HEAD OF CONSERVATION

PART B

EXEMPT INFORMATION

NOT FOR PUBLICATION

1. INJUNCTION TO PREVENT UNLAWFUL OPERATIONS ON LAND AT LANTERN PIKE, HAYFIELD AND PEAT PITS, BRADFIELD (A.5252/JJL)

This report concerns action to be taken in connection with possible legal proceedings by the Authority. The information is exempt under paragraph 12 of Schedule 12A of the Local Government Act 1972.

The item is brought forward as a matter of urgency because of the need to be ready to take urgent action.

Purpose of Report

- 1.1 To seek authority to apply for an injunction in the High Court to prevent unlawful operations on land at Lantern Pike, Hayfield and Peat Pits, Bradfield.

Background

- 1.2 On 18 January 2002 the Peak District National Park Authority (Restriction of Agricultural Operations) Order 2002 came into force. This prohibits specified agricultural operations on land that contains moor or heath and that is unprotected by other mechanisms. This Order, under Section 42 of the Wildlife and Countryside Act 1981, was sought after a number of incidents of rotovation or ploughing of moorland vegetation. The Order was applied to all unprotected moor and heath because it was impossible to predict which sites might be harmed.
- 1.3 Prior to that, the Authority had obtained a similar Order on 7 December 2001 that applied specifically to land at Kirk Edge, Prospect Farm, Bradfield. Subsequently, Park Management Committee on 11 January 2002 gave authority to apply for an injunction to prevent further agricultural operations in breach of that Order. A temporary injunction was obtained, pending further detailed consideration of the case.
- 1.4 The two additional cases, at Lantern Pike and Peat Pits, are similar in that the conservation value of the sites was harmed prior to the Order taking effect but in the opinion of officers could be recovered if no further agricultural operations took place.
- 1.5 The land at Lantern Pike, comprising 18 hectares or thereabouts, is very significant in landscape terms and also important as an ecological habitat. On 14 January 2002 the greater part of this land was rotovated. From prior knowledge of the site and survey carried out on 18 January, it is concluded that the land had largely comprised of heather moorland with areas of moorland grasses.
- 1.6 The land at Peat Pits, comprising 11 hectares or thereabouts is very significant as a habitat for ground-nesting birds and is also important in landscape terms. On 8 January 2002 the greater part of this land was rotovated. From prior knowledge of the site and roadside survey carried out on 16 January, it is concluded that the land had largely comprised of acidic moorland and rushy vegetation.

- 1.7 The separate owners of both sites have indicated that it was their intention to re-seed the land in order to establish a sward of productive agricultural grasses. However, it was not appropriate in agricultural terms to complete those operations in winter months. After careful consideration officers have written to both owners to advise them that, notwithstanding rotovation and any other agricultural operation already carried out, the sites are essentially moorland in nature. The operations carried out so far have not had the effect of converting the land to agricultural land and, in the opinion of officers, moorland vegetation could naturally regenerate. The owners have therefore been advised that the sites still fall within the scope of the Peak District National Park Authority (Restriction of Agricultural Operations) Order 2002, that consent of the Authority would be needed for agricultural operations restricted by that Order and that consent is refused. The response to notifications under the Order is delegated to the Head of Conservation. Refusal of consent under the Order is effective for 12 months, during which time the Authority is expected to endeavour to negotiate conservation management of the sites with owners. For both Lantern Pike and Peat Pits, staff of the Farm & Countryside Service have proposed conservation agreements, either under Countryside Stewardship or the Authority's own scheme, but without success. Further attempts will be made.

Proposal

- 1.8 Officers cannot be certain at this stage whether or not the owners can be persuaded to consider conservation agreements. Both owners have so far indicated their preference to continue with agricultural improvement. Officers are concerned that they may still proceed with the work - the persons undertaking the operations could be liable to prosecution, potentially resulting in the imposition of a fine. However, the threat of prosecution may be insufficient to prevent the works taking place and thus the loss of valuable habitat, and it is felt that injunctive action may be necessary to prevent this. It is proposed therefore that the Authority agrees to apply for injunctions in the High Court to stop further activities prohibited by the Order, if the Head of Conservation in consultation with the Legal Services Manager consider it necessary.
- 1.9 By virtue of Section 222 of the Local Government Act 1972 the Authority has the power to institute proceedings for injunctive relief to restrain anticipated criminal offences.

Financial Consideration

- 1.10 The cost of the applications for injunction is likely to be in the region of £2,500 each. Compensation liabilities could only arise for the period between the granting of an interim injunction and an application for a final injunction in a few months' time. This would be limited to a loss of farm income and a possible award of legal costs. At the time of writing, there is insufficient information available to be able to estimate those costs.
- 1.11 Together with the outstanding case at Kirk Edge, the Authority could potentially be involved in three injunctions over similar incidents. The cumulative costs to the Authority if a final injunction was not granted in any of these cases could exceed budgetary provision for 2002/03. If that budget situation was likely to occur a further report would be brought to Resources Committee proposing how the costs could be met from other budget heads or reserves.

Human Rights Aspects (including Equal Opportunities, Health & Safety)

- 1.12 The proposed action will protect areas of high conservation value. It is therefore felt to be in the public interest.

Consultations

1.13 The Chief Finance Officer and the Financial and Legal Services Managers have been consulted.

1.14 **RECOMMENDATION:**

1. That authority be given for applications to the High Court for injunctions to prevent agricultural operations in breach of the Peak District National Park Authority (Restriction of Agricultural Operations) Order 2002 on land at Lantern Pike, Hayfield and Peat Pits, Bradfield if the Head of Conservation considers that the land is at serious threat from such further operations.
2. That if the Authority is faced with costs which would exceed the present budgetary provision for dealing with any of these injunctions then a further report be brought to Resources Committee.

List of Background Papers (not previously published)

Correspondence with the owners, agents or solicitors.

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