

# Public Document Pack

**Peak District National Park Authority**

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Aldern House, Baslow Road, Bakewell, Derbyshire. DE45 1AE



**Our Values: Care – Enjoy – Pioneer**

Our Ref: A.1142/2731

Date: 29 July 2021



## NOTICE OF MEETING

Meeting: **Planning Committee**

Date: **Friday 6 August 2021**

Time: **10.00 am**

Venue: **Palace Hotel, Palace Road, Buxton, SK17 6AG**

**(Venue Site Plan attached)**

SARAH FOWLER  
CHIEF EXECUTIVE



**Link to meeting papers:**

<https://democracy.peakdistrict.gov.uk/ieListDocuments.aspx?MId=2392>

## **AGENDA**

### **PALACE HOTEL LOCATION PLAN**

1. **Roll Call of Members Present, Apologies for Absence and Members Declarations of Interest**
2. **Minutes of previous meeting** (*Pages 7 - 14*)
3. **Urgent Business**
4. **Public Participation**  
To note any questions or to receive any statements, representations, deputations and petitions which relate to the published reports on Part A of the Agenda.
5. **Conservation of Habitats and Species Regulations 2017: Construction of a Permanent Access Track to Facilitate Essential Safety Works, Ongoing Inspection, Maintenance and Emergency Access to Swellands and Black Moss Reservoirs (NP/O/0221/0110 BJT)** (*Pages 15 - 28*)  
Site Plan
6. **Full Application - Construction of a Permanent Access Track to facilitate Essential Safety Works, Ongoing Inspection, Maintenance and Emergency Access to Swellands and Black Moss Reservoirs (NP/O/0221/0110, BJT)** (*Pages 29 - 60*)  
Site Plan
7. **Outline Application - Proposed erection of two local needs self build affordable homes at driveway between Greystones & Jesmond, Tideswell (NP/DDD/0421/0433, AM)** (*Pages 61 - 76*)  
Site Plan
8. **Full Application - 1) renovation and alteration of existing yard barn (also known as buttress barn) 2) demolition of field barn (also known as showground barn) 3) erection of portal framed building for storage at Marsh Farm, Castleton Road, Hope. (NP/HPK/0919/1018, SPW)** (*Pages 77 - 88*)  
Site Plan
9. **Full Application - Extension and alterations to dwelling, extending into outbuilding and erection of detached garage block at Harriers Cottage, Biggin (NP/DDD/0421/0408, MN)** (*Pages 89 - 96*)  
Site Plan

10. **Full Application - Full refurbishment and remodelling of the Brunts Barn Centre, inclusive of installation of additional window for an accessible bedroom; installation of air source heat pump and reconfiguring the roof lights. This application is essential to improve accessibility and safeguarding in the centre and optimise use of the existing space at Brunts Barn Centre, unnamed road from station road westwards to track leading to A6187, Upper Padley, Grindleford (NP/DDD/1220/1199 SPW) (Pages 97 - 114)**  
Site Plan
11. **Full Application - Proposed manege, Pear Tree Cottage, Main Street, Calver (NP/DDD/0321/0241, BJT) (Pages 115 - 124)**  
Site Plan
12. **Brosterfield Camping and Caravan Site -Delegation to Head of Planning to make a Discontinuance Order under Section 102 Town and Country Planning Act 1990 ("TCPA 1990") (Pages 125 - 130)**  
Site Plan
13. **Monitoring & Enforcement Quarterly Review - July 2021 (A.1533/AJC) (Pages 131 - 138)**
14. **Head of Law Report - Planning Appeals (Pages 139 - 142)**

### **Duration of Meeting**

In the event of not completing its business within 3 hours of the start of the meeting, in accordance with the Authority's Standing Orders, the Committee will decide whether or not to continue the meeting. If the Authority decides not to continue the meeting it will be adjourned and the remaining business considered at the next scheduled meeting.

If the Committee has not completed its business by 1.00pm and decides to continue the meeting the Chair will exercise discretion to adjourn the meeting at a suitable point for a 30 minute lunch break after which the committee will re-convene.

### **ACCESS TO INFORMATION - LOCAL GOVERNMENT ACT 1972 (as amended)**

#### **Agendas and reports**

Copies of the Agenda and Part A reports are available for members of the public before and during the meeting on the website <http://democracy.peakdistrict.gov.uk>

#### **Background Papers**

The Local Government Act 1972 requires that the Authority shall list any unpublished Background Papers necessarily used in the preparation of the Reports. The Background Papers referred to in each report, PART A, excluding those papers that contain Exempt or Confidential Information, PART B, can be inspected on the Authority's website.

## **Public Participation and Other Representations from third parties**

In response to the Coronavirus (Covid -19) emergency our head office at Aldern House in Bakewell has been closed. However as the Coronavirus restrictions ease the Authority is returning to physical meetings but within current social distancing guidance. Therefore meetings of the Authority and its Committees may take place at venues other than its offices at Aldern House, Bakewell. Public participation is still available and anyone wishing to participate at the meeting under the Authority's Public Participation Scheme is required to give notice to the Head of Law to be received not later than 12.00 noon on the Wednesday preceding the Friday meeting. The Scheme is available on the website <http://www.peakdistrict.gov.uk/looking-after/about-us/have-your-say> or on request from the Democratic and Legal Support Team 01629 816352, email address: [democraticandlegalsupport@peakdistrict.gov.uk](mailto:democraticandlegalsupport@peakdistrict.gov.uk).

## **Written Representations**

Other written representations on items on the agenda, except those from formal consultees, will not be reported to the meeting if received after 12 noon on the Wednesday preceding the Friday meeting.

## **Recording of Meetings**

In accordance with the Local Audit and Accountability Act 2014 members of the public may record and report on our open meetings using sound, video, film, photograph or any other means this includes blogging or tweeting, posts on social media sites or publishing on video sharing sites. If you intend to record or report on one of our meetings you are asked to contact the Democratic and Legal Support Team in advance of the meeting so we can make sure it will not disrupt the meeting and is carried out in accordance with any published protocols and guidance.

The Authority will make a digital sound recording available after the meeting which will be retained for three years after the date of the meeting. During the period May 2020 to April 2021, due to the Covid-19 pandemic situation, Planning Committee meetings were broadcast via Youtube and these meetings are also retained for three years after the date of the meeting.

## **General Information for Members of the Public Attending Meetings**

In response to the Coronavirus (Covid -19) emergency our head office at Aldern House in Bakewell has been closed. The Authority is returning to physical meetings but within current social distancing guidance. Therefore meetings of the Authority and its Committees may take place at venues other than its offices at Aldern House, Bakewell, the venue for a meeting will be specified on the agenda. Also due to current social distancing guidelines there may be limited spaces available for the public at meetings and priority will be given to those who are participating in the meeting. It is intended that the meetings will be audio broadcast and available live on the Authority's website.

This meeting will take place at the Palace Hotel, Buxton. Information on Public transport from surrounding areas can be obtained from Traveline on 0871 200 2233 or on the Traveline website at [www.travelineeastmidlands.co.uk](http://www.travelineeastmidlands.co.uk)

Please note there is no refreshment provision available.



**To: Members of Planning Committee:**

Chair: Mr R Helliwell  
Vice Chair: Mr K Smith

Cllr W Armitage	Cllr P Brady
Cllr D Chapman	Ms A Harling
Cllr A Hart	Cllr I Huddleston
Cllr A McCloy	Cllr Mrs K Potter
Cllr D Murphy	Cllr K Richardson
Cllr S. Saeed	Mrs C Waller
Cllr J Wharmby	

**Other invited Members:** (May speak but not vote)

Mr Z Hamid	Prof J Haddock-Fraser
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Constituent Authorities  
Secretary of State for the Environment  
Natural England

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Committee Date:

Item Number:

Application No:

Grid Reference:

**Title:** Palace Hotel,  
Buxton



**PEAK  
DISTRICT**  
NATIONAL  
PARK

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**Peak District National Park Authority**  
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Aldern House, Baslow Road, Bakewell, Derbyshire. DE45 1AE



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## MINUTES

Meeting: **Planning Committee**

Date: Friday 25 June 2021 at 10.00 am

Venue: The Palace Hotel, Buxton, SK17 6AG

Chair: Mr R Helliwell

Present: Mr K Smith, Cllr W Armitage, Cllr P Brady, Cllr D Chapman,  
Cllr A McCloy, Cllr Mrs K Potter, Cllr K Richardson and Miss L Slack

Apologies for absence: Cllr A Gregory, Ms A Harling, Cllr A Hart and Cllr I Huddleston.

### **62/21 ROLL CALL OF MEMBERS PRESENT, APOLOGIES FOR ABSENCE AND MEMBERS DECLARATIONS OF INTEREST**

#### Item 4

Cllr Chapman declared a prejudicial interest as the applicant was known to him and stated that he would leave the meeting for the duration of this item.

### **63/21 URGENT BUSINESS**

There was no urgent business.

### **64/21 PUBLIC PARTICIPATION**

Four members of the public had given notice to address or make representations to the Committee.

### **65/21 FULL APPLICATION - NEW AFFORDABLE DWELLING - LAND OFF TAGG LANE, MONYASH -**

Cllr D Chapman had declared a prejudicial interest for this item as the applicant was known to him, so left the meeting room and did not take part in any discussion.

The Chair and Vice Chair had visited the site the previous day.

The report was presented by the Head of Planning who outlined the reasons for refusal as set out in the report.

The following addressed the Committee under the Public Participation at meetings scheme:

- Mr Charles Woolley, Applicant

The Head of Planning was asked to clarify if the trees on the application site were the subject of a Tree Preservation Order and confirmed that he did not have that information to hand but could confirm that they were within the boundary of the Conservation Area.

Members discussed the size of the proposed property in relation to the needs of the applicant's growing family and the location of the application site, being on the edge of the village, within the Conservation Area, and incurring into a medieval strip field. Also whether there was a better site within the ownership of the applicant. Additionally there was discussion of how best to address local housing need and the public benefit arising from this.

A scheme of archaeological investigation had not been carried out. It was noted that a driveway would be constructed through a sloping bank, the archaeological significance of which was currently not known.

The Head of Planning emphasised that the Conservation Area status of the site should not be ignored and it was necessary to make a balanced judgment weighing the benefits of approval of the application against the potential harm to the Conservation Area. He also clarified that the National Floorspace Guidance within the relevant policy seeks to ensure homes are affordable over the long term.

A motion to approve the item contrary to Officer recommendation was proposed and seconded.

The Head of Planning requested that the item be deferred to a subsequent meeting of the committee under Standing Order 1.48, and a further report be prepared to reflect on the policy impact of the decision and to call on Members to consider strong reasons for making an exception to policy, reflecting also on similar recent cases at Planning Committee determined by Members in accordance with policy.

The following conditions were suggested by Officers in the event of approval of the application:

1. 2 year time limit
2. Section 106 agreement relating to local occupancy
3. In accordance with agreed plans
4. Agreement to be reached on materials used
5. Services to run underground over the applicant's land
6. In accordance with Highways recommendations
7. Consideration of sewerage treatment
8. A written scheme of archaeological investigation to be carried out.
9. Detailed landscaping scheme

A vote to approve the application contrary to Officer recommendation was taken and carried.

## **RESOLVED**

**That Members are minded to recommend approval of the application as an exception to Policy to a future meeting of the Planning Committee however in accordance with Standing Order 1.48 final determination of the application is DEFERRED pending a further report being prepared by Officers.**

The meeting adjourned for a short break at 11.05 and reconvened at 11.15

**66/21 FULL APPLICATION - PROVISION OF EDUCATION SUITE AND ANCILLARY ACCOMMODATION TO FACILITATE DIVERSIFICATION OF FARM ACTIVITIES AT HIGH LEES FARM, NEW ROAD, BAMFORD**

Cllr Chapman re-joined the meeting.

This item was moved forward on the agenda.

The Planning Officer introduced the report setting out the reasons for approval as set out in the report.

The following made representations to the Committee under the Public Participation at Meetings Scheme:

- Kate May, applicant – statement read out by an Officer in the Democratic and Legal Support Team.

A motion to approve the application in accordance with Officer recommendation was proposed and seconded and a vote was taken and carried.

**RESOLVED:**

**To APPROVE the application subject to prior entry into a S106 legal agreement to tie the education suite and ancillary accommodation to the revised schedule of land and buildings at High Lees Farm and subject to the following conditions:**

- 1. Statutory time limit for implementation.**
- 2. No development shall commence until development phasing plan has been submitted and approved. Development to be carried out in accordance with approved details.**
- 3. No development shall commence until construction management plan has been submitted and approved. Development to be carried out in accordance with approved details.**
- 4. Travel plan to be submitted and approved prior to the first occupation of the education suite and ancillary accommodation.**
- 5. Landscape scheme to be submitted, approved and implemented prior to the first occupation of the development.**
- 6. Submit and agree sample of roof material and sample panel of stonework for education suite and ancillary accommodation together with details of paving and surfacing materials.**



- 7. The package treatment plant shall be installed prior to the first occupation of education suite and ancillary accommodation.**
- 8. The parking and manoeuvring areas shall be laid out, constructed and available for use prior to the first occupation of the education suite and ancillary accommodation and shall be permanently so maintained.**
- 9. Development shall not be carried out other than in accordance with recommendations of submitted protected species survey report.**
- 10. Restrict use specifically to education suite and accommodation all ancillary to High Lees Farm and to be retained within a single planning unit.**
- 11. Restrict residential accommodation to holiday accommodation only.**
- 12. Restrict the maximum number of guests to no more than 16 at any time.**
- 13. Restrict the use of agricultural buildings for the purposes of agriculture only.**
- 14. Remove agricultural buildings when no longer required for the purposes of agriculture.**
- 15. Remove permitted development rights for alterations and extensions from residential accommodation.**
- 16. Specification of colour finish for sheeting and doors to agricultural buildings**

**67/21 FULL APPLICATION - THE PROPOSED INSTALLATION OF A 25M LATTICE MAST, SUPPORTING 3 NO ANTENNA, 2 NO 600MM DISHES, TOGETHER WITH 3 NO GROUND BASED EQUIPMENT CABINETS CONTAINED WITHIN A FOUL WEATHER ENCLOSURE, SATELLITE DISH AND ANCILLARY DEVELOPMENT THERETO INCLUDING A PERMANENT GENERATOR, HOUSED WITHIN A SECURE COMPOUND ON LAND ADJACENT TO HOWDEN RESERVOIR, UPPER DERWENT , HOPE VALLEY**

The Chair and Vice Chair had visited site the previous day.

The Planning Officer introduced the report setting out the reasons for refusal as set out in the report. He also advised that further information had been received in relation to the generator which would run powered by diesel for 3 to 4 hours and then by battery for 6 to 8 hours. A photo montage had also been received and was incorporated in the presentation.

The following made representations to the Committee under the Public Participation at meetings scheme:

- Alison Hughes, Applicant – Statement read out by an Officer in the Democratic & Legal Support Team.



A motion to refuse the item in accordance with Officer recommendation was proposed and seconded.

Members discussed the visual impact of the proposed mast and the impact on the tranquillity of the area surrounding the application site balanced with the potential public benefit of the mast.

A vote to refuse the application in line with the Officer recommendation was taken and carried.

## **RESOLVED**

**To REFUSE the application for the following reasons:**

- 1. Visual harm to valued landscape character and appearance especially from the mast top sky-lining in key views from the north and south west across the reservoir.**
- 2. Harm to valued landscape character from the tarmac access road and new entrance coupled with the inappropriate fencing to the main compound.**
- 3. The use of generator to provide power is unsustainable and contrary to Policy CC1 and in absence of any detailed noise report proving otherwise, generator noise would likely cause harm to the tranquillity of area and neighbouring amenity.**
- 4. The screening effect provided by the surrounding trees are outside of the applicant's ownership and control. Trees are shown to be removed to accommodate the development however no tree report has been submitted to cover this or to provide a plan for the long term management of the tree cover to maintain screening effect. In the absence of a suitable mechanism to secure control over the long term retention and suitable management/planned replacement of the immediate surrounding tree cover, the proposed mast could become a more intrusive feature, causing further harm to the special quality of the landscape.**
- 5. Insufficient information on ecological issues as desk-based assessment recommendation of follow up reports have not been carried out so potential harm and a net benefit to biodiversity cannot be established.**
- 6. The proposal is therefore contrary to policies GSP1, CC1, GSP3, L1, DMU4, DMC3, DMC11, DMC13, and the NPPF.**

**68/21**

**FULL APPLICATION - PROPOSED DEMOLITION OF EXISTING FACTORY AND CONSTRUCTION OF NEW DWELLING, THE FACTORY, ALMA ROAD, TIDESWELL**

The Chair and Vice Chair had visited the site the previous day.

The Planning Officer introduced the report setting out the reasons for approval as set out in the report. He confirmed that Officers had carefully considered the recommendations of the Highways Department but had concluded it was not necessary for them to be implemented.

The following addressed the Committee under the Public Participation at Meetings Scheme:

- David Sutherland, Agent

A motion to approve the application in accordance with Officer recommendation was moved and seconded.

The Planning Officer confirmed that there were no serious concerns regarding overlooking of neighbouring properties, and that Officers requested a further condition be added to agree the levels of the proposed parking area as part of a scheme of landscaping.

The motion to approve the item in accordance with Officer recommendation and with an extra condition regarding the levels of the proposed parking area was put to the vote and carried.

## **RESOLVED**

**To APPROVE the application subject to the following conditions:**

- 1. Statutory time limit for implementation**
- 2. Development in accordance with amended plans, subject to design conditions**
- 3. Submit and agree stone sample and agree panel.**
- 4. Submit and agree slate sample.**
- 5. Windows to be white painted timber unless otherwise agreed.**
- 6. Other minor design details**
- 7. No development shall commence until construction management plan has been submitted and approved. Development to be carried out in accordance with approved details.**
- 8. Submit scheme for enhancement of doors of the adjacent storage building and implement to agreed timescale.**
- 9. Landscaping scheme to be implemented prior to or within first planting season of the first occupation of the dwelling.**
- 10. The parking and manoeuvring areas shall be laid out, constructed and available for use prior to the first occupation of the dwelling.**

- 11. Development shall not be carried out other than in accordance with recommendations of submitted tree survey report.**
- 12. Remove permitted development rights for alterations, extensions and outbuilding, and boundary on boundary facing the Old College.**
- 13. Ancillary accommodation in basement to remain ancillary to dwelling and be used for no other purpose.**
- 14. The existing storage buildings along St John's Road shall not be used other than for domestic storage purposes, without the Authority's approval.**
- 15. Submit and agree the levels of the parking area as part of a scheme of landscaping**

Ms Slack left the meeting at 12.41

**69/21 FULL APPLICATION - PLACEMENT OF SHED AND MODIFICATION TO DRIVE ENTRANCE AT BEAUMARIS, TOWER HILL, RAINOW**

The Planning Officer introduced the report setting out the reasons for approval as set out the in report.

A motion to approve the application in accordance with Officer recommendation was proposed and seconded, put to the vote and carried.

**RESOLVED**

**To APPROVE the Application subject to the following conditions:**

- 1. Statutory time limit for implementation.**
- 2. Development to be carried out in accordance with the submitted plans and specifications**

**70/21 APPROVAL OF THE DORE NEIGHBOURHOOD PLAN - TO SUBMIT FOR REFERENDUM**

The Head of Planning introduced the report.

A motion to approve the proposal as recommended by Officers was moved, seconded, put to the vote and carried.

**RESOLVED**

**That in accordance with paragraph 12 of Schedule 4B of the 1990 Town and Country Planning Act that:**

- 
- 1. The Authority approves that following the inclusion of the Examiner's recommended modifications into the Plan (as set out in Appendix 1 attached to the report), the plan meets the basic conditions such that it can proceed to a referendum**
  - 2. The Authority approves publication of a formal decision statement detailing the Authority's response to the Examiner's recommendations (as set out in Appendix 2 attached to the report)**
  - 3. The Authority determines that the referendum boundary will cover the designated Dore Neighbourhood Area only.**

The meeting ended at 12.50 pm

**5. CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017:  
CONSTRUCTION OF A PERMANENT ACCESS TRACK TO FACILITATE ESSENTIAL  
SAFETY WORKS, ONGOING INSPECTION, MAINTENANCE AND EMERGENCY  
ACCESS TO SWELLANDS AND BLACK MOSS RESERVOIRS. (NP/O/0221/0110.  
BJT)**

**APPLICANT:** Canal & River Trust

**Summary**

1. This application proposes the construction of a track in open moorland, with most of the route being within an area designated for its habitat and biodiversity interest as a Special Protection Area (SPA) and Special Area of Conservation (SAC).
2. SPAs are areas which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds, SACs are also areas which have been given special protection. They provide increased protection to a variety of wild animals, plants and habitats. If a proposed plan or project is considered likely to have a significant effect on an SAC or SPA (known as a “European site”), either individually or in combination with other plans or projects, then an appropriate assessment of the implications for the site, in view of the site’s conservation objectives, must be undertaken. For the reasons set out in this report, an Appropriate Assessment is considered necessary.

**Site and Surroundings**

3. The proposed track is required to gain access for maintenance works to Black Moss and Swellands Reservoirs, which are located in a remote position on high moorland two miles north-east of Diggle and one mile south-west of Marsden.
4. The first section of track, off the A62, to the west of the reservoirs, is outside the designated areas but the moorland to the east of this existing access track, including the area occupied by the reservoirs, all lie within the Dark Peak Landscape Character Area which is an area of high landscape and nature conservation value. It is designated as the Dark Peak Site of Special Scientific Interest (SSSI), and is within part of the South Pennine Moors Special Area for Conservation (SAC) and Peak District Moors Special Protection Area (SPA) . These designations are of National (SSSI) and International (SAC/SPA) nature conservation importance.
5. There are several public footpath routes across the moorland in the vicinity of the reservoirs, including the Pennine Way, which passes between the two reservoirs and then continues along the north-west side of Black Moss Reservoir. Although the applicants, the Canal and River Trust, own the land associated with the reservoirs, much of the surrounding land over which the temporary track passes is owned by the National Trust as part of their Marsden Estate. This land is also common land.

**Proposal**

6. Construction of a permanent access track to facilitate essential safety works, ongoing inspection, maintenance and emergency access to Swellands and Black Moss Reservoirs. The proposal is described in more detail in the following report on the planning application so it is not repeated here. The track will begin at an existing access from the A62 to the West of Brun Clough Reservoir, passing below the reservoir on an established stone track to Point A. From Point A, in informal existing track will be formalised with stone to the existing gate a point B. From Point B, most of the stone track

will follow a disused feeder channel between Black Moss Reservoir and Brun Clough Reservoir, formalising the existing occasional light vehicle access arrangement. The stone track will terminate at point E. Permanent access to Swellands Reservoir head wall will be achieved by a bog mat track from Point E. The width of the track is 4m which is the minimum width to allow all vehicles to utilise the track without detriment to the edges.

#### Background to the proposal

7. The Canal and River Trust owns and operates four reservoirs in the vicinity of Swellands Reservoir within the Dark Peak. The reservoirs are situated on exposed moorland over 200m above residential areas. There is currently no vehicular access to the reservoirs, and pedestrian access is via difficult terrain which can often become impassable due to poor weather and low visibility. Access is required to operate the reservoirs, for inspection, regular maintenance, large works in the interest of safety to the structures and for emergency access. The Trust believes that there are reasons in the interest of public safety to construct a single access route to service these reservoirs.
8. The application is accompanied by an Environmental Impact Assessment (EIA) and Environmental Statement (ES). The scope of the EIA was agreed with Authority through a formal 'Scoping Opinion' which was issued by the Authority on 30 October 2020. The Scoping Opinion confirmed the environmental topics that the Authority required to be addressed in the EIA. These are:
  - i. Landscape, Landscape Character and Visual Impact;
  - ii. Ecology and Biodiversity;
  - iii. Archaeological and Cultural Heritage; and
  - iv. Access and Recreation.

In addition, the Scoping Opinion confirmed that the EIA should set out the public interest need for the development and should describe the main alternatives that were considered.

#### RECOMMENDATION:

**That this report be adopted as the Authority's assessment of likely significant effects on internationally important protected habitats and species under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) in relation to the construction of a permanent access track to facilitate essential safety works, ongoing inspection, maintenance, and emergency access to Swellands and Black Moss reservoirs.**

#### Key Issues

9. Under Section 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) any development that has the potential to result in a Likely Significant Effect (LSE) on a European site and is not directly connected with the management of the site for nature conservation reasons, must be subject to a Habitat Regulations Assessment (HRA). Where it is confirmed that there will be a likely significant effect, the competent authority must carry out an Appropriate Assessment of those impacts.
10. All planning applications which are not directly connected with, or necessary for, the conservation management of a European site, require consideration of whether the proposed development is likely to have significant effects on that site. This consideration, typically referred to as the 'Habitats Regulations Assessment screening', should take into account the potential effects both of the development itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority, in this planning case the National Park Authority, must make an

appropriate assessment of the implications of the development for that site, in view the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the European site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.

11. Natural England has advised the Authority that, as a competent authority under the provisions of the Habitats Regulations, it should have regard for any potential impacts that a plan or project may have on a European site.
12. In this case, the designated site is the South Pennine Moors Special Area for Conservation (SAC) and Peak District Moors Special Protection Area (SPA).

### **Assessment**

The Habitat Regulation Assessment Process involves several stages which can be summarised as follows:

- Stage 1 – Likely Significant Effect Test (Habitats Regulations Assessment screening)
- Stage 2 – Appropriate Assessment
- Stages 3 & 4 – Assessment of Alternative Solutions and Imperative Reasons of Overriding Public Interest Test.

13. Stage 1: This is essentially a risk assessment utilising existing data, records and specialist knowledge. This stage identifies the likely impacts of a project upon a European Site and considers whether the impacts are likely to be significant. The purpose of the test is to screen in or screen out whether a full appropriate assessment is required. Where likely significant effects cannot be excluded, assessing them in more detail through an appropriate assessment is required to reach a conclusion as to whether an adverse effect on the integrity of the site can be ruled out.
14. Stage 2: This is the “appropriate assessment” and this involves consideration of the impacts on the integrity of the European Site with regard to the conservation site's structure and function and its conservation objectives. Where there are adverse effects, an assessment of mitigation options is carried out. If the mitigation cannot avoid any adverse effect or cannot mitigate it to the extent that it is no longer significant, then development consent can only be given if an assessment of alternative solutions is successfully carried out or the Imperative Reasons of Overriding Public Interest (IROPI) test is satisfied.
15. Stages 3 and 4: If a project will have a significant adverse effect and this cannot be either avoided or mitigated, the project cannot go ahead unless it passes the IROPI test. In order to pass the test, it must be objectively concluded that no alternative solutions exist. The project must be referred to the Secretary of State on the grounds that there are Imperative Reasons of Overriding Public Interest as to why the project must proceed. Compensatory measures needed to maintain the overall coherence of the site or integrity of the national site network must be taken.

### **16. Stage 1: Likely Significant Effect Test**

17. A “Report to inform a habitat regulations assessment” has been submitted with the application. This was prepared by Penny Anderson Associates on behalf of the applicants, the Canal and River Trust and is hereafter referred to as the PAA report. At the time of writing this Planning Committee report the views of Natural England have not been received, but we understand that the applicants have been liaising directly with

Natural England and a response is expected by the date of the Planning Committee meeting. The PAA report was commissioned by the applicants to inform a Habitat Regulation Assessment in relation to the proposed permanent access track application. The purpose of this report is to set out the information needed to enable to Peak District National Park Authority, as competent authority, to undertake a Habitat Regulations Assessment (HRA) with regard to the features of international importance for which the European sites (SAC and SPA) were designated. As noted above, the effects of the development on the Dark Peak SSSI and other, non-designated, ecological features are addressed in the Environmental Statement (ES) which accompanied the planning application for the proposed access track installation.

18. The report produced by Penny Anderson Associates Ltd contains the following information:
  - Details of the European Sites and their qualifying features (Chapter 2);
  - Consideration of alternatives to the proposed track including 'do-nothing', decommissioning of the reservoir(s), alternative routes, construction methodology and programme (Chapter 3);
  - A description of the selected route including habitat descriptions for each section of the route (Chapter 4);
  - A summary of the bird survey results with particular reference to the SPA qualifying species (Chapter 5);
  - A description of the possible direct and indirect effects on the qualifying features of the European Sites (Chapter 6);
  - Proposed mitigation measures, compensation strategy and monitoring to address effects on the integrity of the European Sites (Chapter 7); and
  - Concluding statement on the assessment of Likely Significant Effects (LSE) on the integrity of European Sites and consideration of Imperative Reasons of Over-riding Public Interest (IROPI) (Chapter 8).
19. In relation to the site and its characteristics, and in consultation with the Authority and Natural England, the key features that are addressed in the PAA report are the vegetation/habitats and botany, the breeding bird assemblage and the hydrology of the peat resource (as fundamental to its quality). The report sets out this information as far as it is needed to understand the potential effects on the qualifying features of the European Sites. It is a lengthy and detailed document so only the key conclusions are included in this Planning Committee report; a full copy can be seen on the Authority's website under planning application NP/O/0221/0110.
20. Conclusion on Stage 1: Given the findings and conclusions set out in the PAA report, officers have considered that significant impacts of the project on the designated sites cannot be excluded, so it is necessary to assess them in more detail through an appropriate assessment in order to reach a conclusion as to whether an adverse effect on the integrity of the site can be ruled out.
21. **Stage 2 – Appropriate Assessment**
22. The PAA report sets out their analysis of the likely impact of the proposed permanent track on the interest of the designated sites and assesses the significance of these, their likely impact on the features of interest and possible mitigation.
23. Effects of Proposed Development on the South Pennine Moors SAC
24. Loss of Peat Resource and Hydrological Function: The only affected habitat feature for which the SAC was designated, and which therefore requires assessment under the Habitats Regulations, is blanket bog. The PAA report concludes that the construction of the permanent stone track and associated passing places would result in the loss of



1.148ha of degraded blanket bog. The extent of habitat lost includes habitats within the leat which, although not blanket bog per se, are hydrologically linked to the adjoining areas of blanket bog. Similarly, the extent of habitat loss includes a number of smaller channels and larger gullies which intersect the leat, as well as several wet hollows and larger pools of varying size and depth (total 0.165ha) located in the base of the leat that would be intercepted/lost as a result of the track construction.

25. Without embedded mitigation being built into track design and construction methods, the construction of the permanent track is likely to lead to disruption of peat hydrology and function along the route resulting from compaction of the ground surface and impeded and/or accelerated drainage. Conversely, the track may have the result of impeding drainage on the upstream (north) side of the track leading to the retention of water within the peat mass and possible formation of pools along the trackside and within the adjoining gullies. The extent of blanket bog loss includes the section of permanent bog mat track to the north of Black Moss and Swellands, and the spur leading into Swellands. In addition to the above there would be temporary disturbance blanket bog (which would subsequently be restored) along a short section of temporary bog mat track to Little Black Moss and at the spur from Point F into Swellands Reservoir which would also be restored on completion of construction. The total temporary loss would be 0.103ha.
26. Impacts on Water Chemistry: The proposed track construction also introduces the risk of changes to water quality resulting from accidental spillage/pollution of the water environment during construction, surface-run off during construction, and the introduction of a permanent stone track of a higher pH than the surrounding peat mass resulting in localised changes in vegetation. Best practice pollution control measures will be incorporated as an integral part of scheme implementation to avoid any impact on water quality through accidental pollution and surface run-off during construction.
27. Effects of Proposed Development on the South Pennine Moors SPA: Disturbance to Qualifying Bird Species During Construction
28. The key potential effect on SPA qualifying bird species, namely golden plover, merlin and short-eared owl during the construction phase is risk of disturbance to nest sites and associated foraging habitat which may result in breeding failure and nests being abandoned with subsequent loss of chicks. However this risk would only materialise if the construction work took place during the main nesting season of April to July inclusive; disturbance outside the main nesting season is not considered significant. As the Canal and River Trust advise they are legally obliged to carry out the work by January 2022, a significant negative impact could be avoided by conditioning the timing of construction work to avoid the April-July period.
29. Increased Disturbance to SPA Qualifying Bird Species During Operational Phase
30. At the operational phase of development the introduction of a permanent access track into the moorland environment could result in the following activities which could result in disturbance to or displacement of SPA qualifying bird species:
  - i. Walkers/dog walkers using the track for recreation; and
  - ii. Vehicle use for operational purposes with at least three visits per week.
31. The improvement of the surfacing west of the reservoirs and the introduction of the bog mat section of track north of Black Moss and Swellands could encourage increased use by walkers, and effectively create a circular loop around Swellands Reservoir. The extent of any increase is difficult to predict, but it may increase the risk of disturbance to breeding birds. Conversely, the creation of a more well-defined route, confined within a low-lying leat for much of its length, may reduce the extent of disturbance. In addition, there would be regular disturbance by vehicle access for reservoir inspections three

times/week- this is relatively low level and is likely to cause less disturbance to birds than pedestrian access, but contributes to cumulative disturbance. Although the PAA report suggests that birds would readily habituate to any increased use, this is speculative, with no evidence presented. The Authority's Ecologist advises that potential effects on the SPA species are as follows:

- Golden Plover - it is considered reasonable to conclude that a significant impact on breeding Golden Plover is unlikely given evidence from the Pennine Way that surfacing benefitted Golden Plover by reducing the area of disturbance from 200m. to 50m. from the path, coupled with a lack of breeding records within 50m. of the proposed track.
- Merlin - it is considered reasonable to conclude that a significant impact on breeding Merlin is unlikely given a lack of breeding records and suitable nesting habitat within 500 metres of the proposed route.
- Short-eared Owl - although the SSSI condition assessment identifies suitable habitat in the area, it is considered reasonable to conclude that a lack of breeding records in the vicinity of the proposed track, coupled with the deterrent effect of existing access and the low-lying nature of much of the route within the leat, make it unlikely that there would be a significant impact on breeding Short-eared Owl.

Consequently it is reasonable to conclude that there is unlikely to be a significant impact on SPA bird species during the operational phase.

**32. Stages 3 & 4 – Assessment of Alternative Solutions and Imperative Reasons of Overriding Public Interest Test**

33. The report assesses several alternative options to the proposed permanent track (these are also referred to in the report on the planning application) These are set out in detail below given the importance of this issue (taken from the PAA report).
34. Do-nothing Option: Works to the main spillway, auxiliary spillway, dam embankment, wavewall and dam crest of Swellands Reservoir have been identified in the latest Inspecting Engineer's Report under Section 10 of the Reservoirs Act. To 'do-nothing' would result in a failure to meet the legal requirement for the Applicant to have carried out these measures in the interests of safety at by January 2022.
35. Reservoir Discontinuance: Discontinuing the reservoirs would impact on the public interest. Discontinuance would have a direct effect on water supply to the Colne Valley area as the water from the reservoirs is used to provide water supply under agreement between the Applicant and Yorkshire Water (the 'Scammonden Agreement').
36. Use of Low Ground Pressure All-Terrain Vehicles: Use of alternative vehicles such as a Haggland/Softrock which is used elsewhere for moorland maintenance has been considered. Regular use would form informal tracks across the moorland and would not satisfy the requirement for emergency access for pumps and plant. A large variety of vehicles are needed for ongoing inspection and maintenance tasks. Irregular tracks caused by such vehicles, including earth moving equipment, lifting equipment and welfare facilities would result in an impact that could not be re-instated causing greater damage than a well-designed track.
37. Temporary Access Track for Major Civil Engineering Works: A temporary access track was installed in 2006/07 to facilitate major engineering works to Swellands Reservoir. This is not considered acceptable practice when managing high consequence assets such as Black Moss and Swellands Reservoirs. To fail to inspect or fail to complete regular routine maintenance can lead to defects developing with an increased likelihood of dam failure. Current inspection and maintenance regimes involve reservoir surveillance inspections three times per week and regular maintenance activities which

can only be completed using wheelbarrows, strimmers and hand tools transported on foot some 2.5km. Maintenance measures identified during annual statutory inspections often require plant and equipment for which the current access arrangement is not appropriate, meaning safety measures cannot be completed until an access track, such as the temporary track from 2006/07, is installed. Sporadic maintenance is not in line with the key principle of reservoir safety which requires the Trust to maintain the dams' structural integrity and risk to be minimised to 'as low as reasonably practicable'.

38. Helicopter Access: The use of helicopters for the upcoming major civil engineering works, emergency access and ongoing operation and maintenance was considered. Due to helicopters being unable to fly in inclement weather, they would be unavailable when the current pedestrian route is impassable. The landing area required would need to be large and located within the SSSI/SAC/SPA. Helicopter access would not, therefore, be suitable for ongoing inspections.
39. Improvements to Reservoir Operation: Additional draw-down capacity has been included in the design of the pending reservoir safety works. However, this additional capability does not negate or compensate for the need to access for inspection, routine maintenance, repair or emergency access. Additional draw-down capacity reduces the time to empty the reservoir in an emergency but does not reduce the likelihood of a defect causing an emergency or the likelihood of identifying a defect that may result in an emergency. These are reduced by regular inspection and regular maintenance, both requiring good road access.
40. Alternative Routes: The location of the alternative routes is shown in the submitted report. These comprise six alternative routes (Routes 1-6) which were considered in detail for the previous temporary track that was constructed and restored in 2006/07. These routes were revisited to consider their suitability for the current proposals. In addition, two further iterations were considered for the current proposal (Routes 7 and 8) to bring a spur down to Little Black Moss and to take the main track around to the north of Black Moss and Swellands. After considering all eight route options, a hybrid solution has been devised which is considered to have the least environmental and ecological impact.
41. Alternative Construction Programme: The key aspect of programme in respect of the HRA is the proposed commencement date, which was anticipated to be from May 2021 onwards. This would coincide with the bird breeding season, and would, therefore, result in an unavoidable impact on the qualifying feature of the South Pennine Moors SPA, namely breeding merlin, golden plover and short-eared owl. This start date was influenced by the legal requirement to have completed the statutory measures identified in the Reservoirs Act Section 10 report by January 2022. However, as noted above, the report assumes that the track construction would commence in May 2021 and would take approximately 16 weeks, but the application has not yet been determined so this timetable is no longer applicable.
42. The Trust has discussed with the Environment Agency (EA) whether an exception can be granted due to the delays experienced as a result of the Covid pandemic but it has been confirmed that the circumstances do not warrant an extension under the EA's prescribed conditions for the completion of the essential works, most notably repairs to the spillway at Swellands, by January 2022. If this deadline remains the Trust would now have to do the work in the second half of 2021, assuming planning permission is granted. This would avoid the issue regarding nesting birds.
43. **Mitigation measures and compensation strategy:**
44. Mitigation Measures: In order to avoid any adverse effects on the integrity of the South

Pennine Moors SAC/SPA the PAA report acknowledges that it will be necessary to incorporate mitigation measures. The adoption of mitigation has been undertaken in accordance with the mitigation hierarchy to avoid impacts in the first instance and then, where impacts are unavoidable, to minimise or restore the potential impacts.

45. In the case of the permanent track construction across blanket bog it will not be possible to avoid, minimise or restore impacts on the blanket bog habitat, so there will be an unavoidable effect on the integrity of the SAC which must be off-set through compensation measures. In addition, where there are unavoidable effects on the integrity of a European site, it is a requirement of the Habitat Regulations that the HRA must demonstrate that there are IROPI regarding any impact to the SAC. The need for the development is covered in the report on the planning application and the consideration of alternatives is set out above.
46. Habitat Mitigation During Construction: The proposed track has been designed to minimise effects on the habitats of the South Pennine Moors SAC. A number of alternative routes have been considered and the final selected route which largely follows the same alignment along the upper leat as the earlier scheme was selected as the least environmentally damaging. The Supporting documents make the case that a temporary track solution will not address the current need for permanent access for vital reservoir inspection and maintenance. The track will be the minimum width possible to accommodate the type of vehicles required for construction and operational purposes, with a running width of 4m plus additional width to allow for the edges to be battered to existing ground level. Passing passes and compounds have been located within the footprint of the earlier temporary track to avoid impacting on new areas. The stone to be used for track construction has been selected for as low a pH as possible whilst maintaining structural stability. The track has been designed to be free-draining as far as possible to avoid the need for additional drainage features to be installed.
47. Construction and restoration will be closely supervised by an experienced Ecological Clerk of Works with expertise in the peat environment. Best practice measures will be implemented to safeguard the water environment from accidental spillage and pollution.
48. Operational Stage: the PAA report concludes that no impacts are anticipated in relation to habitats at the operational stage, over and above those associated with construction of the track and no additional habitat mitigation measures are proposed.
49. In respect of the South Pennine Moors Phase 1 SPA it is anticipated that any adverse effects on the integrity of the SPA can be overcome with the proposed mitigation measures.
50. Construction Phase: Whilst the PAA report says that the construction of the track is highly unlikely to impact directly or indirectly on nest site of SPA qualifying species, and propose some mitigation measures, officers consider that it should not be necessary to carry out the work during the bird breeding season if the works are required to be completed by January 2022. Consequently, the timing of the construction works could be conditioned and further mitigation work will not be required.
51. Operational Stage: Unauthorised vehicle and pedestrian access will be prevented with a padlocked gate at Point B (where the track enters the moorland area) and a barrier close to Point E with the intention of discouraging public access for pedestrians and preventing access for vehicles. This will reduce the likelihood of disturbance and no significant impact on SPA species is considered likely.
52. Compensation Strategy: Due to the unavoidable permanent loss of 1.148ha of blanket bog within the South Pennine Moors SAC, plus any indirect effects on peat hydrology

which are difficult to accurately quantify but likely to extend for at least several metres along either side of the track, there will be an adverse effect on the integrity of the SAC. The loss of blanket bog and indirect effects on peat hydrology cannot be addressed through mitigation measures. A compensation strategy is, therefore, required to off-set the loss of blanket bog habitat and associated hydrological function.

53. The PAA report concludes that no adverse effects are anticipated in respect of the qualifying bird species of the South Pennine Moors Phase 1 SPA and no compensatory measures are proposed in respect of bird species.
54. A habitat compensation strategy has been developed in line with the following key principles:
- compensation must demonstrate 'additionality', i.e. it must be over and above any habitat measures that would be implemented in the absence of the Development. Thus the compensation area must be located outside the South Pennine Moors SAC on the basis that habitats within the SAC should already be managed to restore them to favourable condition;
  - the size of the habitat compensation area must be sufficient to demonstrate a net biodiversity gain (compared with the baseline) when applied to the Defra Metric 2.0 Biodiversity Net Gain calculator tool;
  - the location of the compensation area must be as close as possible to the site of the Development and capable of being enhanced and managed as a coherent management unit;
  - the existing habitats in the compensation area must be in unfavourable or unfavourable/recovering condition that will benefit from additional interventions to restore the habitat to favourable condition;
  - the interventions must be technically feasible and proven to deliver the necessary habitat enhancement;
  - the compensation measures must be capable of being delivered within a reasonable timeframe of the Development taking place, i.e. within approximately 12 months of completion;
  - there must be certainty of delivery, i.e. funding and an experienced delivery body must be in place to ensure that the habitat interventions are capable of being implemented; and
  - the works will be monitored to ensure that any interventions deliver the anticipated habitat enhancement.
55. The proposal for habitat compensation is subject to on-going discussions with the National Trust and would be subject to a S106 agreement for delivery. The National Trust owns an area of land, Holme Moor, which is located to the north-east of Black Moss and Swellands Reservoir and outside of the South Pennine Moors SAC, and initial discussions have been held with the Trust to explore the potential for use of this land for habitat compensation. Given the location of Holme Moor, outside the SSSI, it is not a priority for the National Trust to undertake these habitat restoration works. Therefore, a financial contribution from the application via a S106 agreement would enable these habitat enhancements to proceed, which would otherwise be unlikely to happen without the development going ahead. The close proximity of Holme Moor to the SSSI would add to the value of the habitat enhancement. It is anticipated that works may take place over two seasons, i.e. autumn/winter 2021 and autumn/winter 2022.
56. Habitat Monitoring: Habitat monitoring would be carried out in Years 1 and 3 following completion of the construction works. Monitoring in Year 1 would allow for any issues to be identified and rectified, with monitoring in Year 3 to check progress. Monitoring of the compensation area would be dependent on the final agreed compensation proposals. A Habitat Monitoring Report would be provided to Authority and Natural England after each year of monitoring.

57. **Breeding Bird Monitoring:** A programme of on-going monitoring will be implemented during construction. This will involve regular inspections of the location of breeding birds by a suitably experienced ornithologist and observations on the efficacy of the bird disturbance measures. Post-construction monitoring will be undertaken for a period of two years following completion. This would comprise a full breeding bird survey in spring 2022 and 2023 with the aim of observing the response of the breeding bird assemblage. At least one of the breeding bird monitoring survey visits will be timed to include periods when operational vehicles are present to enable the response of bird species to be closely observed. A Bird Monitoring Report will be submitted to the PDNPA and Natural England after each of the two-year monitoring events including detailed survey methods and results and recommendations for any future mitigation requirements if required.

### **Conclusion**

58. The HRA considers the effects of the proposed development on the South Pennine Moors SAC and South Pennine Moors Phase 1 SPA and concludes that due to the location of the development partially within the SAC and SPA there will be a Likely Significant Effect (LSE) on the qualifying features and an Appropriate Assessment is required.
59. Desk-based assessments and field surveys have been completed to provide a baseline for the proposed development.
60. The track route has been selected as the least environmentally damaging that fulfils the need to undertake the legally required Safety Measures identified in the most recent Reservoirs Act, Section 10 Inspector's report, by the required completion date of January 2022 as well as facilitating on-going reservoir maintenance.
61. The proposed development would result in the following effects on the SAC qualifying features:
- Permanent loss of 1.148ha of blanket bog;
  - Temporary loss and subsequent restoration of 0.103ha of blanket bog;
  - Indirect effects on hydrological function of the peat resource; and
  - Risk of impact on water quality.
62. Direct effects on SPA qualifying bird species are considered unlikely as there is no evidence of nest sites along the route. However, there may be some habituation or temporary avoidance of functional habitat along the route due to construction activities and use of bird disturbance measures targeted primarily at non-SPA qualifying species. Embedded mitigation measures are incorporated into scheme design to avoid any adverse effect on site integrity as far as possible.
63. The permanent sections of track would result in the unavoidable loss of blanket bog habitat within the SAC which cannot be mitigated. This will result in an adverse effect on site integrity. To meet the requirements of the Habitat Regulations it has been necessary to demonstrate that there are Imperative Reasons of Over-riding Public Interest (IROPI) for the development to proceed and that compensatory measures will be provided. Habitat compensation will be delivered under a legally binding S106 agreement. A programme of habitat and bird monitoring is proposed, with reports provided to the Authority and Natural England to provide evidence of the effectiveness of the proposed mitigation measures. The reports will include recommendations for any remedial measures required.
64. The PAA report concludes that the proposed development would meet the requirements of the Habitat Regulations. Having considered the report officers agree that the report

makes a thorough assessment of the likely environmental effects on the designated area and that it provides a justification for the proposed scheme, setting out suitable mitigation and compensation.

65. **Human Rights**

Any human rights issues have been considered and addressed in the preparation of this report.

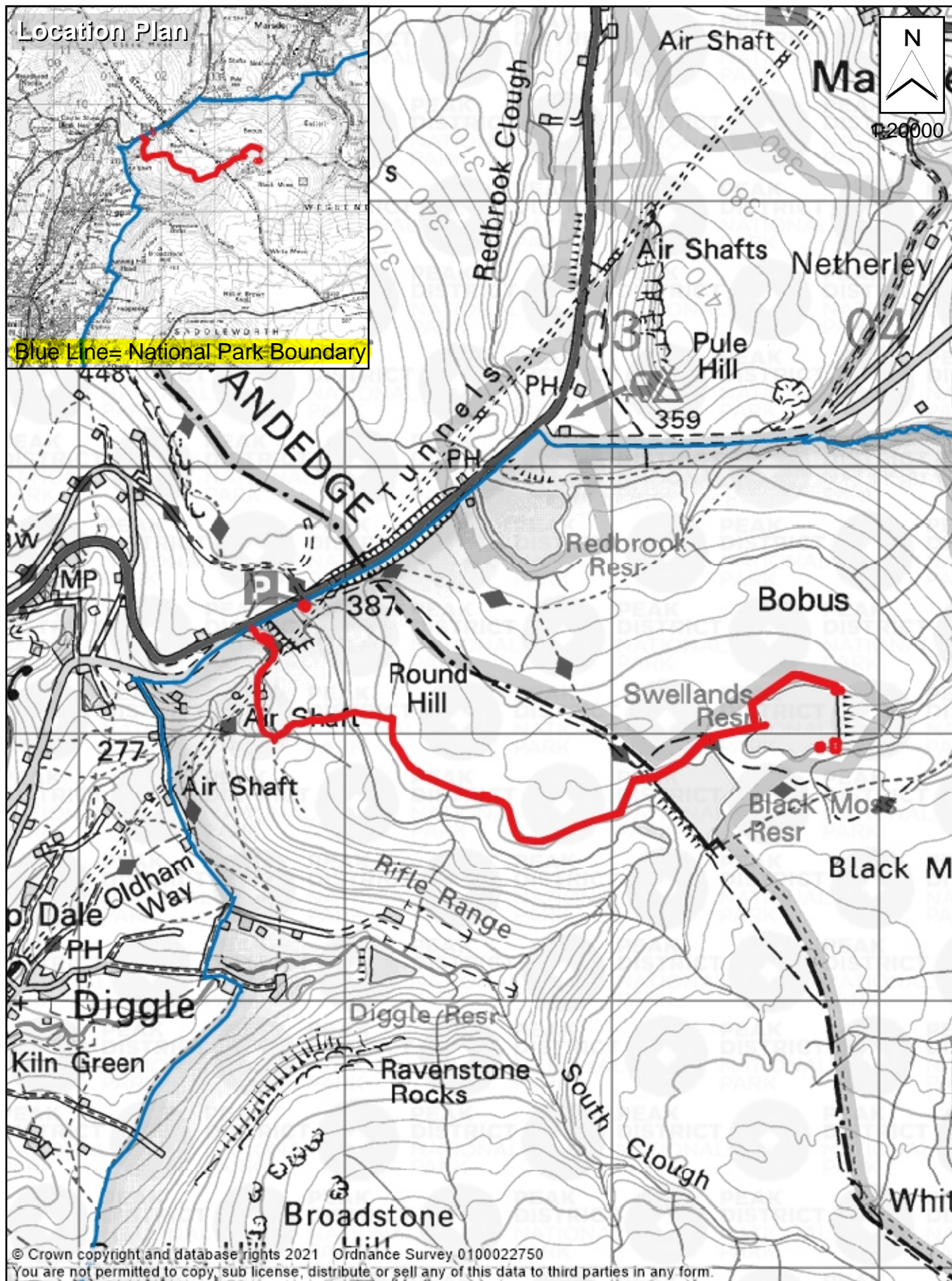
66. **List of Background Papers** (not previously published)

Nil

67. Report author: Brian Taylor

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Committee Date: 6th August 2021  
Item Number: Item 5  
Application No: NP/O/0221/0110  
Grid Reference: 403338, 408778

**Title:** Land within the vicinity of Swellands and Blackmoss Reservoirs HRA



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**6. FULL APPLICATION - CONSTRUCTION OF A PERMANENT ACCESS TRACK TO FACILITATE ESSENTIAL SAFETY WORKS, ONGOING INSPECTION, MAINTENANCE AND EMERGENCY ACCESS TO SWELLANDS AND BLACK MOSS RESERVOIRS. (NP/O/0221/0110, BJT)**

**APPLICANT:** Canal & River Trust

**Summary**

1. This application proposes the construction of a track in open moorland, within the Natural Zone and in an area designated for its habitat and biodiversity interest as an SSSI, SAC and SPA. National and local policies set out a very strong presumption against development in these designated areas. The planning application sets out the case for approving the development in this case, advancing the public interest case for the essential maintenance of the two dams and reservoirs. Officers have concluded that the need for a permanent track to carry out the essential repair and maintenance work is a significant material planning consideration, given the public safety and water supply issues, and that the submitted scheme minimises the environmental impacts as far as possible, with those cannot be avoided being compensated for through off-setting works elsewhere in the area. Consequently, the application is recommended for approval, subject to the Trust entering into a Section 106 agreement to secure the off-site works and to conditions.
2. The accompanying Appropriate Assessment concludes that there will be an unavoidable impact on SAC habitat, namely blanket bog (including both loss and damage). Under the Habitats Regulations 2017 the proposal can therefore only be legally approved if the following conditions are met:
  - There are Imperative Reasons of Over-riding Public Interest (Regulation 64(1))
  - There are no alternative solutions (Regulation 64(1))
  - Compensatory measures must be taken to ensure that the overall coherence of Natura 2000 is protected (Regulation 68)
  - If the Authority is minded to approve the application, the Secretary of State must be notified at least 21 days before final approval (Regulation 64(5)).

**Site and Surroundings**

3. The proposed track is required to gain access for maintenance works to Black Moss and Swellands Reservoirs, which are located in a remote position on high moorland two miles north-east of Diggle and one mile south-west of Marsden.
4. The moorland, including the area occupied by the reservoirs, is within the Dark Peak Landscape Character Area which is an area of high landscape and nature conservation value. It is designated as a Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and Special Protection Area (SPA) . These designations are of national and international nature conservation importance. The moorland is also classified in the Core Strategy as Natural Zone. The area also has archaeological and historic interest dating from the Mesolithic (stone age) period and, more recently, presence of a 'leat' (artificial channel) that was constructed in the early 19th century to carry water from Black Moss Reservoir to Brun Clough Reservoir. Keepers Cottage is the only dwelling at the locality, accessed by an existing track off the A62.
5. There are several public footpath routes across the moorland in the vicinity of the reservoirs, including the Pennine Way, which passes between the two reservoirs and then continues along the north-west side of Black Moss Reservoir. Although the applicants, the Canal and River Trust, own the land associated with the reservoirs, much of the

surrounding land over which the temporary track passes is owned by the National Trust as part of their Marsden Estate. This land is also common land.

### Proposal

6. Construction of a permanent access track to facilitate essential safety works, ongoing inspection, maintenance and emergency access to Swellands and Black Moss Reservoirs.
7. The proposed route is a revision of the route utilised for the temporary access track constructed in 2006/07. A thorough assessment of alternative routes was completed in 2006 and agreed with Peak District National Park Authority and Natural England. The same route is proposed for the permanent track, with the exception of the start of the route which will utilise an existing track to the west of Brun Clough Reservoir as opposed to route was used in 2007, starting outside the designated area and then climbing eastwards into it. This alternative will help to mitigate visual and ecological impacts, and reduce the likelihood of unauthorised access.
8. The Trust are legally required by to carry out the works by January 2022.
9. Description of route (extract from supporting document):
  - A. *“The permanent access track will begin at an existing access from the A62 to the West of Brun Clough Reservoir, passing below the reservoir on an established stone track to Point A. From Point A, in informal existing track will be formalised with stone to the existing gate a point B. This section of the track differs from the 2006/07 temporary route, to remove the need to cut back the bank of Brun Clough Car Park, reduce the amount of stone required and avoid an area of deep peat outside the SAC/SPA. From Point B, most of the stone track will follow a disused feeder channel between Black Moss Reservoir and Brun Clough Reservoir, formalising the existing occasional light vehicle access arrangement. The stone track will terminate at point E shown in Figure 2. Permanent access to Swellands Reservoir head wall will be achieved by a bog mat track from Point E.*
  - B. *In 2007 the track used part of the Pennine Way as a temporary access route, however it is proposed to install the permanent bog mat track within the Trust’s land ownership, away from the Pennine Way to avoid interface. Uneven ground will be regulated with stone to provide a level base for the bog mats, with a geotextile layer to separate the stone from the existing vegetation and peat. From the intersection of the track with the Pennine Way at the eastern Black Moss dam, the bog mats will follow the previous route to the edge of Swellands Reservoir (Point F), with access into the reservoir for heavy construction plant and materials. A lighter duty track will ‘dog-leg’ to the north of Swellands on a previously un-used route over deep peat to provide ongoing inspection and maintenance access. Construction plant for the auxiliary spillway works will use this section of track between Points F and G on a once in and out basis. Temporary construction access to the main spillway and dam embankment is expected to be achieved by running on an access constructed within the reservoir bed, ramping in at the same point used previously (Point F)”.*
10. The supporting statement explains that the width of the track is 4m which is the minimum width to allow all vehicles to utilise the track without detriment to the edges.
  - The geometry of the track between Points A and E has been designed to accommodate 7.5T vehicles, based on the operational requirements. During construction, larger vehicles will use the track and road plates will be required to protect the surrounding ground from vehicle over-run. This ensures the track is no wider than it needs to be in the permanent state;

- The depth of the stone track is 300mm-540mm. Thickness has been reduced from the design thickness of up to 800mm by use of a geogrid within the construction and agreement of increased maintenance. This ensures; the least impact on the peat, lowest visual impact and reduced material usage
  - 8 no. permanent passing places are specified along the route;
  - Track construction generally to sit on top of the existing ground profile, with the exception of the start of the track at Point A, where cut will be required to provide a safe interface between the existing and proposed track;
  - Locally quarried rock of similar PH to the site;
  - The design life will be 25 years (with maintenance);
  - The maximum load will be 28 tonnes on the permanent section A62 to point E;
  - After construction the number of vehicle passes will be 2 inspection vehicles (4x4 vehicle) per week 3 tonne, monthly maintenance vehicle up to 7.5 tonnes;
  - No materials will be taken off site;
  - The existing gate at Point B will be utilised to prevent unauthorised vehicle access from the A62. A new gate will be installed to prevent unauthorised access between Points D and E;
  - The permanent design specification between Points E and G will be as follows:
    - i. The maximum load on the removable bog mat track section will be 7.5 tonne in the permanent case, with increased specification during construction;
    - ii. After construction the number of vehicle passes will be 3 inspection vehicles (4x4 vehicle) per week 3 tonne, monthly maintenance vehicle up to 7.5 tonnes;
    - iii. No materials will be taken off site;
    - iv. Permanent turning circle at Point G and passing place at interface with Pennine Way.
11. A Construction Traffic Management Plan has been prepared to manage construction traffic at the A62 Standedge Cutting. Discussions have also taken place with Oldham Council to agree measures to protect the public using the Pennine Bridleway at the point where it meets the A62. In addition, the Contractor will use 'banksman' (a person responsible for directing the movement of vehicles and plant on or around a site) during construction at the points where the track meets the Pennine Bridleway, Pennine Way and other rights of way to ensure the safety of the public using these rights of way.
- 12. Background to the proposal**
13. The Canal and River Trust owns and operates four reservoirs in the vicinity of Swellands Reservoir within the Dark Peak. The reservoirs are situated on exposed moorland over 200m above residential areas. There is currently no vehicular access to the reservoirs, and pedestrian access is via difficult terrain which can often become impassable for engineering purposes due to poor weather and low visibility. Access is required to operate the reservoirs, for inspection, regular maintenance, large works in the interest of safety to the structures and for emergency access. The Trust believes that there are reasons in the interest of public safety to construct a single access route to service these reservoirs with provision made to access individual structures from a suitable hub location in the region of Black Moss western dam.
14. The reservoirs are regularly inspected and monitored to ensure there is a low risk that future failure could occur. Rapid access to the reservoirs is required to implement the emergency draw down procedures. The Trust say that providing reasonable permanent access to facilitate monitoring, maintenance, necessary remedial work and occasional improvement interventions would significantly improve the management and operation of the reservoirs. Black Moss Reservoir is the highest of the Trust's reservoirs at over 400m AOD with a capacity of 58,190m<sup>3</sup>, built in 1806 and formed by two impounding dams.

Swellands Reservoir has a capacity of 246,300m<sup>3</sup> impounded behind a 190m long dam wall about 9.6m high. The original dam at Swellands failed in 1810 when the construction was nearing completion, killing 6 people.

15. Given the requirement for the reservoirs in the public interest, the Trust say that a permanent access track is required to improve the management of the reservoirs and facilitate emergency access. The Trust says it has learnt many lessons from the Toddbrook Reservoir (near Whaley Bridge in August 2019) incident, including how challenging a similar response would be without appropriate access. The Trust believes that access to Swellands and Black Moss reservoirs must be able to facilitate a similar response. Following the Toddbrook incident, where the partial collapse of the concrete slabs forming the auxiliary spillway chute led to the evacuation of over 1,500 local Whaley Bridge residents, the Environment Agency has published an advice note which provides recommended actions for reservoir undertakers and engineers. The recommendations include improvement to inspection, supervision, operation and maintenance activities. The Environment Agency is reviewing current legislation in line with the findings, and working with Defra to turn the recommendations into a full action plan for implementation. To satisfy the legal requirements under the Reservoirs Act, the Trust must complete regular inspections and regular preventative maintenance. The current situation without vehicular access presents difficulties in achieving this, and puts the Trust's operatives and inspectors at risk. Furthermore, the lack of mobile phone connectivity and emergency vehicle access adds to the impracticality of requiring reservoir surveillance inspectors to access the reservoirs on foot, making use of the Pennine Way and informal footpaths across exposed moorland.

### **Planning History**

16. 2006: Planning permission granted for the provision of a temporary access track (NP/O/0506/0418) to carry out urgent maintenance repairs. The temporary track was required for a period of 2 years and was removed when the work was completed.
17. Pre-application advice: Prior to submitting the application, the Trust sought pre-application advice on the current proposal. They were advised that it would be development requiring the preparation and submission of an Environmental Impact Assessment (EIA). The scope of the EIA was agreed with Authority through a formal 'Scoping Opinion' which was issued by the Authority on 30 October 2020. The Scoping Opinion confirmed the environmental topics that the PDNPA required to be addressed in the EIA. These are:
- i. Landscape, Landscape Character and Visual Impact;
  - ii. Ecology and Biodiversity;
  - iii. Archaeological and Cultural Heritage; and
  - iv. Access and Recreation.

In addition, the Scoping Opinion confirmed that the EIA should set out the public interest need for the development and should describe the main alternatives that were considered.

### **RECOMMENDATION:**

**That the Authority advises the Secretary of State that it is minded to approve the application subject to the signing of a section 106 agreement to secure the proposed off site off-setting and biodiversity net gain works, and subject to the following conditions:**

#### **1) Statutory time limit for implementation**



- 2) Development in accordance with the submitted plans and specifications, subject to the following conditions:
- 3) The construction works shall not be carried out other than in the period August to March (to avoid the bird nesting season).
- 4) Submit sample/specifications of stone to be used for surfacing and geotextile matting.
- 5) Submit and agree details of any new gates and barriers.
- 6) Gates to be kept locked other than when the track is in use; any signage to be agreed before installation.
- 7) Restoration scheme to be submitted and agreed in the event that any part of the track is removed.
- 8) Archaeological conditions:
  - a) No development shall take place other than in accordance with the approved archaeological Written Scheme of Investigation, produced by WYAS Archaeological Services, Version 6, Dated January 2021-Revised June 2021 and titled Land at Rochers Moss, Manchester Road, Diggle. Written Scheme of Investigation for an Archaeological Watching Brief and Strip, Map and Sample.
  - b) Within a period of 12 weeks from completion of the development the archaeological site investigation and post investigation analysis and reporting shall have been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision to be made for publication and dissemination of results and archive deposition shall have been secured.

### **Key Issues**

- The principle of development within the Natural Zone, including the need for the track and consideration of alternatives.
- The impact of the proposed track on the nationally and internationally designated sites of ecological interest on the moorland.
- The landscape impact of the proposed track.
- The impact of the proposed track on the archaeological features of interest on the moorland including the industrial archaeological associated with the reservoirs.
- Impact on users of the public footpaths, including the Pennine Way.

### **Consultations**

18. **Natural England:** The reply was received as this report was being finalised, so officers will consider it in further detail and update Members accordingly at the Planning Committee meeting. However, the key points are extracted as follows:

#### ***“Summary of Natural England’s advice: Objection.***

*Natural England objects to this proposal. As submitted we consider it will:*

- *have an adverse effect on the integrity of the South Pennine Moors Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>*
- *damage or destroy the interest features for which Dark Peak Site of Special Scientific Interest has been notified.*

*We have reached this view for the following reasons: The proposals for a permanent access track will result in the permanent loss of 1.148ha of blanket bog, which is an SAC qualifying feature) and this constitutes a likely significant effect (by loss of extent). This loss of blanket bog cannot be avoided since it is a direct take of the area through the*

*footprint of the development. This loss of extent must be considered a likely significant effect upon the conservation objectives for the feature within the SAC.*

*Where a project has a negative assessment – i.e. where there is an adverse effect or it cannot be ascertained that a project would not adversely affect the integrity of a European site – and must be consented or carried out by the competent authority, the Imperative Reasons of Over-riding Public Interest (IROPI) test applies, your authority should consider the advice set out on the gov.uk website under “Habitats regulations assessments: protecting a European site.*

*If your authority is minded to grant permission, you must first assess the proposal in relation to the IROPI test. The decision to grant permission must then only proceed if the test is satisfied and the Secretary of State notified at least 21 days prior to the permission being granted. If the proposed decision by the LPA to grant permission is upheld, your authority will need to ensure that all necessary compensatory measures are appropriately secured as part of the permission to ensure that the overall coherence of the network of European sites is protected.*

*Compensation measures to be implemented if planning permission is granted*  
*Natural England’s comments on the proposed compensation measures are based upon the outline measures set out in the Canal & River Trust Black Moss and Swellands Reservoir Works Report to Inform a Habitat Regulation Assessment (January 2021) and the National Trust commissioned report from an in-house volunteer survey and monitoring team 2020 survey report and this further informs the assessment below (any reading of this appraisal should be accompanied by sight of the in-house NT survey).*

*The selected area conforms to tests of appropriateness due to*

- Restoration will be off the protected site and will affect habitat that might not otherwise be restored.*
- The area for restoration is close to the protected site (it is contiguous with the site).*
- The selected area is currently in unfavourable condition.*
- Restoration proposed using the methods described is technically feasible in part, the survey suggests bunding may be inappropriate due to peat depth.*

*In outline, the condition and, given the likely causes, the proposed remedies are consistent with examples found within the SAC and restoration management measures applied to such peatland within the South Pennines. It is reasonable to conclude that the proposals are appropriate in the type of degraded peatland and in terms of the proposed measures.*

*In conclusion, should the IROPI test be satisfied, the proposed compensation is appropriate for the purpose of compensation when location, proximity to the SAC, status, ownership, habitat type and overall condition are considered”.*

**19. Highway Authority:** No reply

**20. District Councils:** No reply

**21. Parish Councils:** No reply

**22. Environment Agency:** No reply

**23. Ecology (PDNPA):** The response from the Authority’s Natural Environment and Rural Environment Manager are quoted in full, given the significance of the site:

### **SECTION 1- Impact on Natura 2000 Sites**



*These comments are made in the absence of a response from Natural England, and may therefore be subject to verbal update if comments from NE are received. I have submitted detailed comments on the draft Habitats Regulations Assessment, which was based on the HRA report accompanying the application, separately. In summary my views are that:*

*The draft HRA correctly concludes that an Appropriate Assessment is required, both re the potential impacts on SAC (habitat) features and on SPA (breeding bird) features.*

*The draft Appropriate Assessment rightly concludes that there will be an unavoidable **impact on SAC habitat**, namely blanket bog (including both loss and damage). Under the Habitats Regulations 2017 the proposal can therefore only be legally approved if the following conditions are met:*

- 1. There are Imperative Reasons of Over-riding Public Interest (Regulation 64(1))*
- 2. There are no alternative solutions (Regulation 64(1))*
- 3. Compensatory measures must be taken to ensure that the overall coherence of Natura 2000 is protected (Regulation 68)*
- 4. If the Authority is minded to approve the application, the Secretary of State must be notified at least 21 days before final approval (Regulation 64(5))*

*The draft Appropriate Assessment concludes that it **is** highly unlikely there would be an **impact on SPA bird species (Golden Plover, Merlin and Short-eared Owl) during the construction phase**. If the construction work took place during the breeding season I would not agree with this assessment due to inadequate survey coverage and speculative assumptions about birds habituating to disturbance; however as the breeding season has now passed and work is required by January 2022, any impact could be entirely avoided by a planning condition requiring construction work to take place outside the breeding season (April to July inclusive).*

*The draft Appropriate Assessment concludes that there is unlikely to be a significant **impact on SPA bird species during the operational phase**. I have concerns about the area covered by the 2019 bird survey, speculative assumptions about the track providing a well-defined route for existing users rather than encouraging increased use, birds habituating to disturbance, and an inappropriate conclusion that there is plenty of surrounding habitat for birds to relocate to. However I am satisfied with the conclusion that there is unlikely to be a significant impact on SPA species for the following reasons:*

- The low-lying nature of the proposed track for the majority of its length, and its confinement within the leat, means that the zone of disturbance is likely to be limited.*
- The construction of a defined track is likely to encourage users to keep to this route, reducing the zone of disturbance compared to the current situation. Whilst it is difficult to gauge how this might balance against any increase in visitor use, experience from surfacing of the Pennine Way showed a net benefit to Golden Plover (i.e. reduced disturbance and increased area available for nesting) following surfacing.*
- Lack of breeding records or suitable breeding habitat for Merlin within 500m. of the proposed track.*
- The SSSI condition assessment identifies suitable habitat for Golden Plover and Short-eared Owl in the surrounding moorland; however, a lack of past or recent breeding records within likely disturbance distances (50m. for Golden Plover, 300-500m. for Short-eared Owl), coupled with an existing disturbance effect from visitor use, suggests it is unlikely any increase in use will disturb breeding Golden Plover or Short-eared Owl.*

**Consequently, the 4 conditions above need satisfying only in relation to the loss of**

### **1.148ha of SAC habitat (blanket bog).**

*My comments on whether these conditions are met are as follows:*

#### *Imperative Reasons of Over-riding Public Interest:*

*The Authority will need to be satisfied that there are such reasons. Whilst Health & Safety considerations regarding dam safety are clearly a prime consideration, I would question whether sufficient information is provided to demonstrate that a permanent track is essential in order to meet H&S requirements, notably:*

- I cannot see that it is clear, from the information provided, what additional inspection and maintenance measures are required over and above existing measures. Inspection and maintenance work currently takes place so whilst a track might facilitate that it is, however desirable, demonstrably not necessary for the current measures. Without clear identification of the additional inspection and maintenance measures required it is impossible to assess whether a track would be essential.*

#### *Alternative Solutions:*

*I accept that if a permanent track is required, the proposed route is likely to have the least impact; however:*

- The need to retain the reservoirs is justified on the grounds of maintaining water supply to the Huddersfield Narrow Canal via the “Scammonden Agreement”, and public water supply to the Colne Valley. Decommissioning the reservoirs is ruled out on those grounds. However whilst I accept the public interest in maintaining the canal water supply, I cannot see that any information has been provided re what proportion of the 1273M litres a year provided under the “Scammonden Agreement” comes from Black Moss & Swellands, and whether this could be supplied instead from other reservoirs; nor what proportion of the Colne Valley water supply Black Moss & Swellands provide. In addition, the application states that breaching the Scammonden Agreement would risk the continued provision of water to the canal - i.e. it is a risk not a certainty. There is no evidence that the Trust have discussed the option of discontinuing supply from Black Moss & Swellands with Yorkshire Water, or what the consequences would be.*
- Limited information is provided re ruling out the option of a temporary track.*

#### *Compensatory measures:*

*Measures to enhance 5.22 ha of grass-dominated moorland at Holme Moor are proposed. As this would not create like-for-like habitat (blanket bog is effectively not creatable) assessing the adequacy of this is somewhat subjective. Natural England's views on this will be critical and I would ultimately defer to their judgement on this; however in the current absence of comments from NE my view is that the measures proposed, provided they can be adequately secured through planning conditions/S106 agreement, provide sufficient habitat enhancement to offset the loss of the degraded blanket bog. It should be noted that Holme Moor lies outside, but adjoins, the National Park. There would therefore be a net habitat loss within the National Park. In this instance my view is that, exceptionally, the overall environmental benefit of doing the proposed compensation work at Holme Moor, coupled with the fact that it will enhance habitat linkage between moorland within and outside the National Park, is acceptable.*

*Notification of the SoS: This could be met by ensuring that, should the Authority be minded to approve the application, such approval is subject to SoS approval.*

### **SECTION 2- Other nature conservation impacts**

*The most significant potential impact is likely to be as a result of increased disturbance to non-SPA bird species for the section of the proposed track that would lie outside the leat around the reservoirs, both from vehicle activity and from any potential increase in visitor*

usage encouraged by the new track. The assertion that the track is more likely to encourage people to use a well-defined route rather than attracting further use is entirely speculative and I consider an increase in visitor use likely. Potentially vulnerable species here are Curlew, Snipe and Dunlin on the adjacent moorland, and Common Sandpiper and Dunlin around the reservoir margins. It appears that Redshank have been lost from this site, and Common Sandpiper may have declined. In my opinion (which I accept is also speculative) this is likely to be due to an increase in visitor numbers, highlighting the impact that any further increase might have.

At the western end of the route, west of the leat section, potentially vulnerable species are Lapwing, Snipe and Curlew. However I judge the likelihood of a significant impact here being much less, as any increase in visitors is likely to be less here than around the reservoirs, and disturbance is likely to be more transitory as people pass along the route.

Proposed mitigation measures will help reduce the risk of disturbance, and should be implemented; however a risk of increased disturbance remains. Further consideration should be given to measures that could be implemented to deter access around the reservoir margins in particular. The loss of pools within the leat will have a negative impact. I therefore welcome the proposal to create 30 new pools along the north side of the track to offset this loss.

24. **Senior Archaeologist (PDNPA):** There will be some impact, but this is capable of mitigation. Recommends conditions. Summary of advice as follows:
25. This application is supported by a Cultural Heritage chapter in the Environmental Statement and the text of the fully requested Desk Based Assessment in the technical appendix. These documents follow the pre-application advice provided with respect to the required search areas and what they should include. The supporting information meets the requirements of para.189 of NPPF and DMC5.
26. The desk-based assessment demonstrates that the proposed development will have an impact on a number of known heritage assets including:
- The leat through which the track would run – this is a heritage asset of historical interest and local significance. The track will result in a permanent change to the form and appearance of leat and may encounter previously unknown or recorded features of leat. This represents moderate harm.
  - A series of mounds to the east of the leat, formed of stone and peat and standing up to 1.2m high, suggested to have been targets associated with a 19th century rifle range. These are heritage assets of historic interest and are of local significance. The mounds themselves are not affected, but the development is immediately within their setting and will lead to noticeable changes to their setting. This represents minor harm.
  - A historic quarry likely associated with the construction of the reservoirs. This is a heritage asset of historic interest and local significance. The proposed development will result in noticeable changes within its setting. This represents minor harm.
  - Black Moss, Little Black Moss and Swellands reservoirs are non-designated heritage assets of archaeological interest. The proposed development will result in changes to their setting that represents minor harm to their significance. It will also allow their long term management and safeguard the future of these heritage assets, which is a positive outcome.
  - Below ground potential – the area of moorland where the development is proposed is known to be the site of extensive prehistoric activity, particularly from the Mesolithic period. There is also archaeological potential for post-medieval remains and feature particularly associated with historic water management features, historic routes ways and historic quarrying. Such features are of historic

*and archaeological interest and are of local significance. A minor - moderate level of harm could be anticipated.*

*Where the method of construction changes to bog matt this method of construction requires no cut and fill and therefore the level of impact is minimal.*

*In accordance with the requirements of the NPPF 197 the significance of the affected heritage asset and the scale of the harm identified above need to be taken into account to reach a balanced planning decision.*

Further details of a WSI have been submitted following consultation with our Senior Archaeologist and she has agreed this and comments as follows:

*Should the planning balance be favourable, the impacts identified need to be mitigated through a conditioned scheme of archaeological work. This needs to take the form of a scalable programme of archaeological monitoring of all groundworks in the first instance, which, depending on the nature of remains encountered, could be scaled up to a strip, map and sample exercise in the within the area of the development footprint. This needs to take place as an initial comprehensive watching brief over sections A-C, and the groundworks for the creation of the works compounds. It should start as a continuous watching brief over sections C-E, but depending upon the results and nature of the construction on the ground, this may be able to be reduced to intermittent monitoring.*

*This work needs to be carried out by a suitably qualified and experienced heritage/archaeological contractor in accordance with the nationally agreed standards of the Chartered Institute for Archaeologists to the Written Scheme of Investigation that has been approved by the Senior Conservation Archaeologist”*

27. **Landscape Architect (PDNPA):** Objects to the application. He considers that the Landscape and Visual Impact Assessment (LVIA) consistently under-estimates potential adverse landscape and visual effects. A number of significant adverse landscape and visual effects would likely be experienced as a result of the scheme. Acknowledges that public safety is hugely important, but objects to the scheme as detailed within this application due to the lack of justification of the need for a permanent track, combined with the level of potential significant adverse landscape and visual effects which would be experienced.
28. Key concerns summarised as follows:  
*“Landscape character – given the nature of a raised, surfaced 4m wide track in an open landscape with limited obvious man-made features, my view is that the magnitude of change is under-estimated. A track of this width and construction, plus associated regular vehicle movements are entirely incongruous new elements which strongly conflict with landscape character and experiential factors (such as tranquillity and scenic beauty). Magnitude of effect should certainly be medium adverse (or above).*
29. *The Planning Statement identifies that ‘There is currently no access’. However, it is also stated that the Trust currently visit the reservoirs three times a week, on foot, to make inspection visits. What is the nature of the construction works the permanent track is required to facilitate? Could a temporary access be used to undertake remedial construction works which are required to protect public safety? What is the justification for the need for a permanent track (bearing in mind that inspection visits are currently undertaken and these visits have presumably been adequate to identify a problem that requires remedial construction works)? While issues of public safety are clearly very important, I question whether the justification for a permanent track (particularly given that regular maintenance visits are currently possible) has been adequately made within the application. Is a temporary track (to facilitate the identified and necessary remedial construction works) a more appropriate and proportionate solution in this case?”*

30. In response to these concerns the applicants have submitted further details, including a response from the applicant's landscape consultant, which are referred to in the report below, but the Authority's Landscape Architect remains concerned. He says he is not questioning the need for/objecting to a track to facilitate essential construction operations, but the need to retain the 4m wide track as a permanent feature to facilitate ongoing inspection visits. He asks why argocats, quad bikes or appropriate 4x4 vehicles etc could not be used to facilitate ongoing inspection visits. These would require a much 'lower key' and narrower surfaced route (with potentially only limited areas of surfacing at wet points etc) with consequent lower adverse effects. He maintains his view that the LVIA under-represents adverse landscape effects which would be experienced as a result of the construction of a 4m wide surfaced track as a permanent feature in the Natural zone within a sensitive and valued National Park landscape. In response to the point about the size of the track and vehicles that are required to use it, the applicants have submitted further details, setting out that the track will be required to accommodate 7.5 tonne vehicles on occasions so a less robust construction would risk causing damage to the moor and endanger operatives.

### **Representations**

31. A total of 47 representations have been received in response to public notification, including letter from the RSPB and CPRE (Peak District and South Yorkshire), which are summarised separately.
32. The RSPB raise a number of concerns which centre on the impacts of the application for the South Pennine Moors Special Area of Conservation (the SAC), the South Pennine Moors Phase I Special Protection Area (the SPA) and the Dark Peak Site of Special Scientific Interest (the SSSI). Their concerns are as follows:
33. *Inadequacy of supporting surveys:*
- *The RSPB proposes that to fully assess the impact on the integrity and hydrological function of the SAC blanket bog, a full survey of peat depth along the whole route should be undertaken before a considered decision can be made on the development. The survey should include measurements every 20m along the route at a minimum and outwards from the track 5m each side.*
  - *The breeding bird survey undertaken by the Applicant is not adequate to appropriately assess the full impacts of the development on the breeding assemblage that may be present and affected by the proposals. In order to undertake an appropriate assessment in respect of the impacts on the SPA, the RSPB recommends the PDNPA needs a more complete breeding bird survey to be completed following the Common Birds Census (CBC) methodology and comprising of ten morning surveys conducted during the period March to July, with at least ten days between visits.*
34. *Potential impacts of the development*
- *Despite claims to the contrary, the development will create a circular route from Brun Clough car park along the Pennine Way to Black Moss Reservoir and back along the new track which links via other Public Rights of Way to Brun Clough. There is a serious concern that this will result in increased levels of disturbance of SPA and SSSI ground nesting birds, including from dog walkers in an area of the moor that currently sees very little footfall.*
  - *There is potential for an increase in illegal off-road vehicle use when a new access track is created, with only the most basic security measure of a padlocked gate being provided to prevent this. In other areas of the Peak District padlocked gates have proven to be an inadequate deterrent to illegal off-road activity and there need to be stronger measures provided to ensure no illegal vehicle access.*
  - *The Applicant has acknowledged that the hydrology of the blanket bog will be adversely affected by the use of bog matting and "could be anticipated to extend perhaps a few*

metres on either side of the track due to compaction.” Subject to the findings of the full peat depth survey recommended above, it is the RSPB’s view that compaction could be avoided on this most sensitive portion of the proposed track by avoiding the use of vehicles for routine inspection visits. If the development were to be approved, access to Swellands reservoir could easily be achieved on foot with vehicles being parked at the proposed compound at point E adjacent to Black Moss reservoir, thereby reducing the risk to the hydrological integrity of the most sensitive section of the proposed route.

- The Applicant accepts that there is potential for localised scour and erosion to occur where culverts and drains are being situated within the bed of the stone track. While “a programme of monitoring and maintenance” is proposed by the Applicant, the details on what this will entail and how it will be adequately resourced are not addressed. This is wholly insufficient and a fully worked up monitoring and maintenance plan should be required to fully inform the appropriate assessment to be carried out by the National Park Authority. Therefore, the RSPB recommends that a detailed, resourced monitoring and maintenance plan should be included in the application to ensure that the National Park Authority has confidence that the effects of any erosion are dealt with as soon as they arise and before they cause damage to the designated sites.

- The timing of the development will have significant impacts on the breeding bird assemblage of the SPA/SSSI and justification for this is given due to the legal requirements of the Applicant to undertake work on Swellands reservoir spillway by January 2022. The Applicant has not set out in the supporting documentation what the implications are if they were to miss this deadline. If the penalty is a financial loss for the Applicant then this does not justify the negative impacts on the SPA/SSSI designated features.

35. *Habitat Regulations Assessment derogation requirements*

- Based on the legal requirements under provisions within the Conservation of Habitats and Species Regulations 2017 (as amended)(the Habitats Regulations), we would expect the applicant to submit a document focused specifically on the Regulation 64 and 68 derogation tests. For each of the claimed public interest objectives, it should set out whether there are less damaging, feasible alternative solutions by which the project’s contribution to the defined IROPI could be met. The RSPB is of the opinion that these requirements have not been fulfilled within the supporting documentation provided by the Applicant. For the reasons listed above, it is the RSPB’s view that the Peak District National Park Authority cannot determine the case based upon the supporting information so far provided by the Applicant and that there are still serious concerns to be addressed before the proposed development can be approved.

36. The CPRE (Peak District and South Yorkshire) object to the proposed development on the basis of landscape and biodiversity impact and also submit that the current evidence base is insufficient to base a sound decision upon:

“Both reservoirs lie within the Dark Park SSSI, SAC & SPA, and the Natural Zone. Other than in exceptional circumstances, proposals for development in the Natural Zone will not be permitted. This means the development must be essential: (i) for the management of the Natural Zone; or (ii) for the conservation and/or enhancement of the National Park’s valued characteristics (Policy DMC2). The track is required for something in the NZ, not for management of the NZ itself, and it would certainly impact adversely on the special qualities of the location. In principle, the development should not be allowed. In the open bare landscape of the moor around both reservoirs a new stone track with regular vehicle use and snow poles would be particularly intrusive. This has also been highlighted in the comments of the PDNPA landscape architect who also suggests the developer’s LVIA consistently underplays the assessment of impacts. This needs addressing and correcting so a true picture of impacts is obtained before any final decision is made.

The RSPB’s comments, which we strongly support, also suggest that the assessment of biodiversity impact needs re-visiting and that the current surveys in support of the

*application are inadequate – thereby compromising the legitimacy of any determination. Despite the recent responses of the applicant regarding the potential mis-use of the track by recreational ‘offroaders’, we agree with the RSPB that the gating arrangements will not necessarily exclude adverse impacts, nor will the fact that it is not a through route. We also agree with the view that adverse impacts on tranquillity, including disturbance of wildlife within the SPA, are likely to follow from the formation of a new access track and the opportunity to create a more attractive circular route. We would therefore ask the NPA to look very carefully at more sensitive solutions, appropriate to the Natural Zone, including the more extensive use of geotextile/bogmat with less use of stone and reduced impact. Alternatives by way of more sensitive routing also need to be looked at more carefully to reduce disturbance within the SPA and thereby overall impacts”.*

37. Of the 45 representations from members of the public, 42 object to the application on a number of grounds, including the following:

- This area is home to many plant and animal species and is used by the public to ‘get away’ into what feels like a remote serene place. Installation of a permanent access track would damage both of these aspects. The value of the area and its remote feel would be lost, impacting people’s physical health, mental health, and the flora and fauna of the area.
- Totally intrusive and unnecessary development that would radically alter the character of the area. The track has not been necessary up to this point; why is it now? Wild trackless land is a very rare natural, recreational, and aesthetic commodity in England, and particularly in the Peak District. The construction, maintenance and use of the track will also impact unfavourably on wildlife for which this area is a refuge from disturbance from human activity, an extremely rare commodity in the Peak District.
- The proposed road is likely to increase instances of illegal access by off road vehicles and permit deeper intrusion onto the moor. There is already has a significant and ongoing problem with vehicles accessing the moor at Brun Clough.
- Most concerning is that improved access to the moor is likely to significantly increase the risk of fire. Marsden Moor has been subject to two devastating fires in the last decade. In both instances the fires were attributed to disposable barbeques. Providing easy walking access to the reservoirs is likely to create a “honey pot” picnic destination during the summer months.
- Whilst one understands the challenges the Canal & River Trust faces in maintaining its legal and contractual duties, it cannot be that these duties are impossible to satisfy under present conditions, as the Trust is already satisfying its duties under present conditions. The proposed construction cannot therefore be essential to the satisfaction of these duties. It might ease these duties, or make them less costly to the Trust, but it is no business of the local authority to assist the Trust in easing the duties or reducing the costs of the Trust.
- The 'Introduction' pleads that "difficult terrain", "poor weather", and "low visibility", and "lack of mobile phone connectivity" justify permanent vehicular access, yet not one of these conditions can have been unknown to the Trust upon agreeing the initial contract.
- The route outlined in the submitted supporting shows that from points marked D to G via E and F the proposed route will cause significant disturbance and obstacle to a number of established paths including the Pennine Way.
- The destruction of habitat, the impact on the environment and the CO2 emissions that would go in to a project like this are immense for the return. Not only that but it will provide direct access for people to visit the reservoirs which are currently a habitat to many birds and other wildlife - human pollution and general damage will far outweigh the benefits.
- The fact this area is currently only accessible by foot enhances its beauty and tranquility and makes it a much more peaceful and restorative place for local people. Vehicular access may disturb the habitat of ground nesting birds and impact on the important environmental properties of this peat moorland as a carbon trap. I think it would

encourage irresponsible and anti-social vehicle use and spoil this area for wildlife and visitors alike.

- The proposed development would spoil the areas it passes through, which ought to be conserved for their rich ecological and cultural importance.
38. Three representations support the application:
- This scheme to provide essential emergency access to the dams will also assist mobility disabled persons to access areas of the moors they currently can't get to. I would hope that the route would also gain, at least, permissive access for cyclists and horse riders so they too can enjoy the area currently under served by access. I note that the local Mountain Rescue Service would be able to reach areas much more quickly thus providing a much speedier response to walkers who injure themselves. The scheme appears to be well thought out and rather than a negative impact to the area it is a positive addition. I wholeheartedly support it.
  - I wholeheartedly support this project which will help assist conservation and land management, a project conceived and managed by experts.
  - I own Keepers Cottage (the only house accessed by this track), so use this track on a daily basis. I am in support of the proposed plans to upgrade the track as in its current state it can be tricky to navigate especially during the bad weather we are experiencing at the moment so anything that improves the safety when using the track is very welcome

### **Key Policies**

39. The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. It was last updated in February 2019. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and those in the Development Management DPD adopted in May 2019. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.
40. Paragraph 172 of the NPPF states that *"great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas and should be given great weight in National Parks and the Broads."*
41. With regard to Habitats and Diversity, paragraphs 175, 176 and 177 of the NPPF are relevant to this application:
- 175. "When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats*



*(such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*

*176. The following should be given the same protection as habitats sites: a) potential Special Protection Areas and possible Special Areas of Conservation; b) listed or proposed Ramsar sites; and c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.*

*177. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*

### **Development Plan**

42. The main Development Plan policies which are relevant to this proposal are: Core Strategy policies: GSP1, GSP2, GSP3, GSP4, L1, L2, L3 and CC1, and Development Management policies: DM1, DMC2, DMC3, DMC11 and DMC12.

43. Policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GPS1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.

44. Policy GSP2: *Enhancing the National Park* states that:

- Opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon.
- Proposals intended to enhance the National Park will need to demonstrate that they offer significant overall benefit to the natural beauty, wildlife and cultural heritage of the area.
- When development is permitted, a design will be sought that respects the character of the area.
- Opportunities will be taken to enhance the National Park by the treatment or removal of undesirable features or buildings. Work must be undertaken in a manner which conserves the valued characteristics of the site and its surroundings.
- Development in settlements necessary for the treatment, removal or relocation of nonconforming uses to an acceptable site, or which would enhance the valued characteristics of the National Park will be permitted.

45. Policy GSP3 *Development Management Principles* sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.

46. Core Strategy policy GSP4: *Planning conditions and legal agreements* states that the

National Park Authority will consider the contribution that a development can make directly and/or to its setting, including, where consistent with government guidance, using planning conditions and planning obligations.

47. Core Strategy Policy L1 *Landscape character and valued characteristics* states that development must conserve and enhance valued landscape character and valued characteristics, and other than in exceptional circumstances, proposals in the Natural Zone will not be permitted.
48. Core Strategy Policy L2 states that development must conserve and enhance any sites or features of geodiversity importance, and any sites, features or species of biodiversity importance and where appropriate their settings. For international and national sites the relevant legislation and protection will apply in addition to the requirements of policy. As set out in Core Strategy policy L2, the granting of planning permission is restricted for development likely to significantly affect a European (International) site, requiring that an appropriate assessment is first carried out of the implications of the development for the site's conservation objectives. Primary legislation restricts the cases in which exceptional circumstances may justify development, particularly development having a significant effect on the ecological objectives or integrity of a Special Protection Area (classified under the Birds Directive) or Special Area of Conservation (designated pursuant to the Habitats Directive).
49. Core Strategy policy L3 provides core policy principles for cultural heritage assets and requires that all development conserves and where appropriate enhances or reveals the significance of archaeological, architectural, artistic or historic assets and their settings. Development will not be permitted where there is harm to the significance of a heritage asset other than in exceptional circumstances.
50. Policy CC1 *Climate change and mitigation* requires that all development must build in resilience to and mitigate the causes of climate change by:
- making the most efficient and sustainable use of land, buildings and natural resources;
  - take account of the energy hierarchy by:
    - I. reducing the need for energy;
    - II. using energy more efficiently;
    - III. supplying energy efficiently;
    - IV. using low carbon and renewable energy.
  - be directed away from flood risk areas.
  - achieve the highest possible standard of carbon reductions.
  - achieve the highest possible standards of water efficiency.
51. Development Management policies
52. DM1 *The presumption of sustainable development in the context of National Park purposes* states:
- When considering development proposals the National Park Authority will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (2012). It will work proactively with applicants to find solutions that are consistent with National Park purposes:
- i. to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park; and
  - ii. to promote opportunities for the understanding and enjoyment of the valued characteristics of the National Park.
- Planning applications that accord with the policies in the Development Plan will be approved without unnecessary delay, unless material considerations indicate otherwise.

53. DMC1 *Conservation and enhancement of nationally significant landscapes* states:

A. In countryside beyond the edge of settlements listed in Core Strategy policy DS1, any development proposal with a wide scale landscape impact must provide a landscape assessment with reference to the Landscape Strategy and Action Plan. The assessment must be proportionate to the proposed development and clearly demonstrate how valued landscape character, including natural beauty, biodiversity, cultural heritage features and other valued characteristics will be conserved and, where possible, enhanced taking into account:

(i) the respective overall strategy for the following Landscape Strategy and Action Plan character areas:

- White Peak;
- Dark Peak;
- Dark Peak Western Fringe;
- Dark Peak Yorkshire Fringe;
- Derbyshire Peak Fringe;
- Derwent Valley;
- Eastern Moors;
- South West Peak; and

(ii) any cumulative impact of existing or proposed development including outside the National Park boundary; and

(iii) the effect of the proposal on the landscape and, if necessary, the scope to modify it to ensure a positive contribution to landscape character.

B. Where a development has potential to have significant adverse impact on the purposes for which the area has been designated (e.g. by reason of its nature, scale and setting) the Authority will consider the proposal in accordance with major development tests set out in national policy.

C. Where a building or structure is no longer needed or being used for the purposes for which it was approved and its continued presence or use is considered by the Authority, on the evidence available to it, to be harmful to the valued character of the landscape, its removal will be required by use of planning condition or obligation where appropriate and in accordance with the tests in national policy and legislation.

54. DMC2 *Protecting and managing the Natural Zone* says:

A. The exceptional circumstances in which development is permissible in the Natural Zone are those in which a suitable, more acceptable location cannot be found elsewhere and the development is essential:

- i. for the management of the Natural Zone; or
- ii. for the conservation and/or enhancement of the National Park's valued characteristics.

B. Development that would serve only to make land management or access easier will not be regarded as essential.

C. Where development is permitted it must be in accordance with policy DMC3 and where necessary and appropriate:

- i. permitted development rights will be excluded; and
- ii. permission will initially be restricted to a period of (usually) 2 years to enable the impact of the development to be assessed, and further permission will not be granted if the impact of the development has proved to be unacceptable in practice; and
- iii. permission will initially be restricted to a personal consent solely for the benefit of the appropriate person.

55. Development Management policy DMC3: *Siting, design, layout and landscaping* requires development to be of a high standard that respects, protects, and where possible enhances the natural beauty, quality and visual amenity of the landscape, including the

wildlife and cultural heritage that contribute to the distinctive sense of place. It also provides further detailed criteria to assess design and landscaping, as well as requiring development to conserve the amenity of other properties.

56. DMC11 *Safeguarding, recording and enhancing nature conservation interests* states:

- A. Proposals should aim to achieve net gains to biodiversity or geodiversity as a result of development. In considering whether a proposal conserves and enhances sites, features or species of wildlife, geological or geomorphological importance all reasonable measures must be taken to avoid net loss by demonstrating that in the below order of priority the following matters have been taken into consideration:
  - i. enhancement proportionate to the development;
  - ii. adverse effects have been avoided;
  - iii. the 'do nothing' option and alternative sites that cause less harm;
  - iv. appropriate mitigation; and
  - v. in rare cases, as a last resort, compensation measures to offset loss.
- B. Details of appropriate safeguards and enhancement measures for a site, feature or species of nature conservation importance which could be affected by the development must be provided, in line with the Biodiversity Action Plan and any action plan for geodiversity sites, including provision for the beneficial future management of the interests. Development will not be permitted if applicants fail to provide adequate or accurate detailed information to show the impact of a development proposal on a site, feature or species including:
  - i. an assessment of the nature conservation importance of the site; and
  - ii. adequate information about the special interests of the site; and
  - iii. an assessment of the direct and indirect effects of the development; and
  - iv. details of any mitigating and/or compensatory measures and details setting out the degree to which net gain in biodiversity has been sought; and
  - v. details of provisions made for the beneficial future management of the nature conservation interests of the site. Where the likely success of these measures is uncertain, development will not be permitted.
- C. For all sites, features and species development proposals must also consider:
  - ii. cumulative impacts of other developments or proposals; and
  - iii. the setting of the development in relation to other features of importance, taking into account historical, cultural and landscape context.

57. The accompanying text in the DM DPD explains that in support of policy DMC11

applicants will be expected to supply the following information as part of the assessment:

- a habitat/vegetation map and description (with identification of plant communities and species), and a description of fauna and geological/geomorphological features; and
- adequate information about the special interests of the site in terms of scientific importance including: size and species population, diversity and richness, rarity, fragility, irreplaceability, naturalness, position in the ecological geographical unit, seasonal presence, potential value, the degree to which it is typical and representative, historical continuity and geological or geomorphological importance; and
- assessment of the direct and indirect effects of the development including associated visitor pressure, pollution and changes in hydrology; and
- details of any mitigating and/or compensatory measures and details setting out the degree to which net gain in biodiversity has been sought; and
- details of alternatives considered including the 'do nothing scenario' and justification for the choice of the preferred option and for discounting other options; and

- details of provisions made for the beneficial future management of the nature conservation interests of the site. Where the likely success of these measures is uncertain, development will not be permitted.
58. DMC12 Sites, features or species of wildlife, geological or geomorphological importance states:
- A. For Internationally designated or candidate sites, or European Protected Species, the exceptional circumstances where development may be permitted are those where it can be demonstrated that the legislative provisions to protect such sites or species can be fully met.
  - B. For sites, features or species of national importance, exceptional circumstances are those where development is essential:
    - i. for the management of those sites, features or species; or
    - ii. for the conservation and enhancement of the National Park's valued characteristics; or
    - iii. where the benefits of the development at a site clearly outweigh the impacts on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs.
  - C. For all other sites, features and species, development will only be permitted where:
    - i. significant harm can be avoided and the conservation status of the population of the species or habitat concerned is maintained; and
    - ii. the need for, and the benefits of, the development in that location clearly outweigh any adverse effect.

## **Assessment**

### **Principle of Development**

59. The application site lies within the Dark Peak Open Moorland area of the National Park which is designated as Natural Zone. The Natural Zone represents the wildest and least developed parts of the National Park. The area combines high wildlife value and minimal obvious human influence. The map is used by the Authority to meet its obligations under Section 3 of the Wildlife and Countryside Act. The National Parks and Access to the Countryside Act 1949 (as amended) also refers to these areas as 'open country'.
60. Development Plan Core Strategy Policy L1 states that *'other than in exceptional circumstances, proposals for development in the natural zone will not be permitted'*. Core Strategy policy L1 is clear that development in the Natural Zone (gritstone moors, limestone heaths, limestone hills, limestone dales, semi-natural woodlands and other land meeting the definition) is acceptable only in exceptional circumstances. Unless it is demonstrated as being essential under the terms of policy DMC2, development should be located outside the Natural Zone and should not, where a proposal is close to the Natural Zone, harm the essential characteristics of these areas. The supporting text in the DM DPD explains that exceptions might include:
- works essential for the landscape management of these areas (e.g. a new path or a weir);
  - works essential for the conservation or enhancement of the National Park's valued characteristics (for example development related to the management or restoration of a heritage asset, an area of biodiversity value or work in support of eco-system services);
  - or in a small number of existing farmsteads located within the Natural Zone and on its borders.
61. Taking these policies as a starting point, it is considered that the provision of a track for the on-going maintenance of reservoirs in the Natural Zone does not readily accord with

the requirement for the development to be essential for landscape management or the conservation or enhancement of valued characteristics. However, it must also be acknowledged that the reservoirs are long-established landscape features and are clearly part of the history and cultural heritage of the area; the provision of reservoirs within the Peak District to serve the surrounding urban areas has had a significant influence on the landscape character of the moorlands of the National Park. The loss of these reservoirs would therefore detract from these valued characteristics.

62. In addition to this, there is a very significant public interest aspect to the proposed track. The supporting statements set out in some detail the need to maintain the reservoirs in a safe condition, for both public safety and water management reasons. The supporting documents refer to the Toddbrook Reservoir incident at Whaley Bridge in 2019 and explains how reservoirs are subject to a rigorous inspection system. That system has identified the need for a permanent vehicular access to Swellands and Black Moss reservoirs to ensure that they are maintained in an appropriate and timely manner, in the interests of public safety.

**63. Need for the Development**

64. The supporting statement explains that the Canal & River Trust is the ‘Undertaker’ (owner or main operator) for 72 regulated reservoirs. Reservoirs are subject to stringent statutory control under the Reservoirs Act 1975, intended to assure the safety of the public below dams. The Reservoirs Act applies to all reservoirs classified as ‘large raised reservoirs’, i.e. those that hold a volume of water of 25,000m<sup>3</sup>, or more, cubic metres above natural ground level. The Flood and Water Management Act 2010 introduced new arrangements for reservoir safety, based on risk rather than the size of the reservoir. The Environment Agency is the enforcement authority for reservoirs in England. Reservoirs Act offences are primarily strict liability criminal offences. This means that for an offence to be committed, the mere fact that the non-compliance occurred is sufficient, rather than there being a need to prove wilful default and no reasonable excuse. The Trust is ultimately responsible for ensuring the structural integrity of the structures associated with the reservoir and where required by legislation, needs to ensure panel engineers are employed to complete the necessary monitoring, supervision, inspections and design and supervision of new reservoirs or repair works to existing reservoirs.
- 65. The Trust says that these works are essential for the discharge of the Trust’s obligations to carry out ‘measures in the interests of safety’ (mandated by the independent inspecting engineer) as undertaker of these large raised reservoirs under the Reservoirs Act 1975. A failure to carry out these works within the statutory timeframe would not only put the Trust at risk of regulatory action and criminal prosecution but would result in an unacceptable risk to lives and property within the surrounding community.**
66. Swellands Reservoir is one of the reservoirs that is operated under the “Scammonden agreement”, with the agreement relying on the combined Black Moss and Swellands catchment areas (Black Moss spills into Swellands and is therefore inherent in the agreement). The “Scammonden Agreement” is an arrangement between Canal & River Trust and Yorkshire Water Services (originally British Waterways Board and Huddersfield Borough Council respectively) which documents the exchange of water between both parties. The agreement was that Trust would use their reservoirs at March Haigh, Redbrook, Tunnel End and Swellands to support public water supply in exchange for a constant supply of water from the Borough of Huddersfield to the Huddersfield Narrow Canal at Marsden. This arrangement allows the effective sharing of water resources, to ensure statutory public water supply requirements and statutory navigation duties can be met, by the respective organisations.

67. The planning application explains that the supply to the canal at Marsden is the principal source of supply to the canal, constituting 75% of the overall supply of resource. Without Swellands reservoir being available, then the Trust would be in breach of this agreement and this would adversely impact on Yorkshire Water's public water supply duties. Moreover, the discontinuance of Swellands Reservoir by the Trust would risk the continued provision of water resource supply to the Huddersfield narrow canal at Marsden from Yorkshire Water. This would in turn threaten the Trust's statutory duty to maintain its navigational duty on the Huddersfield narrow canal, as this is its main source of supply, putting the future of the Huddersfield Narrow Canal at risk. The supporting statement explains that the value of the waterways is now appreciated to be wider than its industrial past and operational functionality, providing as it does amenity, recreation, environmental, cultural and health and wellbeing benefits for people who use and live near the Trust's inland waterways. A key feature of the Huddersfield Narrow Canal is Standedge Tunnel. Over 200 years old, it is the longest canal tunnel in Britain, stretching over three miles deep beneath the Pennine hills. Having been closed in the mid-1940s, the tunnel was restored and reopened in 2001. The Trust estimates that there are nearly 25,000 visits are made to Standedge Tunnel each year and at least 30,000 visits to the Huddersfield Narrow Canal, plus significant boating use. The statement concludes that despite its man-made origins, the Huddersfield Narrow Canal is an invaluable environmental asset. The canal itself is designated a SSSI for much of its length and it is an easily accessible green and blue space for the 226,500 people who live nearby.

68. Consideration of Alternatives to a Permanent Access Track

The Trust has considered a number of alternatives for the future of Swellands and Black Moss Reservoirs, concluding that continuing to operate the reservoirs with a permanent access track is the only feasible option in the public interest. The main options that have been considered and discounted are as follows:

69. *Reservoir Discontinuance*

Discontinuing the reservoirs has been considered, however as explained above, the reservoirs are required in the public interest. Discontinuance would have a direct effect on water supply to the Colne Swellands and Black Moss Reservoirs valley area as the water from these reservoirs provides a water feed that forms the Scammonden agreement between Yorkshire Water and the Trust.

70. *Low Ground Pressure All-terrain Vehicles*

The Trust has considered the use of alternative soft-track vehicles which are used elsewhere in the area for moorland maintenance. Regular use of any vehicle across the moor would form informal tracks, and all-terrain vehicles would not satisfy all access requirements nor provide emergency access for pumps and plant. A large variety of vehicles are needed for ongoing inspection and maintenance tasks: cars, vans and trailers and light goods vehicles for minor inspection and maintenance; moving materials such as masonry, cement, sealants, replacement valves, oils, tools, waste vegetation and debris for disposal; earth moving equipment; lifting equipment and welfare facilities. Irregular tracks for this type of equipment will cause impact which could not be reinstated, causing greater damage than a well-designed access.

In response to concerns raised, particularly by the Authority's Landscape Architect, the Trust have supplied additional information. They include photographs which show plant and machinery used by the previous owner (British Waterways Board) to access the reservoirs and highlight the damage this caused to the ground.

71. *Helicopter Access*

The Trust considered use of helicopters for the major civil engineering works, emergency access and ongoing operation and maintenance. However, as helicopters are unable to

fly in inclement weather, they would be unavailable when the current pedestrian route is impassable. The landing area required would need to be large and in the SAC/SPA. Helicopter access would therefore not be suitable for ongoing inspections. Weather constraints mean that helicopters would be infeasible for lifting in materials, particularly concrete, which is required for the upcoming civil engineering works. Furthermore, commercial helicopters are unable to lift the size of plant required for civil engineering works at the reservoirs. Helicopter access is therefore unsuitable for ongoing maintenance. Chinooks could be mobilised in an emergency situation, such as at Toddbrook Reservoir, however these were only mobilised to transport sandbags at Toddbrook, and the pumping equipment was brought in by road. Without a track to the reservoir dams, the time taken to implement procedures and transport pumps, generators, fuel, cables, hoses etc. in the event of emergency would undoubtedly be delayed.

*72. Temporary Access Track*

A temporary access track was installed, with planning permission, in 2006/07 to facilitate major civil engineering works to Swellands Reservoir. The Trust conclude that installing a temporary access track to complete major maintenance works intermittently does not allow plant and vehicle access in an emergency situation, and does not address the issues the Trust faces with regular inspection and maintenance which are required to ensure the safety of the reservoir.

*73. Alternative Permanent Track Design Solutions*

The proposed route is a revision of the route utilised for the temporary access track constructed in 2007/07. A thorough assessment of alternative routes was completed in 2006 and agreed with Peak District National Park Authority and Natural England. A map extract of the six access options from the 2006 Appropriate Assessment is set out in the supporting documentation. From a planning perspective, the alternative routes would all have an impact and, as concluded in 2006, these impacts are likely to be greater than those for the current proposal.

**74. Environmental Impact Assessment:**

75. As part of the full planning application an Environmental Impact Assessment was undertaken. EIA is a formal procedure to assess and report on the environmental effects of certain types and scales of development. The purpose of EIA is to ensure that information about the environmental effects of the proposed development is available to the National Park Authority, as well as consultees to the planning process. The process of EIA identifies the environmental effects associated with the development during construction and once it has been completed, and identifies ways in which those effects can be mitigated to reduce, avoid or minimise any significant environmental effects. The findings of the EIA process are presented in an Environmental Statement which was submitted as part of the planning application. The key conclusions are summarised in the following sections of this report.

76. Each environmental topic was assessed in detail with the findings presented in individual topic 'chapters' within the ES. Each chapter sets out the methodology that was followed for that topic and describes the main considerations for each topic. The chapter then sets out in detail the likely impacts of the development for that topic and expresses the effect of any impact in terms of its 'significance'. Mitigation measures are identified to avoid, reduce or minimise adverse effects that are deemed to be 'significant'. Any beneficial environmental effects are also identified. Finally, any 'residual' environmental effects, i.e. those which remain once all mitigation has been taken into account, are clearly identified. For each topic, an assessment of the 'cumulative' effects of the Development alongside any other plans or projects in the vicinity of the development is also carried out. Each chapter concludes by stating whether any residual effects (once mitigation has been



taken into account) are deemed to be 'significant' for the environment or not.

## **77. Ecology and Biodiversity**

78. The EIA deals with the assessment of the effects of the development on ecology and biodiversity, including the peat resource. This involved consideration of the effects on the Dark Peak SSSI, the South Pennine Moors SAC and the South Pennine Moors SPA, and on habitats and protected species.
79. The EIA concludes that the development would result in the permanent loss of 1.148ha of blanket bog habitat, an internationally important habitat associated with areas of peatland and often supporting vegetation such as heather and cotton grasses. A further 0.103ha of blanket bog would also be lost for temporary track construction at Little Black Moss and Swellands Reservoirs, but subsequently restored. Other habitat loss would include areas of grassland of low ecological value. 0.165ha of wet pools and hollows would be lost along the leat but will be replicated during track construction.
80. Construction would also result in temporary disturbance to moorland breeding birds such as lapwing and potentially to other moorland species including common lizard and mountain hare. Mitigation has been incorporated into the track design to minimise harm to the blanket bog habitat, especially to reduce disruption to the movement of water through the peat. Measures will also be used to encourage birds to nest away from the route of the track during construction so that they will not be disturbed when on the nest.
81. Notwithstanding the above measures, the EIA concludes that there would be a significant effect due to the unavoidable loss of 1.148ha of blanket bog habitat which cannot be mitigated. Off-site habitat compensation is proposed to off-set this loss and details are presented in a 'Report to Inform a Habitat Regulations Assessment', which accompanies the planning application. The Canal and River Trust have been in discussion with the National Trust, who own the adjacent Marsden Estate to agree conservation works to off-set and compensate for this loss of habitat on Holme Moor, a site which is actually outside the National Park, but part of the dark peak moorlands. Measures to enhance 5.22 ha of grass-dominated moorland at Holme Moor are proposed. Consequently, Heads of Terms for a Section 106 agreement have been submitted with application. In order to secure these conservation works the section 106 agreement would have to be signed before the decision notice can be issued; this is reflected in the recommendation above.
82. The use of compensatory works elsewhere is acknowledged to be a last resort when harm cannot be avoided, but the principle of biodiversity net gain, carrying out works to achieve benefit over and above that loss, is now an accepted principle in the planning system. If the Committee is minded to approve the application, officers would work with the Canal and River Trust and with the National Trust to agree the work programme for this off-setting and net gain work. At the time of writing this Committee report the views of Natural England are still awaited. This response is likely to be significant in assessing whether these compensatory measures would provide sufficient mitigation to the acknowledged loss. The Authority's Ecologist's response is that the measures proposed, provided they can be adequately secured through planning conditions/S106 agreement, provide sufficient habitat enhancement to offset the loss of the degraded blanket bog. It should be noted that Holme Moor lies outside, but adjoins, the National Park. There would therefore be a net habitat loss within the National Park. In this instance the Ecologist's view is that, exceptionally, the overall environmental benefit of doing the proposed compensation work at Holme Moor, coupled with the fact that it will enhance habitat linkage between moorland within and outside the National Park, is acceptable.
83. Completed Development: There is a risk of long-term changes to the flow of water

through the blanket bog habitat and underlying peat as a result of the track. These effects will be mitigated by regular monitoring and track maintenance to address any impacts as they arise. This will avoid any significant environmental effect in the long-term. Once construction has finished, the ES says that the risk of disturbance to moorland birds and their nests is considered to be negligible, as it is expected that birds will become accustomed to the infrequent vehicle movements along the track. A locked gate and low barrier will be provided on the track to prevent unauthorised vehicle use and to discourage pedestrian access, to ensure that disturbance to moorland birds is minimised. The report concludes that overall there would be no significant effect on ecology in the long-term.

84. In the consultation responses concern has been raised about the potential impact of the use of the track once it has been completed, both by maintenance vehicles and walkers (and possibly other recreational users such as off-roaders). The applicants have submitted a document addressing these points. As noted in the previous paragraph, the Trust would have locked gates on the track to prevent off-roading, but this could only be done at the western end of the route; there are currently gates just off the A62 and at the point east of the existing track where it enters open moorland. They are also proposing a low wooden barrier at point E, at the western end of Black Moss reservoir, close to the Pennine Way; details of this would require approval. Additional fencing and gating in the open moorland would be unacceptable. The Authority's Ecologist has raised concerns about the potential increase in recreational use of the route on nesting birds, although he acknowledges that this is open moorland where there is open access under the CROW Act. This will be a difficult issue to resolve as introducing signage in the open moorland could be intrusive; officers have asked to applicants to look at this further, with a view to agreeing suitably low key measures to discourage public use, but they do not consider the new track would become an attractive alternative or circular route because there are already well-established routes in the area and the line of the track would not be obvious from these routes.

**85. Landscape, Landscape Character and Visual Effects**

86. The EIA deals with the impact of the development on short, medium and long distance views and landscape character and resources. It was informed by photomontages to illustrate what the track would look like from viewpoints that were agreed with the Authority.
87. The ES concludes that due to the location of the proposed development within the National Park there is limited ability to accommodate it without undue harm. The footprint of the development (a track) is linear in nature but narrow with a maximum width of 4.0m. The stone used in its construction will be gritstone, similar to that found in the locality. The ES notes that tracks are a feature of this landscape (for example, the Pennine Way), but equally they are relatively limited in nature and extent and not common at all on open moorland.
88. In terms of how to accommodate the track in the landscape, the report says that the characteristics and sensitivity of the peat habitat preclude the potential for cutting into the ground, so it is proposed to lay material onto the existing surface. The following measures have been incorporated within the design to mitigate the landscape impacts of constructing the track over existing ground:
- Bog mats are proposed in the visually and ecologically sensitive area surrounding Black Moss and Swellands, to reduce the construction depth; and
  - The existing stone track off the A62 will be utilised at the start of the route. This is a well-established track outside the SAC/SPA/ SSSI. There will be an element of cut and fill at the interface between the existing track and proposed track, to ensure the proposed track blends into the existing.

- The use of the existing leat for the majority of the proposed stone section minimises visibility of the track.
- The selected route has been chosen to reduce landscape and visual impact to a minimum by following the route of an existing track and locating in the base of the former leat. Nonetheless, it cannot be regarded as a landscape improvement or enhancement measure as it introduces a man-made feature into an unsettled, open and semi-natural landscape. Overall, the effect on landscape is deemed to be significant, particularly from three viewpoints located between Points A-C (the leat) and between Points D-E and Points E-G (the open moorland north of Swellands Reservoir).

89. The Environmental Statement acknowledges that introducing a permanent access track into a protected open landscape that is a designated National Park and highly sensitive, in landscape and visual terms, without incurring significant damage is challenging. The proposal seeks to limit the potential impacts and reduced them an absolute minimum by selecting a route that uses an existing track, working with the natural terrain as much as possible and using a disused leat. It avoids substantial earthworks to achieve more even gradients and uses bog mats in the most sensitive locations. Nonetheless, despite these measures, where the proposed track leaves the existing track from Point A onwards, the effects are judged to be significant in visual and landscape terms.
90. As noted in the Consultation section above, the Authority's Landscape Architect considers that the impacts of the track on the landscape are understated in the ES and he objects to the application, questioning the need for a permanent track. The applicant's landscape consultant has responded to suggestion that the landscape impacts are understated (document dated 18 March 2021), but the Authority's Landscape Architect retains his view of the impact and the need for a permanent track. The applicant's landscape consultant says: *"The fact that the track follows an existing stoned track and falls into a man made leat and is in close proximity to 2 man made reservoirs has influenced the judgement of medium rather than high in this case".* He goes on to say in respect of magnitude: *"Generally, the track will be laid on top of the existing ground and protected by geotextile fabric. Occasionally localized cut and fill with material scraped off high spots to fill low spots, will occur but there will be no large scale cut and fill. No peat will leave the site. Whilst acknowledging that the proposed development is an adverse change, the fact that the track is narrow at 4.0m , constructed from local stone and, importantly for substantial lengths, the track will follow an existing stoned track or a man made leat and is not appreciably visible cutting across the open moorland untouched by mans activities, the overall value of minor adverse is considered to be valid in this context".* The Authority's Landscape Architect does not consider a 4 metre wide track to be "narrow" and says that the response simply restates the original assessment.
91. In making a recommendation on this application, the Authority's Planning officers have considered these opposing views, particularly in the context of whether a permanent track is required. We have come to the conclusion that if the need for a permanent track is accepted, the route that has been chosen is the least intrusive from a landscape point of view. The first section from the A62 follows an existing track outside the designated moorland and is less sensitive than the route of the temporary track approved in 2006. The remainder largely follows that route and is considered to be the least harmful in terms of landscape impact. It is acknowledged that there will be some landscape intrusion, but that this is not so great as to outweigh the case of overriding public interest that has been put forward.

## **92. Archaeological and Cultural Heritage**

93. This part of the EIA deals with the effects of the development on potential archaeological resources. These resources include some of the most significant Mesolithic flint finds in

the north-west of England, including two arrowheads found within close proximity to each other to the north of Black Moss Reservoir. Other resources include the former leat (along which much of the proposed access track would be sited), a series of mounds to the immediate west of the line of the proposed access track and an old quarry site located between the proposed route and the north-eastern end of Black Moss Reservoir, which are also seen as heritage assets.

94. The ES concludes that there would be no impact on archaeological resources once the track has been completed as there would be no ground disturbance during this phase. The Authority's Senior Archaeologist agrees with these conclusions and recommends conditions be attached to any approval. The Trust has now agreed and submitted a Written Scheme of Investigation (WSI) with our Senior Archaeologist.

**95. Access and Recreation**

96. This part of the EIA deals with the effects of the development on access and recreation resources and involved:

- Identification of all recreational opportunities that may be affected including Rights of Way, Open Access Land, adjacent recreational areas and legal, permissive and unauthorised uses;
- Determination of types of user, activities undertaken, levels of usage and travel distance; and
- Consideration of permanent and/or temporary closures and diversions, the loss or gain of amenity, existence of equivalent recreational opportunities and the displacement of activities.

97. During Construction: The key effect during construction would be indirect disturbance to the amenity of users of open Access Land, Common Land, the Pennine Bridleway, Pennine Way and other rights of way. The effects may result in loss of amenity, potentially leading to temporary avoidance of the area by recreational users. Additionally, Brun Clough car park would also be closed to the public for the duration of construction and this would be a significant effect, albeit a temporary one. The supporting statement says that in consultation with Oldham Council it has been agreed that alternative parking provision is not required. There is also the potential for improvements to the car park surface on completion of construction.

98. The ES concludes that the effects on amenity are mitigated by much of the route being located within the leat and less visually intrusive. Additionally, the construction phase is temporary (16 weeks) and would progress from west to east in phases, with construction activity limited in extent at any one time. In addition, consultation with the Authority's Rights of Way Officer has taken place to agree measures to safeguard the public at the point where the Pennine Bridleway is impacted by the track construction at the A62. This will include a holding bay on the Pennine Bridleway. A banksman will be used at the Pennine Bridleway and also on the Pennine Way and other rights of way which will be temporarily impacted by construction activities to ensure the safety of the public. The ES concludes that with this mitigation in place the loss of amenity for recreational users during construction is not significant.

99. Completed Development: In the long-term the track would result in a significant effect on visual amenity for recreational users due to the inherently sensitive location, but the potential impacts have been limited and reduced to an absolute minimum by selecting a route that uses an existing track, works with the natural terrain as much as possible and uses a disused leat.

**100. Summary of Impacts**

101. The EIA process has identified that the development would result in residual landscape, visual, and ecological effects which cannot be mitigated for and are judged to be significant in EIA terms. Authority officers agree with this conclusion. The key summary points from the analysis set out above are as follows:
102. Landscape: There would be a significant effect on landscape character. However, the selected route has been chosen to reduce landscape impact to a minimum by following the route of an existing track and locating it in the base of an old leat. Nonetheless, the track cannot be regarded as a landscape improvement or enhancement measure as it introduces a man-made feature into the Natural Zone, which is also designated as an SSSI, SAC and SPA.
103. The first section of new track (Point A to B) will be prominent and highly visible as it leaves the existing stoned track and rises up the hillside towards Point B when viewed from the public footpath near Keepers Cottage. The visual effect of the part of the track from Point D to Point E would also be significant when viewed from the Pennine Way to the north of Black Moss and Swellands Reservoirs. This is due to the close proximity of the track to the Pennine Way where the view is dominated by uninterrupted views of open moorland and largely featureless other than the presence of Blackmoss Reservoir.
104. The introduction of a man-made track into this open landscape at this point will have an adverse effect as it not associated with any landscape enhancement or improvement measures. Similarly, the visual effect of the track would be significant when viewed from the Pennine Way to the south of Black Moss and Swellands Reservoirs. From this viewpoint, the track would appear as a narrow scar above both Black Moss and Swellands Reservoirs. It is likely, however, to be more noticeable above Black Moss Reservoir from Point E to F as the surface will be stoned. From Point F to G the surface will be bog mat which is likely to be more recessive in appearance. The EIA concludes that the “scar” from this perspective, although narrow, will nonetheless represent an intrusion into otherwise wild and open moorland landscape, other than the presence of the two reservoirs.
105. Ecology: Whilst the track and construction methodology has been designed to avoid or reduce impacts on ecology as far as possible, there remains a permanent loss of 1.148ha of blanket bog habitat would be a significant effect which cannot be avoided or mitigated. It is proposed to off-set this habitat loss with off-site habitat compensation measures. This impact will largely occur at the construction stage and there would be no significant effects on ecology once the track is in place, other than the impact of disturbance through potential increased recreational use.
106. Archaeology: A programme of monitoring during construction along with the recording, conservation, archive deposition and publication of any archaeological features or finds means that there would be no significant effect on archaeological and cultural heritage.
107. Access and Recreation: The temporary closure of Brun Clough car park at the construction stage would be a significant impact for recreational users which cannot be mitigated for. However, this temporary impact could be off-set by improvements to the car park surface once construction is complete. There would also be a significant impact on the visual amenity of recreational users on the Pennine Way near Black Moss and Swellands Reservoirs as a result of the visual intrusion of the permanent track into the open moorland.
108. In terms of the possible interaction of these effects, the ES concludes that the consideration of effect interactions has not identified any additional significant affects resulting from the different disciplines acting in combination.

## **Environmental Management**

109. A statement has been submitted with the application to set out how the development meets the requirements of this policy. It also points out that with climate change there will be greater pressure on critical infrastructure such as reservoirs as a result of increasingly common severe weather events.

## **Conclusion**

110. This application proposes the construction of a track in open moorland, within the Natural Zone and in an area designated for its habitat and biodiversity interest as an SSSI, SAC and SPA. The national policy and environmental law, together with the Authority's policies, set out a very strong presumption against development in these designated areas. Consequently development must only be approved in exceptional circumstances. The planning application sets out the case for approving the development in this case, advancing the case overriding public interest for the essential maintenance of the two dams and reservoirs. The Canal and River Trust are obliged by law, as an "undertaker" to maintain the reservoirs and the associated structures and are subject to a rigorous inspection system to ensure this.
111. The application makes the case for a permanent track to undertake this essential maintenance. It sets out the environmental impacts of the proposed track and evaluates this in the Environmental Impact Assessment (EIA) and Environmental Statement (ES respectively). The EIA and ES acknowledge that the track would cause harm, in some cases significant. However, the scheme seeks to avoid and mitigate harm wherever possible and to off-set the harm that is inevitable, through off-site works agreed through a section 106 agreement.
112. Officers have considered whether the approval of this application would set a precedent which could result in pressure to approve other tracks in sensitive locations. With regard to reservoir access in the Peak District, Black Moss and Swellands reservoirs are unusually remote and inaccessible, with no vehicular access at present, whereas all other reservoirs in the moorlands and surrounding valleys have some form of vehicular access, even isolated and elevated ones such as Chew reservoir. When compared to other proposals for access tracks in the moorlands, it is most unlikely that any of these could advance the case that they support essential infrastructure and are required in the public interest. Any tracks required which are essential for the management of the Natural Zone or for the conservation and/or enhancement of the National Park's valued characteristics may be acceptable in principle (policy DMC2).
113. From a Habitat Regulations perspective, the accompanying Appropriate Assessment concludes that there will be an unavoidable impact on SAC habitat, namely blanket bog (including both loss and damage). Under the Habitats Regulations 2017 the proposal can therefore only be legally approved if the following conditions are met:
- There are Imperative Reasons of Over-riding Public Interest (Regulation 64(1))
  - There are no alternative solutions (Regulation 64(1))
  - Compensatory measures must be taken to ensure that the overall coherence of Natura 2000 is protected (Regulation 68)
- If the Authority is minded to approve the application, the Secretary of State must be notified at least 21 days before final approval (Regulation 64(5)); this is reflected in the recommendation above.
114. As noted above, in the Consultation section, the response from Natural England was received as this report was being finalised so the key points from that response have been included in this report, but officers are considering the response in more detail and

will update Members at the Planning Committee meeting. However, this response had been anticipated and reflects the advice given by the Authority's Natural Environment and Rural Economy manager, who is also an ecologist (see above). Both NE and the Authority's specialist advice is that the track will cause harm to the SAC habitat so it can only be approved if there are "Imperative Reasons of Over-riding Public Interest" and there are no alternative solutions, with compensatory measures taken to ensure that there is no net loss of habitat (see last paragraph). The planning application has been submitted on this basis and has sought to address these matters.

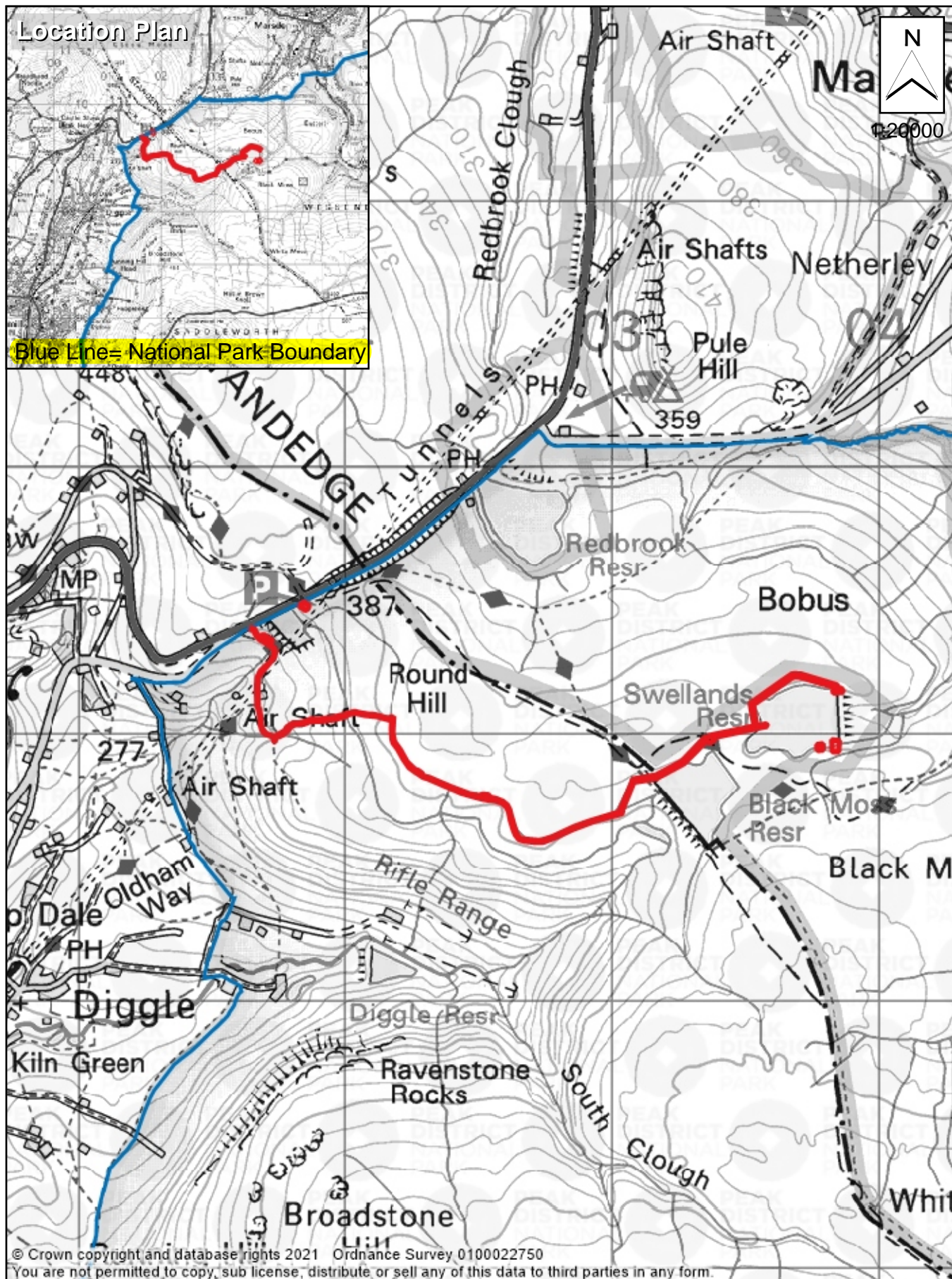
115. Officers have concluded that the need for a permanent track to carry out the essential repair and maintenance work is a significant material planning consideration, given the public safety and water supply issues, and that the submitted scheme minimises the environmental impacts as far as possible, with those cannot be avoided being compensated for through off-setting works elsewhere in the area. These exceptional circumstances are considered to be strong material planning considerations that provide an overriding justification in this case for making an exception to the policy presumption against development in the Natural Zone. Consequently, the application is recommended for approval, subject to the Trust entering into a Section 106 agreement to secure the off-site works and to conditions, as set out above.

### **Human Rights**

116. Any human rights issues have been considered and addressed in the preparation of this report.
117. List of Background Papers (not previously published)
118. Nil
119. Report author: Brian Taylor

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Committee Date: 6th August 2021  
Item Number: Item 6  
Application No: NP/O/0221/0110  
Grid Reference: 403338, 408778

**Title:** Land within the vicinity of Swellands and Blackmoss Reservoirs HRA



**PEAK  
DISTRICT  
NATIONAL  
PARK**

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**7. OUTLINE APPLICATION – PROPOSED ERECTION OF TWO LOCAL NEEDS SELF BUILD AFFORDABLE HOMES AT DRIVEWAY BETWEEN GREYSTONES & JESMOND, TIDESWELL (NP/DDD/0421/0433, AM)**

**APPLICANT:** Mr James Isaac and Emma Isaac

**Summary**

1. The site is an agricultural field to the west of Sherwood Road, Tideswell.
2. The application is a resubmission following the refusal of a similar application in December 2020. It is an outline application and proposes two affordable houses to be first occupied by the applicants.
3. The proposed dwellings would not be affordable by size or type or meet the need of the applicants or the wider community. The development would harm the landscape and would be an inappropriate design. Insufficient information has been provided about sustainable construction and climate change and potential impact on trees.
4. This report concludes that despite the modifications that have been made to the application and the arguments put forward by the applicants, the proposal is still open to fundamental objections because of the backland location of the proposed houses and the impact that this would have on the historic landscape around Tideswell. There are also remaining concerns about the size and design of the proposed dwellings, but even if these could be addressed, the site is unsuitable for any form of residential development. The application is therefore recommended for refusal.

**Site and Surroundings**

5. The site is an agricultural field to the west of Sherwood Road accessed from an existing track located between the dwellings known as Greystones and Jesmond.
6. The field forms part of the strip field system that rises west from Tideswell. The site is outside of the designated Tideswell conservation area.
7. The nearest neighbouring properties are the dwellings on the north and west side of Sherwood Road.

**Proposal**

8. The application is for outline planning permission but the application form states that no matters are reserved (access, appearance, landscaping, layout and scale). Consequently the application is, in effect, a full application. The application proposes the erection of two 3-bedroom, self-build, affordable houses on the site to be first occupied by the applicants. The application is a resubmission following the refusal in December 2020. The key differences in the plans are a reduction in the height of the dwellings by 300mm, a reduction in the length of the garages by 2.5 metres so that they no longer project beyond the main elevation, the addition of solar panels on the south-facing elevation, the addition of gritstone detailing, such as quoins, and the addition of chimneys to the gable ends.
9. The dwellings would be sited to the north of the field and the existing farm access would be extended to provide access and driveways to each dwelling.
10. The dwellings would be link detached and constructed from natural limestone and blue slate with timber windows and doors and gritstone lintels. Each dwelling would have a gross internal floor area of approximately 97 m2 for each dwelling excluding integral garaging.

## **RECOMMENDATION:**

That the application be **REFUSED** for the following reasons

1. The proposed dwellings are larger than the size justified by the identified housing need, and as a result the proposals are contrary to Core Strategy policy HC1 and Development Management policies DMH.
2. The proposed site is a backland plot very poorly related to the historic built form of Tideswell and would introduce development into the historic strip field system in a manner that would harm the significance of the strip fields and valued landscape character contrary to Core Strategy policies GSP1, GSP3, L1 and L3, Development Management policies DMC3, DMC4 and DMC5 and the National Planning Policy Framework.
3. By virtue of its form and massing the proposed development would be an inappropriate design that would fail to reflect or respect the character of the local area contrary to Core Strategy policies GSP3, Development Management Policies DMC3, our adopted design guide and the National Planning Policy Framework.

## **Key Issues**

11. The impact of the proposed housing on the historic landscape around Tideswell.
12. Whether there is justification for the proposed local needs affordable housing and whether the proposed housing is in accordance with policies HC1, DMH1 and DMH2.
13. The design of the proposed development.

## **History**

- 1996 NP/DDD/0696/257 - Erection of dwelling. Refused.
- 1996 NP/DDD/1296/483 - Erection of dwelling. Refused.
- 1997 - Appeal dismissed.
- 1998 - Erection of agricultural buildings. Granted
- 2005 - Erection of agricultural buildings. Granted
- 2007 - Erection of agricultural buildings. Granted
- December 2020 - NP/DDD/0820/0723. – Outline application for erection of two self build affordable local needs dwellings. Refused

## **Consultations**

14. Parish Council – “*The Parish Council continue to support this application. This application is fully supported by the Parish Council and we have no objections*”
15. Highway Authority – No objections subject to conditions in the event of an approval.
16. District Council – No response to date.
17. PDNPA Archaeology – Makes the following comment:

*This application is a resubmission of application NP/DDD/0820/0723. As nothing materially has changed with the application and as previously no archaeological assessment has been submitted, the archaeological consultation comments provided for application NP/DDD/0820/0723 remain relevant to this application.*

However, in addition to these I offer the following comments. The current application includes with a 4-part design and access statement setting out comments on previous reasons for refusal. This relates to archaeology at para.30. However, much of what it asserts is either not correct or is not supported by the evidence required:

- It states that the field boundaries of the field are not characteristic or diagnostic of the fossilised medieval field system. This is not the archaeological consultation response for the previous application clearly states that ...The surviving drystone field walls that define the northern and southern edges of the proposed development plot form the boundaries of one such surviving strip (or small group of strips) forming a long linear plot.
- It states that an archaeological study was carried out in the year 2000 by the National Park archaeologists on the proposed building plot and found nothing of interest. This is not the case, the 2000 'study' was a walkover survey carried out on the strip of land to the rear of this plot but did not include the building plots itself.
- It states that a 2003 archaeological survey by the national park archaeologists found nothing of interest. This is not the case, and as the archaeological consultation response for the previous application clearly sets out, surveys in surrounding fields indicate that the site has potential to retain belowground remains relating to medieval and post-medieval agricultural activity, such as dewponds, lost boundaries, evidence of historic ploughing and arable cultivation etc.
- The statements on archaeology in the design and access statement fails to set out, or appreciate, the nature and circumstances of both the 2000 and 2003 surveys. These surveys were rapid walk over surveys of farm holdings to identify extant surface archaeological features and earthworks to enable informed management of the land through agri-environment and land management schemes. These were rapid walkovers of the holdings with identified features being plotted on base mapping. No record search or archive study was carried out. They do not consider archaeological potential only identified features and do not describe significance as required by para.189 of NPPF.
- The statement also asserts that site 'is not virgin ground', that it has been previously used as a builders yard, and has a service trench running across it. It is acknowledged that previous development or ground impacts can affect the survival or state of preservation of buried archaeological remains and features. However, no evidence of this previous use, development or disturbance has been provided on which I can make an assessment of this.

Therefore, on the basis of the evidence available I must conclude, as set out in the attached archaeological consultation response for the previous application, that the site retains potential for belowground remains relating to medieval and post-medieval agricultural activity, such as dewponds, lost boundaries, evidence of historic ploughing and arable cultivation. Any such remains would have a degree of archaeological interest but would likely be of no more than local significance within the context of local and regional research questions and gaps in knowledge, for example in relation the development of Tideswell's field system from the early medieval period onwards, which is currently not fully understood and the impact of the move to sheep husbandry with the private enclosure of former arable fields and resulting changes in farming practice.

Consequently, as per previously comments, should the planning balance be favourable conditions are recommended (see previous consultation response on website for full details).

#### 18. PDNPA Tree Officer – No response at time of writing

### **Representations**

19. We have received 21 representations to date. 5 object to the development and 16 support. The reasons given are summarised below:

### Object

- Planning proposals have historically been refused for this area, (in 1978 and twice in 1996), don't see why it should be any different now.
- Note that in the previous refusal in 2020 officers advised that the overriding concern of the siting is unresolvable.
- With a few minor 'tweaks' this application is the same and therefore our objections are unchanged.
- Approval of the application would set a precedent for further development of the fields behind Sherwood Road.
- This site has been deemed unsuitable by the Peak Park. The proposed development would not be affordable by size or type.
- Strip fields create a unique back drop to the existing properties and as such is an enhancement to the surrounding area which has been threatened by modern farming practices. There are very few examples of strip fields remaining in our area.
- The tree line forms a unique area of woodland in this part of Tideswell. If this development is allowed the existing tree root system would be severely threatened resulting in a total loss of woodland, the wildlife habitat and screening. This field and proposed site was a beautiful woodland before the felling of many mature trees, (see Google maps), that we believe were healthy, felled prior to the failed application in October 2020)
- There remain a number of unoccupied affordable houses available in Tideswell. We believe this negates the need for any more to be built.
- The proposal for nearby future developments of affordable housing should also be considered as this could meet the applicants' needs.
- We withhold our opinion that this site is very elevated. The proposed houses would look directly into, and over each of the 6 bungalows southeast of the proposed site. These include children's bedrooms and bathrooms.
- The proposed buildings do not reflect the built form of development on the north side of Sherwood Road and do not constitute in-fill development. This area of Sherwood Road, the village boundary, is laid out to bungalows.
- The development would result in the loss of valuable agricultural land.

### Support

- There is a need in Tideswell for both social and privately built local needs homes. We should allow the next generation to aspire to be home owners. Approval of this local need application would allow two locals to remain in Tideswell.
- The development will allow the applicants to continue living close to their places of work.
- James and Emma are correct in planning for a 3 bedroom house from the start and this will be a lot cheaper in the long run and safer for their families as they will not need to extend the houses while they are living there.
- The negative comments of the previous planning permission is unfair due to the fact the view is not restricted by a village structure or historical monument, it is just a plain field with trees and walling in the distance.
- The development will not be visible and will not harm the character of Tideswell.
- Tideswell is a sporadic settlement and does not have rows of houses in straight lines everywhere. The proposed houses will fit in well on this site and compliment the layout of the village.



- Agree that houses where possible should have garages - when driving around Tideswell and other villages in the Peak Park many roads are impassable because of parked cars on either side of the Road.
- Trees were removed from the site following advice from the PDNPA.
- There is a need for 3 bedroom properties in the village and it is preferable to build a 3 bedroom property rather than extend at a later date.
- There is an email of support from James' manager at Tarmac Quarry, Peak Dale. He and many other employees at Tarmac have been lucky enough to buy their own homes locally. Support local needs homes which will then allow the homes to be kept available for the next generation of locals and possibly even Tarmac employee's. We are committed to helping the local communities and part of this is to employ and train local people.

### **Main Policies**

20. Relevant Core Strategy policies: GSP1, GSP2, GSP3, GSP4, DS1, CC1, HC1, L1 and L2
21. Relevant Development Management policies: DMC3, DMC4, DMC5, DMC11, DMC12, DMC13, DMH1, DMH2, DMH3, DMH11, DMT3, DMT8, DMU1 and DMU2.

### **National Planning Policy Framework**

22. The National Planning Policy Framework (NPPF) should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises our Core Strategy 2011 and the Development Management Policies 2019. Policies in the development plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. There is no significant conflict between prevailing policies in the development plan and the NPPF and our policies should be given full weight in the determination of this application.
23. Paragraph 172 states that 'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.'
24. Paragraph 77 states that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.
25. The NPPF defines rural exceptions site as small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection.

### **Peak District National Park Core Strategy**

26. Policy DS1 sets out the Development Strategy for the National Park. Part D says that in named settlements such as Tideswell there is additional scope to maintain and improve the sustainability and vitality of communities. In or on the edge of these settlements amongst other things new building development for affordable housing is acceptable in principle.
27. Policy HC1 says that exceptionally, new housing can be accepted where the proposals would address eligible local needs and would be for homes that remain affordable with occupation restricted to local people in perpetuity. The provisions of HC1 are supported by policy DH1, DH2 and DH3 of the Development Management Policies, which gives more detailed criteria to assess applications for affordable housing to meet local need.
28. Policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GPS1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.
29. Policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.
30. Policy GSP4 says that to aid the achievement of its spatial outcomes, the National Park Authority will consider the contribution that a development can make directly and/or to its setting, including, where consistent with government guidance, using planning conditions and planning obligations.
31. Policy CC1 states that development must make the most efficient and sustainable use of land, buildings and natural resources, taking into account the energy hierarchy and achieving the highest possible standards of carbon reductions and water efficiency.

#### Development Management Policies

32. The most relevant development management policies are DMH1 and DMH2. Policy DMH11 is also relevant as it states the need for a planning obligation to secure the affordability of the dwellings in perpetuity if the scheme were permitted.
33. Policy DMH1 New Affordable Housing
  - A. Affordable housing will be permitted in or on the edge of Core Strategy policy DS1 settlements, either by new build or by conversion; and outside of Core Strategy policy DS1 settlements by conversion of existing buildings provided that:
    - (i) there is a proven need for the dwelling(s); and
    - (ii) any new build housing is within the following size thresholds:

Number of bed spaces and Maximum Gross Internal Floor Area (m<sup>2</sup>)

One person 39

Two persons 58

Three persons 70

Four persons 84

Five persons 97



B. Starter Homes will be permitted as part of a development of housing to enhance a previously developed site.

C. Self-Build and Custom Build housing will be permitted on rural exception sites in accordance with Part A regarding proof of need and size thresholds.

34. Policy DMH2 First occupation of new affordable housing

In all cases, new affordable housing must be first occupied by persons satisfying at least one of the following criteria:

- (i) a person (and his or her dependants) who has a minimum period of 10 years permanent residence in the Parish or an adjoining Parish inside the National Park and is currently living in accommodation which is overcrowded or otherwise unsatisfactory; or
- (ii) a person (and his or her dependants) not now resident in the Parish but having lived for at least 10 years out of the last 20 years in the Parish or an adjoining Parish inside the National Park, and is currently living in accommodation which is overcrowded or otherwise unsatisfactory; or
- (iii) a person who has an essential need to live close to another person who has a minimum of 10 years residence in a Parish inside the National Park, the essential need arising from infirmity.

35. Policy DMC3 A says where development is acceptable in principle, it will be permitted provided that its detailed treatment is of a high standard that respects, protects and where possible enhances the natural beauty, quality and visual amenity of the landscape, including the wildlife and cultural heritage that contribute to the distinctive sense of place.

36. Policy DMC3 B sets out various aspects that particular attention will be paid to including: siting, scale, form, mass, levels, height and orientation, settlement form and character, landscape, details, materials and finishes landscaping, access, utilities and parking, amenity, accessibility and the principles embedded in the design related SPD and the technical guide.

37. Policy DMC4 A says that planning applications should provide sufficient information to allow proper consideration of the relationship between a proposed development and the settlement's historic pattern of development including the relationship of the settlement to local landscape character. The siting of the development should complement and not harm the character of these settlements.

38. Policy DMC5 says that planning applications for development affecting a heritage asset must clearly demonstrate its significance including how identified features of value will be conserved or where possible enhanced and why the proposed development are desirable or necessary. Development of a heritage asset will not be permitted if it would result in any harm to, or loss of, the significance, character and appearance of a heritage asset (from its alteration or destruction, or from development unless in the case of less than substantial harm the harm is weighed against the public benefits of the proposal.

39. Policy DMC11. A says that proposals should aim to achieve net gains to biodiversity or geodiversity as a result of development. In considering whether a proposal conserves and enhances sites, features or species of wildlife, geological or geomorphological importance all reasonable measures must be taken to avoid net loss.

40. Policy DMC13 says that planning applications should provide sufficient information to enable impact on trees, woodlands and other landscape features to be properly

considered. Development should incorporate existing trees which should be protected during the course of the development.

## **Assessment**

### **Principle of affordable housing**

41. The Authority's adopted policies do not allow new build housing in the National Park unless there are exceptional circumstances. One circumstance where housing can be permitted is under policy HC1 A where development would meet eligible local need for affordable housing.
42. The site is located on the edge of Tideswell, so the erection of affordable housing could be acceptable in principle if there is a proven need for the dwellings, the housing is within our maximum size thresholds and if the applicants satisfy the adopted policy occupancy criteria in accordance with policies DMH1 and DMH2, and the site is otherwise acceptable.
43. The applicants are the intended first occupants of the dwellings. The applicants are siblings and state that they have lived in Tideswell their whole lives and therefore satisfy criteria (i) of policy DMH2. The applicants have both registered with Home-Options and provided correspondence with the Housing Authority. This demonstrates that both applicants are in need of affordable housing and are eligible to bid for available homes. The letters show that both applicants were registered in July 2020. For the purposes of policies DMH1 and DMH2 it is therefore accepted that the applicants are in housing need, and their residency history means that they would meet the local occupancy criteria set out by DMH2.
44. When the last application was considered there was no evidence of a property search to demonstrate that any available housing cannot meet their need. As part of the current application the applicants have submitted details of 2 and 3 bedroomed properties that have been for sale in Tideswell over the last year; the cheapest of these is for offers in the region of £210,000. None of the properties appear to be those approved by the National Park Authority with local occupancy restrictions on them. Some are likely to be former Council houses so these would have a "Derbyshire clause" which restricts occupancy to people who have lived or worked in Derbyshire for the past 3 years; whilst this is likely to have some discounting effect, it is not as significant as the Authority's occupancy restriction.
45. A housing need survey for Tideswell was carried out by the Housing Authority in 2017. This identifies that around 20 households are in need of affordable housing. The predominant need is for 2 bedroom houses for couples and smaller families with a smaller requirement for 3 bedroom houses and some bungalow provision.
46. The application proposes the erection of two link detached 3 bedroom houses. The gross internal floor area of each dwelling would be 97m<sup>2</sup>, without the garages. Whilst this would not exceed the 97m<sup>2</sup> maximum for a five person dwelling allowed by policy DMH1, it does not reflect the applicants' current needs. At the Planning Committee in December 2020 there was some discussion about whether the garage space should be included in the floorspace calculation; this was also a matter which the applicants and their father raised with officers in subsequent discussions and correspondence. Officers have now made it clear that whilst garages are not included in the floorspace calculation, they inevitably have an impact on the affordability of the proposed dwellings, particularly for any subsequent purchasers.

47. The Housing Authority have assessed that Mr Isaac's household has a need for a 2 bedroom three person dwelling (70 m<sup>2</sup> maximum) and Ms Isaac's household has a need for a 2 bedroom two person dwelling (58 m<sup>2</sup> maximum). Therefore, the proposed 3 bedroomed dwellings would be significantly larger than both the applicants need. The proposed dwellings would therefore not be affordable due to their size, and would not meet the need of the applicants identified by the Housing Authority or meet wider community need identified by the housing need survey.
48. The purpose of defining size thresholds based on the identified housing need in policy DMH1 is to create a range of stock types to address the varied needs of the National Park's communities, and to allow a range of affordability of properties; accepting every new affordable home at any size proposed up the maximum threshold would entirely defeat these objectives, and would ultimately deliver only a stock of larger dwellings that remained unaffordable and oversized for many of those with identified housing needs; particularly those seeking to get on to the first rung of the property ladder. Whilst the desire of individual applicants to build the maximum size allowed under policy DMH1, and in doing so avoid the possible need to extend at a future date if their circumstances change, is understandable, this is clearly contrary to the purpose and spirit of the exceptions policy and to Government policy on affordable homes.
49. Therefore, whilst the applicants may be able to demonstrate that they have a local qualification and are in need of affordable housing, it is clear that the proposed dwellings would be in excess of the size that would be affordable or meet their need, contrary to policies HC1 and DMH1. Moreover, there is no evidence that this is the only site available in Tideswell to provide affordable housing and the Authority is currently considering a scheme of 23 affordable houses on the field between Sherwood Road and Richard Lane.
50. In the resubmission the applicants have drawn attention to the fact that the dwellings would be self-build and that the Authority should give significant weight to this, in accordance with Government policy and the Inspector's comments on the Development Management DPD following the Examination in 2018. Whilst the applicants are correct to draw attention to this, the Authority's policies on self-build are part of, and consistent with, our policies for affordable housing for local need. The fact that houses would be self-build does not set aside the constraints and considerations placed on affordable local needs housing. In practice, most small-scale (i.e. non-Housing Association) schemes of affordable housing are self-build or at least self-managed.

#### Siting and landscape impact

51. The site is an agricultural field within one of the strip fields that rises up west from Sherwood Road. The proposed houses would face south, at right angles to Sherwood Road and the linear development along it, and beyond existing modern agricultural buildings. The site is located within the Limestone Village Farmlands landscape character type.
52. The site is within an area of ancient enclosure as identified in our Historic Landscape Character Assessment. These are fossilised medieval strip fields that relate to the medieval open field system of Tideswell. These are a rare and important landscape character type in the national park and a non-designated heritage asset of archaeological interest and intrinsic landscape value. The inter-war and post-war development along Sherwood Road is linear and single plot in depth. It forms the western edge of Tideswell with only two groups of farm buildings extending beyond the houses along the entire length.
53. Although the land rises up away from Sherwood Road, the applicant has submitted plans which demonstrate that the proposed development would not be particularly visible from Sherwood Road, there is a public footpath to the north from which the houses would be

apparent and they are likely to be so in wider views to the east. The existing tree planting to the southern boundary of the site, if retained, would provide some mitigation to views from the south but would not affect views from the north or the wider landscape.

54. Notwithstanding the lack of significant visibility of the development from Sherwood Road, the proposal would introduce new residential development beyond the establish edge of Tideswell and into the historic field system. The development would not reflect the historic built form of the village and would result in further linear development into the strip field system.
55. Therefore, the development would not conserve or enhance the landscape character of the area and would result in harm to the historic and archaeological significance of the strip field system contrary to policies GSP1, GSP3, L1, L3 and DMC4 and DMC5. This harm would be “*less than substantial*” (in the terminology of such assessments, where there is still acknowledged harm) and therefore must be weighed against any potential public benefits.
56. Whilst the provision of affordable housing can, in principle, offer a public benefit if it meets the need of the local community and would be retained in perpetuity, in this case it is considered that the harm to the historic landscape is so significant and that the siting of houses in this location to the rear of the linear development on this part of Sherwood Road so fundamentally at odds with Authority’s policies on the protection of the landscape and cultural heritage, that this benefit cannot outweigh the harm. This is consistent with National Park Authority statutory purposes, with the provision of affordable housing falling within the duty, which must be given less weight if they are in conflict.
57. In the Planning History section above it is noted that two planning applications for the erection of a dwelling were refused in the mid-1990s and a subsequent appeal was dismissed in 1997. These were not referred to in the Planning Committee report in December 2020, but the Inspector’s conclusions are relevant and noteworthy, particularly if the current application is refused and is appealed. In dismissing the appeal for a single local needs dwelling in November 1997 the Inspector looked at two issues – the effect of the dwelling on the setting of Tideswell and whether the proposed dwelling would meet a local need for affordable housing. At that time the dwelling was for the current applicants’ father. The appeal was dismissed on both grounds, but the conclusions on the landscape impact is most relevant as those conclusions still apply today:

*“The western side of Sherwood Road is developed with a variety of dwellings occupying modest plots on the frontage only. I saw no other backland development in the vicinity of the appeal site. The rear gardens of these dwellings adjoin the open countryside on the west side of the village and in my opinion they establish a clear physical demarcation between the built up area of Tideswell and the open landscape in which it is set”*

He goes on to say “...I consider that the backland form of development you propose would be uncharacteristic of this part of Tideswell and would conflict with the objectives of Structure Plan policy C2.....I conclude on the first issue that the proposed development would extend beyond the well defined boundary of the built up area of Tideswell into the adjoining open countryside to the detriment of the landscape of the National park and the rural setting of the village”.

58. In the resubmission the applicants point out that policy DS1 Development Strategy states that in designated villages such as Tideswell there is additional scope to maintain and improve the sustainability and vitality of communities across the National Park by permitting new build development for affordable housing in or on the edge of settlement and that other than in Bakewell, no development boundaries will be drawn. This last point should not be taken to mean that there is no limit to where development can be

located, but that there is no identified boundary to the settlement as each case is assessed on its own merits through an assessment of the form and character of a settlement. Whilst this site may be on the edge of the village, it is very poorly related to the historic character and built form of the settlement, as explained above.

59. In the supporting documents for the current application the applicants have sought to argue against the archaeological objection, but the views of the Authority's Senior Archaeologist remain unchanged (see above).
60. To conclude on this issue, the proposed development would have a harmful impact is considered on the historic landscape character of this part of Tideswell and its setting, including the historic strip field system. This harm is not outweighed by the benefit that affordable local needs housing could, in principle, provide.

#### Design, sustainable building and climate change

61. The proposed dwellings would be constructed from natural limestone and blue slate and would be provided with pitched roofs. Windows and doors would be timber with natural gritstone lintels. The current submission has added gritstone quoins, gable end chimneys, solar panels and reduced garage lengths to bring them flush with the main elevation. The overall height has also been reduced by 300mm.
62. Whilst the amendments are slight improvements, the dwellings still have a deep plan form which results in very wide gables and significant areas of roof above the walls. The linked garages also produce a very suburban appearance; this may be more acceptable within a housing estate layout, but is not appropriate in this location. Whilst the materials and detailing of the dwellings would reflect local building traditions, the form and massing of the dwellings would more characteristic of modern suburban development and would not reflect the traditional built form, which is characterised by narrow gables, horizontal form and low eaves.
63. In conclusion, whilst the amendments are an improvement on the earlier scheme, the design of the proposed dwellings does not reflect or respect the traditional vernacular within the conservation area and is not in accordance with our adopted design guide.
64. The application states that the scheme has been designed to comply with requirements for insulation and low energy fixtures and fittings. However, there is no information provided with the application to demonstrate how it has been designed to reduce energy, water consumption, and mitigate the impacts of climate change through sustainable design and construction.
65. Policy CC1 and the NPPF require development to make the most efficient and sustainable use of land, buildings and natural resources, take account of the energy hierarchy and achieve the highest possible standards of carbon reductions and water efficiency.
66. The current application now includes solar panels on the south-facing, front elevations of the two dwellings and the applicants have provided a statement setting out how the dwellings would meet the requirements of policy CC1 and our adopted Supplementary Planning Guidance 'Climate Change and Sustainable Building'. This includes electric car charging points. The application is now considered to be acceptable in this regard.

#### Impact upon amenity

67. A number of concerns have been raised in representations about the potential impact of the development upon the amenity of neighbouring properties, particularly those to the south east along Sherwood Road.

68. The field and proposed site is elevated above the level of the neighbouring dwellings but at the closest point, the new dwellings would be approximately 45m away from the dwelling known as Kirkstone, and approximately 21m from its rear garden. Therefore whilst the development would be visible from these dwellings given the separation distances, the development would not result in any significant overlooking or loss of privacy to neighbouring dwellings.
69. Concern has also been raised about the impact noise and light on amenity, particularly from vehicle movements. The development would generate vehicle movements but these would be relatively infrequent and given the distance from the development from neighbouring properties would not be significant or harm the amenity of neighbouring properties.
70. Similarly, due to the distances involved there are no concerns that the development would be overbearing to neighbouring properties or result in any significant loss of light. Therefore, it is concluded that the development would not be contrary to the Authority's detailed design guidance in respects of amenity and not harm the amenity, security or privacy of any neighbouring property.

#### Trees and protected species

71. The site is improved grassland and there is no evidence of any protected species or habitat within the field that could be affected by development. Given the distance to any designated site the development would not result in a harmful impact.
72. From assessing aerial photographs and from representations it appears that a number of mature trees have been removed from the site. It is understood that this work took place in 2020, before the first application was submitted. However, these trees were not subject to a tree protection order (TPO) or within the conservation area and therefore the Authority's consent was not required for their removal.
73. There are a number of mature trees remaining along the southern boundary of the site. These are away from the location of the proposed dwellings but the proposed drive would extend past these trees and potentially affect their root system. These existing trees make a positive contribution to the landscape and character of the area. The current application includes details of these trees, showing the tree root protection area following BS 5837 2012 recommendations. The tree root protection area will be fenced off during construction to stop heavy vehicles damaging the tree roots. This demonstrates that there are unlikely to be any impacts on trees as a result of the development, subject to appropriate protection during construction and if any mitigation is required during construction, in accordance with policy DMC13.

#### Other Issues

74. If approved, a planning condition would be required to ensure that onsite utilities infrastructure is installed underground this would ensure the proposal is in accordance with policies DMU1 and DMU2.
75. The development would be provided with adequate off-street parking and turning space in accordance with our local standards and having regard to advice from the Highway Authority we agree that subject to conditions that the development would not harm highway safety in accordance with policies DMT3 and DMT8.

#### Conclusion

76. The proposed site is very poorly related to the historic built form of Tideswell and would introduce a form of backland development into the historic strip field system in a manner that would harm the significance of the strip fields and valued landscape character

contrary to policies GSP1, GSP3, L1, L3, DMC3, DMC4 and DMC5. This harm would not be outweighed by any public benefits arising from the provision of affordable local needs housing.

77. Whilst the application has demonstrated that the proposed occupants have a local qualification, the proposed dwellings would be five person dwellings that would be in excess of what is required to meet the needs of the applicants, contrary to policies HC1, LH1 and LH2.
78. The form and massing of the proposed dwellings is suburban in character with wide gables, vertical proportions and high eaves and therefore does not reflect traditional built form, contrary to policies GSP3, DMC3 and our adopted design guidance.
79. Since the refusal of the planning application in December 2020 the applicants and their father have had an online meeting with officers and they have sent many emails and documents to support their case. In these documents they have often asked lengthy and detailed questions and made statements about the planning process being discriminatory. They have also drawn attention to other applications and developments which they believe are comparable and which either support their case or show discrimination in how they have been dealt with. Officers have tried to respond to these statements and questions and to explain the differences between the cases referred to. In particular we have tried to encourage the applicants to focus on addressing those issues with their own application that are capable of resolution, but we have consistently pointed out that the location and siting of the two dwellings is a fundamental problem on this specific site that officers believe cannot be overcome.
80. Having taken into account all material considerations and issues raised in representations we conclude that the proposed development is contrary to the development plan. Material considerations do not indicate that planning permission should be granted. Therefore, the application is recommended for refusal.

### **Human Rights**

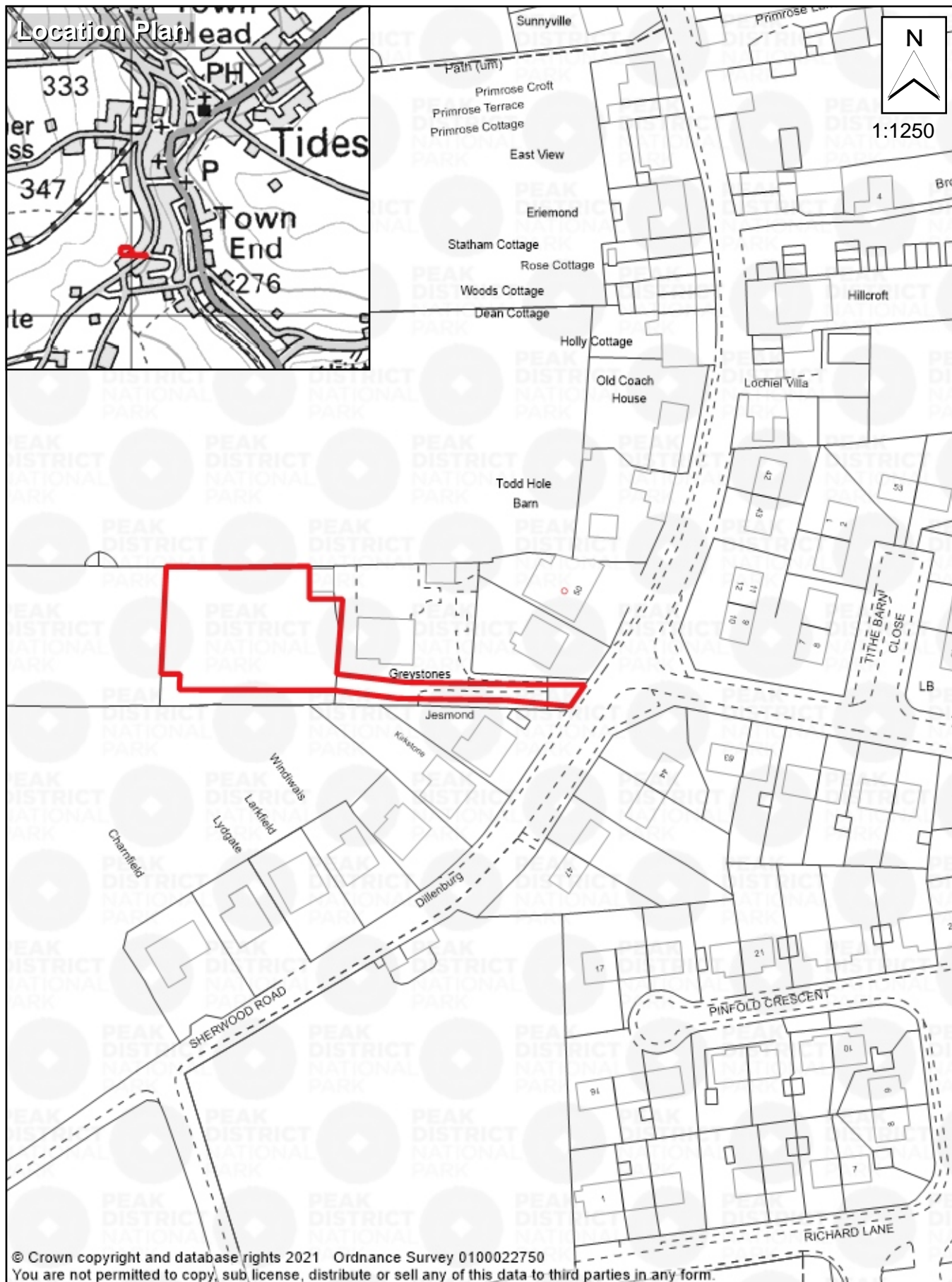
81. Any human rights issues have been considered and addressed in the preparation of this report.

### **List of Background Papers** (not previously published)

82. Nil
83. Report Author: Adam Maxwell, Senior Planner

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Committee Date: 6th August 2021  
Item Number: Item 7  
Application No: NP/DDD/0421/0433  
Grid Reference: 415046, 375249

**Title:** Drive between Greystones and Jesmond  
Sherwood Road  
Tideswell



**PEAK  
DISTRICT  
NATIONAL  
PARK**

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**8. FULL APPLICATION - 1) RENOVATION AND ALTERATION OF EXISTING YARD BARN (ALSO KNOWN AS BUTTRESS BARN) 2) DEMOLITION OF FIELD BARN (ALSO KNOWN AS SHOWGROUND BARN) 3) ERECTION OF PORTAL FRAMED BUILDING FOR STORAGE AT MARSH FARM, CASTLETON ROAD, HOPE (NP/HPK/0919/1018, SPW)**

**APPLICANT:** Ms Virginia Priestley (on behalf of the Marsh Farm Development Company)

**Summary**

1. This application proposes the renovation and alteration of a traditional barn within a group of buildings at Marsh Farm, the demolition of a field barn to the north of the group and the erection of a new framed building at the northern end of the building group. Whilst the loss of the field barn is unfortunate, it is in a very poor structural condition and is beyond repair. The renovation and re-use of the barn in the building group is, however, to be welcomed. The erection of a new portal framed building and the cladding of the adjacent building is considered to be acceptable.

**Site and Surroundings**

2. Marsh Farm is situated on the northern side of the A6187 road to the west of Hope, between Hope and Castleton. Marsh Farm is a mixed group of buildings, comprising both traditional limestone buildings and more modern structures. One of these, along the eastern boundary of the site, is known as the “Buttress Barn” as it is a traditional limestone barn that has been reinforced by stone buttresses. There is a field barn in a very poor structural condition approximately 130 metres to the north of the farm group, with a mono-pitched sheet roof; this is referred to as the “Showground Barn” as it is within the area used by the annual Hope Show. There is an access off the A.6187 through the building group, with a stone track leading north to the field barn and the showground.
3. The buildings are not listed and they are not within a Conservation Area but they are considered to be non-designated heritage assets by virtue of their age and history.
4. The buildings are owned by the Marsh Farm Development Company (MFDC). This is a company formed to manage the Marsh Farm site where the traditional end of summer agricultural show for the area is held annually.

**Proposal**

5. Renovation and alteration of existing yard barn (also known as buttress barn). The renovated building would be used for as a workshop and store and may be rented out for this purpose. The renovation involves the rebuilding of the west wall and south gable and re-roofing. The windows would be hopper style, and doors would be timber. There would be two conservation style rooflights on the east elevation. The amended plans now show the buttresses being removed.
6. Demolition of field barn (also known as showground barn)
7. Erection of portal framed building for storage; the building would measure approximately 18m x 10m and 5m to the ridge. It would abut an existing portal-framed building dating from the 1970s. The new building would be clad in vertically boarded timber under a dark blue sheet roof and the existing building would also be clad in timber to improve its appearance. The building would be used to store the materials currently stored in the field barn (sheep hurdles, a judges’ viewing hut and other materials associated with Hope Show).

8. The application has been supplemented with amended plans and a Heritage Statement since it was first submitted, addressing the concerns raised by officers. The Heritage Statement was produced to assess the impact of the proposal to the buildings and the potential impact that the development might have on any features of heritage significance.

### **Planning History**

9. 2001: Planning permission granted for retention of mobile veterinary surgery.
10. 2000: Planning permission granted for siting of mobile consulting room within existing barn for use as temporary consulting room for veterinary practice
11. Pre-application advice: In 2018, prior to submitting the application, the applicants sought pre-application advice on proposals to demolish both barns and to erect a new agricultural building in the fields to the north of the farmyard, on or close to the site of the field barn. They were advised that any application would require an assessment of the historic interest of the buildings and a justification for any demolition and alterations and that the siting of any new building should be better related to the existing building group.

### **RECOMMENDATION:**

**That the application be APPROVED subject to the following conditions:**

- 1) **Statutory time limit for implementation**
- 2) **Development in accordance with the amended plans and specifications, subject to the following conditions:**
- 3) **Use of new building to be restricted to purposes ancillary to Hope Show**
- 4) **Use of Yard/Buttress Barn to be restricted to storage or light industrial and office uses within Class E.**
- 5) **Detailed design conditions.**
- 6) **Carry out landscaping scheme within first planting season following erection of new building.**
- 7) **Archaeological conditions:**
  - a) **No development shall take place until a Written Scheme of Investigation for a scheme of a programme of building recording has been submitted to and approved by the National Park Authority in writing. The scheme shall include an assessment of significance and research questions; and 1. The programme and methodology of site investigation and recording; 2. The programme for post investigation assessment; 3. Provision to be made for analysis of the site investigation and recording; 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation; 5. Provision to be made for archive deposition of the analysis and records of the site investigation; 6. Nomination of a competent person or persons/organization undertake the works set out within the Written Scheme of Investigation.**
  - b) **No development shall take place until all on-site elements of the approved scheme have been completed in accordance with the Written Scheme of Investigation approved under condition (a), and to the written satisfaction of the local planning authority.**
  - c) **The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been**

**secured.**

### **Key Issues**

- The impact of the proposals on the archaeological interest of the existing barns, which are considered to be non-designated heritage assets.
- The impact on ecology, particularly bat roosts.

### **Consultations**

12. **Highway Authority:** No highway objections in principle providing the buildings are agriculturally related in support of the existing farming activities carried out on surrounding controlled land. It is noted the portal frame building is situated in close proximity to a public footpath which must remain on its existing alignment.
13. **Borough Council:** No reply
14. **Parish Council:** No objections
15. **Senior Archaeologist (PDNPA):** Raised concerns about the submitted scheme and makes the following comments in respect of the revised submission:

*Buttress Barn: The revised proposals for the buttress barn still required the rebuilding of 2 elevations due to structural issues, but they will be rebuilt to replicate the historic form and features, including the buttresses. These changes are welcomed as they will better retain the character and significance of the barn as it moves forward into a new use. The large cart opening required has been moved to the east elevation, where there currently a blocked cart opening. This elevation is largely being retained, but the opening altered to have stone jambs and moved slightly further back from the gable end to improve the structural stability of the building. Overall this is a high level of intervention and rebuilding for this barn. The application includes the required justification for this because it structurally unsound and every effort has been made to work with significance of the building, including several revisions to the proposals. I welcome the commitment of the Marsh Farm Development Company to find a way to retain and repair the building which forms part a historic farmstead and also a historic cupola site, and to find a new use for it. To secure the future of this heritage asset and viable future use is a positive outcome for the historic environment. The partial rebuilding of the barn and the changes this entails will result in harm to the archaeological and historic interest of the building that is part of heritage asset (historic farmstead and cupola site) of regional interest. The level of this harm is moderate with respect to the barn itself, but reduces to minor in the context of the wider farmstead and cupola site. This harm needs to be mitigated.*

*Marsh Barn (field barn): As stated in my previous consultation response, the development will result in the complete loss of the field barn (Marsh Barn), a heritage asset of regional significance, this represents a high level of harm. Whilst this is regrettable, the building has undergone many unsympathetic alterations that have compromised the structure. This alongside the movement of the structure off its foundations means it is dangerous structure, particular because it is located so with the Hope Show ground. On this basis I do not object to the demolition of the field barn subject to appropriate mitigation be secured by condition.*

*New Building: There are no archaeology comments specifically on the proposed new building.*

*Recommendation: Should the planning balance be favourable the harm to both barns*

*identified above can be addressed by a conditioned scheme of building recording to secure appropriate mitigation in accordance with para.199 of NPPF. This should build on and not duplicate the existing Heritage Statement and should comprise:*

- A full visual record when the buildings have been emptied and cleared out, vegetation cutback/removed and access provided to allow the recording to take place of all areas.*
- Elements of a drawn record (annotated plan and elevation drawings showing the form and location of surviving historic fabric; photograph location and direction plan). This can make use of or be based on the architectural drawings and survey undertaken as part of the planning application, so long as they are at a suitable scale and can be provided in an appropriate format.*
- A written record and description of all the buildings and historic features /fabric revealed, and analysis of historic use and development. This should achieve an overall Level 1/2 record for the Buttress barn and a Level 2/3 record for the field barn (Marsh Barn). This reflects the greater significance and the greater level of impact for the Marsh Barn. This work needs to be carried out by a suitably qualified and experienced heritage/archaeological contractor in accordance with the nationally agreed standards of the Chartered Institute for Archaeologists, and to a written scheme of investigation approved by the Senior Conservation Archaeologist.*

*These recommendations are in accordance with NPPF para 199, and a suitable condition to achieve this is suggested.*

16. **Ecology (PDNPA):** Note that a bat survey report has been submitted with the application but are concerned that the survey has been significantly compromised as the interior of neither building has been inspected; this will have hampered the ability to assess overall roost potential. In these circumstances where a building inspection has been significantly compromised and the site has potentially moderate/high suitability, it is particularly important that sufficient activity surveys are timed during the optimal period. However, the report states that there are ample potential crevices and access points which indicates high potential and from the single activity survey roosting bats have been found. The resulting report should include details on measures to avoid, mitigate or compensate for potential harm and ensure that any development provides a mitigation strategy and ensures future roosting provision as appropriate, details need to be provided with the report. Overall the strategy should seek enhancement and overall net gain.

### **Representations**

No representations have been received from the public notification.

### **Key Policies**

17. The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. It was last updated in February 2019. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and those in the Development Management DPD adopted in May 2019. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.
18. Paragraph 172 of the NPPF states that *"great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and*

*scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas and should be given great weight in National Parks and the Broads.”*

### **Development Plan**

19. The main Development Plan policies which are relevant to this proposal are: Core Strategy policies: GSP1, GSP2, GSP3, GSP4, L1, L2, L3 and CC1, and Development Management policies: DM1, DMC3, DMC5, DMC10 and DMC11.
20. Policy GSP1 sets out the broad strategy for achieving the National Park’s objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GPS1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.
21. Policy GSP2: *Enhancing the National Park* states that:
  - Opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon.
  - Proposals intended to enhance the National Park will need to demonstrate that they offer significant overall benefit to the natural beauty, wildlife and cultural heritage of the area.
  - When development is permitted, a design will be sought that respects the character of the area.
  - Opportunities will be taken to enhance the National Park by the treatment or removal of undesirable features or buildings. Work must be undertaken in a manner which conserves the valued characteristics of the site and its surroundings.
  - Development in settlements necessary for the treatment, removal or relocation of nonconforming uses to an acceptable site, or which would enhance the valued characteristics of the National Park will be permitted.
22. Policy GSP3 *Development Management Principles* sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.
23. Core Strategy policy GSP4: *Planning conditions and legal agreements* states that the National Park Authority will consider the contribution that a development can make directly and/or to its setting, including, where consistent with government guidance, using planning conditions and planning obligations.
24. Core Strategy Policy L1 *Landscape character and valued characteristics* states that development must conserve and enhance valued landscape character and valued characteristics, and other than in exceptional circumstances, proposals in the Natural Zone will not be permitted.
25. Core Strategy Policy L2 states that development must conserve and enhance any sites or features of geodiversity importance, and any sites, features or species of biodiversity importance and where appropriate their settings.
26. Core Strategy policy L3 provides core policy principles for cultural heritage assets and



requires that all development conserves and where appropriate enhances or reveals the significance of archaeological, architectural, artistic or historic assets and their settings. Development will not be permitted where there is harm to the significance of a heritage asset other than in exceptional circumstances.

27. Policy CC1 *Climate change and mitigation* requires that all development must build in resilience to and mitigate the causes of climate change.

28. Development Management policies

29. DM1 *The presumption of sustainable development in the context of National Park purposes* states:

When considering development proposals the National Park Authority will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (2012). It will work proactively with applicants to find solutions that are consistent with National Park purposes:

- i. to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park; and
- ii. to promote opportunities for the understanding and enjoyment of the valued characteristics of the National Park.

Planning applications that accord with the policies in the Development Plan will be approved without unnecessary delay, unless material considerations indicate otherwise.

30. Development Management policy DMC3: *Siting, design, layout and landscaping* requires development to be of a high standard that respects, protects, and where possible enhances the natural beauty, quality and visual amenity of the landscape, including the wildlife and cultural heritage that contribute to the distinctive sense of place. It also provides further detailed criteria to assess design and landscaping, as well as requiring development to conserve the amenity of other properties.
31. Development Management policy DMC5 *Assessing the impact of development on designated and non-designated heritage assets and their settings* says that planning applications for development affecting a heritage asset, including its setting must clearly demonstrate: (i) its significance including how any identified features of value will be conserved and where possible enhanced; and (ii) why the proposed development and related works are desirable or necessary. The supporting evidence must be proportionate to the significance of the asset. It may be included as part of a Heritage Statement or Design and Access Statement where relevant. Proposals likely to affect heritage assets with archaeological and potential archaeological interest should be supported by appropriate information that identifies the impacts or a programme of archaeological works to a methodology approved by the Authority.
32. Development Management policy DMC10 *Conversion of a heritage asset* says that the conversion of a heritage asset will be permitted provided that it can accommodate the new use without changes that adversely affect its character (such changes include enlargement, subdivision or other alterations to form and mass, inappropriate new window openings or doorways and major rebuilding) and that the building is capable of conversion, the extent of which would not compromise the significance and character of the building. The policy goes on to provide further detail of what will be considered in this assessment.
33. Policy DMC11 *Safeguarding, recording and enhancing nature conservation interests* states, amongst other things that proposals should aim to achieve net gains to biodiversity or geodiversity as a result of development. In considering whether a proposal conserves and enhances sites, features or species of wildlife, geological or



geomorphological importance all reasonable measures must be taken to avoid net loss by demonstrating that in the below order of priority the following matters have been taken into consideration:

- i. enhancement proportionate to the development;
- ii. adverse effects have been avoided;
- iii. the 'do nothing' option and alternative sites that cause less harm;
- iv. appropriate mitigation; and
- v. in rare cases, as a last resort, compensation measures to offset loss.

## **Assessment**

### **34. Principle of Development**

35. The application proposes the renovation of an existing building for future re-use and the demolition of a semi-derelict field barn and its replacement with a modern portal framed building in the yard abutting an existing building. The buildings are owned by the company that runs the Hope Show, along-established agricultural show, and they would be used for storage and other purposes associated with the show, with the possibility that the Buttress barn would be let to local businesses
36. The principle of development to support the Show, which an important event in the local calendar, supporting local farming businesses and communities, is acceptable and in accordance with Authorities policies.

### **37. Archaeological and Cultural Heritage**

Marsh Farm is considered to be a site of archaeological, architectural and historic interest, and aesthetic value. Core Strategy policy L3 and DMP policies DMC5 and DMC10 are therefore particularly relevant. The original application provided some detail of the site's history, but officers had concerns about how fully this had been assessed. Consequently a more thorough archaeological assessment was requested and has now been submitted. The Farmstead was identified as an extant 19th century farmstead in the recent Historic England Historic Farmstead Project which was completed in 2016. It was subsequently included as a site in the Peak District Historic Buildings, Sites and Monuments Record and the Derbyshire Historic Environment Record. As such the farmstead, and its component traditional farm buildings, are considered to be a non-designated heritage asset. Marsh Farm was described as a loose courtyard plan with three sides of the yard formed by agricultural buildings, with detached elements to the main plan and a farmhouse that is set away from the farmyard. Small, loose courtyard farmsteads are particularly characteristic to the landscape of the Dark Peak, contributing to the landscape character. There has been a partial loss of the traditional farm buildings, less than 50%, indicating that the farmstead has high heritage potential. The farmstead is also the site of a cupola lead smelting site. Marsh Cupola is first listed in Bagshawe's Directory of 1846 and seems to have been in operation until about 1879. The farmyard/buttreass barn that is the subject of this application appears to have been built as part of the cupola, and adapted overtime to an agricultural use, as the function of the site changes from lead smelting to agricultural. This is a heritage asset of regional importance.

38. The field barn, known as Marsh Barn, is also a building of archaeological interest. It was identified as an extant 19th century outfarm in the recent Historic England Historic Farmstead Project which was completed in 2016 and was subsequently included as a site in the Peak District Historic Buildings, Sites and Monuments Record and the Derbyshire Historic Environment Record. This barn is considered to be a non-designated heritage asset. It is a traditional farm building, constructed in traditional form and materials. It has suffered from unsympathetic later alterations, particularly changes to the

roof (now a mono-pitch with metal sheeting) and inserting a large opening in the gable end. It retains a number of currently open and blocked historic openings, including ventilation holes and slots; windows; doorways and what appears to a large, blocked threshing openings. A number of the openings have carved stone lintels characteristic of the 18th century – these may be original or may be reused. The barn is depicted on the 1820s enclosure plan of Hope, so could be of 18th century origin. The fabric of the building will hold evidence of its use, function and development worthy of further investigation that could be revealed by archaeological investigation. The barn is located within an area which is defined as ‘Ancient Enclosure - Fossilised Strip System (Known)’ under the National Park’s Historic landscape Character assessment. . These are fossilised medieval strip fields that relate to the medieval open field system of Hope; the map and field shape evidence (characterised by the enclosed narrow strips with a characteristic s-shaped curve) suggest that remnants of the medieval open fields.

39. Both buildings have been assessed to be structurally unsafe, both requiring a scheme of partial or total demolition. Whilst it is apparent that such a scheme would constitute a negative impact on the structures and their settings, the submitted archaeological assessment says that these impacts should be measured within the wider context put forward in the proposal. It suggests that a programme of historic building recording would ensure that both buildings are preserved via a record, in their current forms, in order to mitigate for the proposed alterations.
40. The Authority’s Senior Archaeologist has been involved in assessing the proposal. She welcomes the commitment of the applicant to find a way to retain and repair the building which forms part a historic farmstead and an historic cupola site, and to find a new use for it. Whilst the partial rebuilding of the Buttress barn and the changes this entails will result in harm to the archaeological and historic interest of the building, she considered that this harm is moderate with respect to the barn itself, and reduces to minor in the context of the wider farmstead and cupola site. This harm needs to be mitigated, so she recommends conditions. With regard to Marsh Barn, she notes that the development will result in the complete loss of the field barn, a heritage asset of regional significance; this represents a high level of harm. However, she concludes that whilst this is regrettable, the building has undergone many unsympathetic alterations that have compromised the structure. This alongside the movement of the structure off its foundations means it is dangerous structure, particularly because it is located on the Hope Show ground. On this basis she does not object to the demolition of the field barn subject to appropriate mitigation be secured by condition.
41. On this basis the proposals are considered to meet the requirements of Development Plan policies, notably DMC5.

42. **Ecology and Biodiversity**

43. The Authority’s Ecologist notes that whilst a bat survey report has been submitted with the application they are concerned that the survey has been significantly compromised as the interior of neither building has been inspected; this will have hampered the ability to assess overall roost potential. The report states that there are ample potential crevices and access points which indicates high potential and from the single activity survey roosting bats have been found. The Authority’s Ecologist advises that the report should include details on measures to avoid, mitigate or compensate for potential harm and ensure that any development provides a mitigation strategy and ensures future roosting provision as appropriate, details need to be provided with the report.
44. Given that the field barn is considered to be beyond repair and should be demolished, there are no opportunities for bat or bird roosts in that site. However, whilst the Buttress Barn needs significant rebuilding and reroofing, measures should be taken to provide for

roosts in the renovated building. This should be covered by condition and should seek to provide net gain if possible.

#### 45. **Amenity**

The demolition of the Marsh barn and the renovation of the Buttress barn in the yard will not have any impact on the amenity of neighbouring residential properties. The new portal framed building would be close to the western boundary of the site but it would adjoin an existing building and would be of the same scale. There is a gap to the western boundary and some additional planting is proposed in this area. The use of the buildings should be restricted by condition, which would also help to avoid any impacts on residential amenity.

#### 46. **Environmental Management**

A statement has been submitted with the application to set out how the development meets the requirements of policy CC1.

### **Conclusion**

47. This application proposes the demolition of field barn that is considered to be a non-designated heritage asset but it is accepted that it is now beyond repair. Subject to an archaeological monitoring condition, this is acceptable. The significant rebuilding and repair of the Buttress barn, in the yard, is also considered to have an impact on a non-designated heritage asset. However, without these works the building will only deteriorate further, so the works are considered to be necessary and acceptable. The removal of the buttresses, which were later additions, is considered to be appropriate.
48. The erection of a new building in the yard to replace the field barn is also considered to be acceptable as it would be within the building group, abutting an existing building, so it would not appear as an isolated structure. It also provides an opportunity to enhance the appearance of the existing adjoining building.
49. The use of the buildings for purposes ancillary to the Hope Show or to be let as workspace, generating income to pay for the works and to supplement the Marsh Farm Development Company's income, to support the Show, is considered to be acceptable, subject to conditions to control the uses.

### **Human Rights**

50. Any human rights issues have been considered and addressed in the preparation of this report.
51. **List of Background Papers** (not previously published)
52. Nil
53. Report author: John Keeley

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**9. FULL APPLICATION - EXTENSION AND ALTERATIONS TO DWELLING, EXTENDING INTO OUTBUILDING AND ERECTION OF DETACHED GARAGE BLOCK - HARRIERS COTTAGE, BIGGIN – (NP/DDD/0421/0408, MN)**

**APPLICANT:** Dr Dallas Burstton

**Summary**

1. The application property is a semi-detached dwelling in the village of Biggin. The proposals involve extending it to the rear with a double piled gable, extending the living accommodation in to some single storey attached outbuildings, and erecting a new detached garage.
2. As amended, the design and appearance of the proposals have been found to conserve the character and appearance of the built environment and wider landscape, and to accord with planning policy in other regards.
3. The application is therefore recommended for conditional approval.

**Site and Surroundings**

4. The application site comprises of a two storey dwelling house with a range of outbuildings and associated external areas. The property lies within Biggin village, to the north of Main Road. The dwelling is set back approximately 23 metres from the road and has a garden and vehicular access from Main Road to the front. The site adjoins buildings known as Peakside and High Peak Harriers to the western side. An agricultural field lies immediately to the north and east with Biggin Depot and a former barn building lying further to the north and north west. The dwelling is vacant and is in a poor condition. The dwelling is sited outside of any designated Conservation Area.

**Proposal**

5. To construct a two storey extension to the rear of the house, to extend the living space in to the attached outbuildings, to make changes to openings in the dwelling, and to erect a detached garage block.
6. Amended plans have been received during the application, making adjustments to openings and moving the garage closer to the dwelling.

**RECOMMENDATION**

7. **That the application is APPROVED subject to the following conditions:**
  - 1) 3 year time limit
  - 2) In accordance with amended plans
  - 3) Design details
  - 4) Garage materials to match the existing
  - 5) Sample panel for garage
  - 6) Insulation measures set out on the approved plans to be incorporated

**Key Issues**

8. The impact of the development on the appearance of the built environment and special qualities of the National Park.

### **Relevant Planning History**

9. 2017 – Planning permission granted for two storey rear extension and porch.

### **Consultations**

**Derbyshire County Council - Highways** – No objections

**Derbyshire Dales District Council** – No response.

**Hartington Nether Quarter Parish Council** – Object to the proposal on the grounds that the proposed garage would be positioned where a tree currently stands, because there was no garage in this position previously and because of the size of the proposed garage.

### **Representations**

10. None received.

### **Main Policies**

11. Core Strategy policies: GSP1, GSP2, GSP3, DS1, CC1
12. Development Management policies: DMC3, DMH7
13. National Park designation is the highest level of landscape designation in the UK. The Environment Act 1995 sets out two statutory purposes for national parks in England and Wales:
- a. Conserve and enhance the natural beauty, wildlife and cultural heritage
  - b. Promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public
14. When national parks carry out these purposes they also have the duty to seek to foster the economic and social well-being of local communities within the national parks.

### **National planning policy framework**

15. The National Planning Policy Framework (NPPF) was first published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. The NPPF was updated in July 2021. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the Local Plan comprises the Authority's Core Strategy 2011 and the Development Management Policies Document 2019. Policies in the Local Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Local Plan and more recent Government guidance in the NPPF.
16. Paragraph 176 of the NPPF states that 'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.'



### Local Plan

17. Core Strategy policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GSP1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.
18. Core Strategy policy GSP2 states, amongst other things, that when development is permitted, a design will be sought that respects the character of the area.
19. Core Strategy policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.
20. Core Strategy policy DS1 details the development strategy for the National Park, and permits extensions to dwellings in principle.
21. Core Strategy policy CC1 states that development must make the most efficient and sustainable use of land, buildings and natural resources.
22. Development Management Policy DMC3 requires development to be of a high standard that respects, protects, and where possible enhances the natural beauty, quality and visual amenity of the landscape, including the wildlife and cultural heritage that contribute to the distinctive sense of place. It also provides further detailed criteria to assess design and landscaping, as well as requiring development to conserve the amenity of other properties.
23. Policy DMH7 addresses extensions and alterations, permitting these provided that the proposal does not:
  - (i) detract from the character, appearance or amenity of the original building, its setting or neighbouring buildings; or
  - (ii) dominate the original dwelling particularly where it is a designated or non-designated cultural heritage asset;
  - b. or
  - c. (iii) amount to the creation of a separate independent dwelling; or
  - d. (iv) create an adverse effect on, or lead to undesirable changes to, the landscape or any other valued characteristic; or
  - e. (v) in the case of houses permitted under policy DMH1, exceed 10% of the floorspace or take the floorspace of the house above 97m<sup>2</sup>.

### Assessment

#### Principle of the development

24. Development comprising alteration and extension of dwellings is supported by planning policies DS1 and DMH7 in principle.

#### Design and appearance

#### Garage

25. As originally proposed the garage was positioned several metres from the main dwelling and, due to the open fields to the east, appeared somewhat isolated. It also appeared to be positioned over the location of a mature conifer tree. It has since been re-positioned to bring it closer to the house, and to avoid the tree. Its relationship to the house is now considered to be acceptable, and would not have any significant adverse impact on the wider landscape.
26. In terms of its design, the garage has a typical design for such a building, being of rectangular form with two single doors set beneath the eaves of the roof. It would appropriately reflect the local building traditions and the parent dwelling. The scale of the garage is considered to be commensurate with the size of the host dwelling and the plot in which it would be sited, and would not appear discordant or overbearing.
27. Overall, the proposed garage, as amended, would accord with the requirements of policies DMC3 and DMH7.

Two storey rear extension

28. The proposed two storey extension to rear would have a double roof pitch with a valley and would break through an existing cat slide roof. The proposed extension would be built using stone with a tile roof and would have stone lintels and surrounds.
29. The extension initially had larger windows set in to the gables, but these have been replaced with smaller windows that better retain the solidity of the gables.
30. A patio door is proposed to the eastern side elevation, which would not be prominent in views of the proposed extension.
31. Whilst the proposed extension would disrupt the simple appearance of the existing rear elevation of the host property to some degree, it is considered that the scale, appearance and detailing of the extension is acceptable and would not be harmful to the character of the host property or to the visual amenity of the area.
32. Furthermore, the works are to the rear of the dwelling and would not be prominent in the street scene. As such, the landscape impact would be minimal.
33. The proposed works would therefore comply with policy DMC3.

Alterations to house

34. The house would be extended in to the adjoined outbuildings by the development, which would become a home office accessed by an external door.
35. These are in a poor state of repair, and are clad with a mixture of stone and rendered walling with tile and sheet metal roofing. The roof would be replaced with clay tiles and the walls would be rendered. This would improve the appearance of this part of the building. The proposed changes to openings would have only a minor impact on the buildings external appearance.
36. To the front of the main house, the porch shown on the existing plans has already been removed. The front wall would be rebuilt, replacing the uneven rendered frontage with natural stone walling. This would make a significant improvement to its appearance.
37. Openings to this elevation would also be altered, with 4 timber sash windows and a central door reflecting the appearance of a traditional local dwelling.

38. Overall, the proposed changes to the dwellinghouse, as amended, would accord with the requirements of policies DMC3 and DMH7.

#### Amenity

39. The proposed two storey extension would not project forwards of the existing footprint of the host dwelling as it would incorporate existing single storey elements of the host building. As such, it is considered that any additional overshadowing or oppressive impact to the neighbouring property at Peakside would be limited and would not result in significant harm to the amenity of the users of this property. The two storey extension to rear would not result in harm to occupiers or users of any other properties in the locality, given the intervening distances.
40. The use of the outbuildings as part of the dwelling would also pose no amenity concerns, given the position of openings relative to neighbouring properties.
41. The development therefore complies with policy DMC3 in regards to amenity.

#### Highway considerations

42. The development would not result in significant additional traffic movements and parking and turning provision would remain sufficient. There are therefore no highway issues arising from the proposals.

#### Climate change mitigation

43. A sustainability statement has been provided outlining the measures proposed, and updated plans have been received specifying proposed insulation types and levels.
44. The measures are effectively limited to improving insulation within the building and installing double glazing. These extend beyond the new extensions throughout the whole building however, which will improve the thermal efficiency and reduce the energy usage of the whole property.
45. Given that the development is for extension of an existing building, these are considered sufficient to meet the requirements of policy CC1.

#### Conclusion

46. The development would conserve the character and appearance of the built environment and landscape, according with planning policies GSP3, DMC3, and DMH7.
47. Accordingly, the application is recommended for approval subject to conditions.

#### Human Rights

48. None arising.

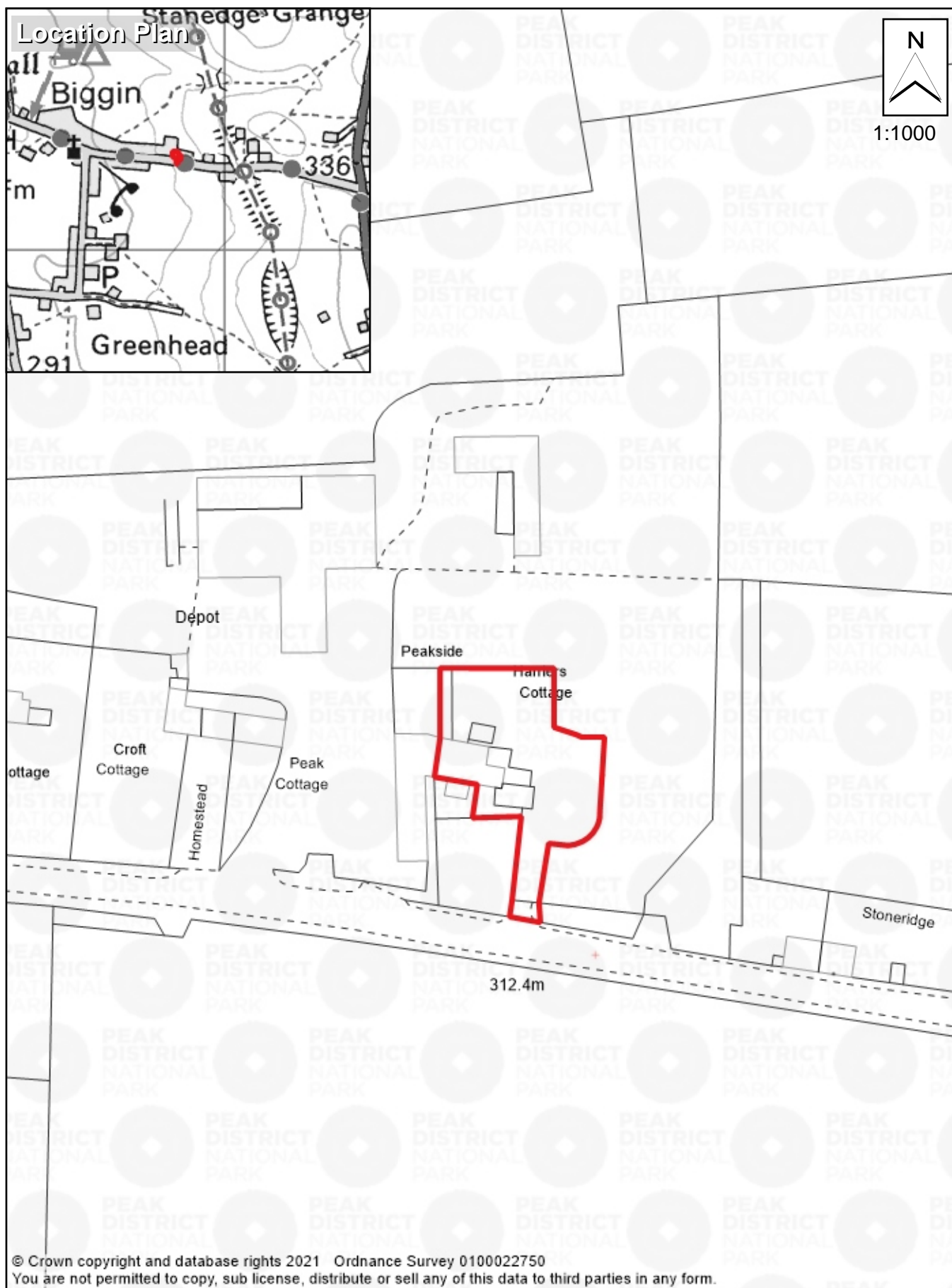
#### List of Background Papers (not previously published)

49. None

#### Report Author and Job Title

50. Mark Nuttall, Senior Planner

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Committee Date: 6th August 2021  
Item Number: Item 9  
Application No: NP/DDD/1220/1199  
Grid Reference: 424671, 378923

**Title:** Harriers Cottage, Biggin



**PEAK  
DISTRICT  
NATIONAL  
PARK**

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**10. FULL APPLICATION - FULL REFURBISHMENT AND REMODELLING OF THE BRUNTS BARN CENTRE, INCLUSIVE OF INSTALLATION OF ADDITIONAL WINDOW FOR AN ACCESSIBLE BEDROOM; INSTALLATION OF AIR SOURCE HEAT PUMP AND RECONFIGURING THE ROOF LIGHTS. THIS APPLICATION IS ESSENTIAL TO IMPROVE ACCESSIBILITY AND SAFEGUARDING IN THE CENTRE AND OPTIMISE USE OF THE EXISTING SPACE AT BRUNTS BARN CENTRE, UNNAMED ROAD FROM STATION ROAD WESTWARDS TO TRACK LEADING TO A6187, UPPER PADLEY, GRINDLEFORD (NP/DDD/1220/1199 SPW)**

**APPLICANT: Peak District National Park Authority**

**Summary**

1. A range of internal and external works are proposed to Brunts Barn to improve the accessibility and safeguarding available at the centre. There have been both heritage and ecological issues arise during the course of the application which have been resolved via submission of amended plans, suggested conditions and via submission of further survey work for protected species as well as issues around whether the proposal is an intensification of the use and could therefore increase the need for parking and traffic to the site. The scheme is now considered to accord with both local and national planning policies.

**Site and Surroundings**

2. Brunts Barn Centre is located in Upper Padley within the designated Conservation Area, the building is not listed and there are not any listed buildings on the site. The building is constructed of natural gritstone, its roof is clad with a mix of natural blue slate and corrugated sheets. The section with the corrugated sheets is the eastern section, providing the workshop. The south east facing roofslope is peppered with rooflights the north west facing roofslope only has one.
3. Immediately to the north of the site there is Padley Chapel which is a Grade 1 listed building. To the east there is another listed building, Padley Manor Farm, this is a Grade 2 listed building.
4. Padley Chapel also sits within an area designated as a scheduled monument, this relates to Padley Hall a medieval great house.
5. The application site is open to public view from the adjacent track, which has a public right of way. It is also open to view in the wider landscape.

**Proposal**

6. This proposal is for the external alterations to the building, there is no change of use proposed and as submitted there was also a bin store however no detailed plans of this were submitted until after the consultation periods so the bin store has been omitted from the scheme.
7. Internal works are also shown and these facilitate the separation of the accommodation from the meeting rooms for safeguarding reasons and also provide some accessible accommodation. These however are not considered to be development.
8. The internal works show that there would be 1 accessible single bedroom on the ground floor and 11 beds on the first floor dispersed over 6 bedrooms.

9. Specifically the external alterations include –

- Removing all the external rooflights and replacing them with three rooflights to the Southeast facing elevation and two rooflights to the Northwest elevation.
- A new window opening to the Northwest elevation
- Three replacement windows to the southwest facing elevation, providing double glazing.
- Alterations of the external level to grade the tarmac surface so that it provides a level access into the doorway on the northwest facing elevation.
- Positioning two air source heat pumps in the existing bin store enclosure and reducing the height of the rear wall including rebuilding that rear wall.
- The proposed bin store is now omitted as set out in the applicant's email of the 22/03/2021.

**10. Interior works include –**

- Stud partitions
- Inner glazing to dovecotes
- Alterations to doorway positions
- New doorway into meeting room
- Reinstating some original openings
- Widening of internal doorway
- Suspended floor in meeting room.

**RECOMMENDATION:**

**11. That the application be APPROVED subject to the following conditions -**

- 1. Standard time limit**
- 2. Development in complete accordance with the amended plans which were received by the Authority on the 19 March 2021 and amended planning statement received on the 19 March 2021 including plans 'P6187\_2020\_R\_05', 'P6187\_2020\_R\_02 RevA', 'P6187\_2020\_R\_02.1 REV A', 'P6187\_2020\_R\_04 REV A', '21001/SK 02', 'P6187\_2020\_R\_08', 'P6187\_2020\_R\_07', 'P6187\_2020\_R\_10', 'P6187\_2020\_R\_09', 'P6187\_2020R\_11 REV A', 'P6187\_2020\_R\_06 REV A', 'P6187\_2020\_R\_12' and specifications subject to the following conditions or modifications.**
- 3. Prior to installing any new external windows full details of all new external windows and doors, including the inner glazing to the ventilation slots ('dovecote'), shall be submitted to the Authority for approval in writing. Once approved the development shall not be carried out other than in complete accordance with the approved details.**



- 4. Prior to installing any external lighting full details of all external lighting, including exact position for each light, and details of the units to be installed, including finish, shall be submitted to the Authority for approval in writing. Once approved the development shall not be carried out other than in complete accordance with the approved details.**
- 5. 1. No development shall take place until a Written Scheme of Investigation for historic building recording and archaeological monitoring has been submitted to and approved by the National Park Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the National Park Authority. The scheme shall include an assessment of significance and research questions; and**
  - a. The programme and methodology of site investigation and recording;**
  - b. The programme for post investigation assessment;**
  - c. Provision to be made for analysis of the site investigation and recording;**
  - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation;**
  - e. Provision to be made for archive deposition of the analysis and records of the site investigation;**

**6) Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.**

**b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).**

**c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.**
- 6. The proposed new bin store shall be omitted from the scheme.**
- 7. Rooflights shall be conservation type and fitted flush with the existing roofslope.**

- 8. As shown on the approved plans the new rooflights hereby approved shall not be installed unless all existing rooflights have been removed in accordance with the approved plans.**
- 9. External works shall be timed to avoid the period May – September.**
- 10. The development shall not be carried out other than in complete accordance with the mitigation measures detailed at section 5.1.2 and 5.1.3 of the report ('Bat and Bird Presence / Absence Survey Report by Evolution Ecology Ltd May 2021 version 2), including pre-construction tool box talks and supervision of any works by a licensed ecologist in vicinity of roosts, to include any placement of scaffolding.**
- 11. There shall be no external lighting of the south western gable and north western elevation. Prior to installing any other external lighting full details shall be submitted to the Authority for approval in writing. This shall need to reduce the impacts on wildlife as outlines appendix C, pg37 of the submitted report ('Bat and Bird Presence / Absence Survey Report by Evolution Ecology Ltd May 2021 version 2).**
- 12. Prior to carrying out any repointing associated with the development a method statement shall be agreed. This shall identify areas of the building where supervision is needed by a bat ecologist as well as identifying suitable gaps that can be retained for potential future use by bats. Once agreed the development shall not be carried out other than in complete accordance with the agreed details.**
- 13. The bat box, 1FQ Schwegler Bat Roost shall be installed as shown at section 5.1.5 of the submitted bat report ('Bat and Bird Presence / Absence Survey Report by Evolution Ecology Ltd May 2021 version 2), and shall be permanently so maintained.**
- 14. Prior to commencing any works during the breeding bird period (Mid Feb- August inclusive) the affected areas shall be checked for active bird nesting activity by a suitably experienced ecologist. Where active bird nests are present, works in that area shall be postponed until birds fledge. Checks shall be undertaken immediately prior to works.**
- 15. Prior to the development commencing, specific measures shall be agreed with the Authority to provide future nesting opportunities for birds. Once agreed the development shall not be carried out other than in complete accordance with the agreed details.**

16. **Grasslands that are part of a regular mowing regime shall continue to be mown and kept short during development. Building materials shall be stored on existing hard surfaces on pallets or similar structures which lifts materials from direct storage on the ground.**
17. **Some rougher grassland/taller herb areas abut the southern and south eastern margins of the property. Where works would be required that affect these areas (including access points) a precautionary method statement shall be submitted to the Authority for approval in writing in advance of such works to mitigate any impacts on slow worms. Once agreed the development shall not be carried out other than in complete accordance with the method statement.**

#### **Advisory footnote**

**Works should be timed to avoid the main breeding bird season (mid-February to August inclusive). Note: Swallows have nested in the workshop in the past and can have late broods that extend beyond the end of August.**

#### **Key Issues**

12. The key issues are:
13. Design, impact on the character and appearance of the building and its setting including the designated Conservation Area, the nearby listed buildings and the Scheduled Monument. Does the proposal affect the significance of these heritage assets?
14. Potential traffic and parking issues from any potential intensification of the site.

#### **History**

15. In 1979 planning permission was granted for change of use of a barn to Ranger Briefing Centre and Base for Conservation Volunteers. Officer note that at this time the eastern section of the barn already had corrugated sheet roofing.
16. 2018 planning permission was granted to replace the corrugated sheets with corrugated fibre cement sheets, the subsequent discharge of conditions application agreed that this was a Marley Eternit 'profile 6' fibre cement sheet in 'Farmscape Anthracite'.
17. 2019 Pre application discussions have been carried out with the applicant, both PDNPA archaeologists and conservation officers were consulted on the proposals. The planning advice was as follows –
18. The use of the premises is currently a base for the Authority's ranger service and for volunteer accommodation, along with ancillary storage and workshop facility. The planning use of the premises is therefore what we call a 'Sui Generis' use being a use of the premises which does not fall into any of the other specified use classes in the

planning use class order. This therefore means a change to any other use would be a material change requiring planning permission. However although there is a mass of information in the enquiry it appears to my reading of it that the works largely relate to internal reorganisation and improvement for the same use and do not involve any change in the use.

19. The site is within the Conservation Area and close to the listed Chapel and farmhouse and the remains of the former manor house which are a scheduled monument.
20. There are no objections in principle to the use of the end space of the barn which is currently an unheated storage area ancillary to the principle use. Its change to a meeting room that is open all the way up to the roof is not a planning issue but does raise potential concerns about impact on below ground archaeology and the fabric of the building. The barn may actually be a listed building by virtue of being a curtilage building to the listed farmhouse or less likely? the former manor house/chapel. Determining this status is not easy and requires a detailed understanding of the buildings history. I have little detail of the history of the building and its association or otherwise with the listed building(s) nearby so I am unable to make that judgement. The Heritage assessment you are commissioning would need to consider this aspect and inform a decision on the curtilage listed status or not.
21. We note the proposed suspended timber floor for the meeting room but this description didn't fully tally with the plans. On the plans it showed a floor supported on new cross walls and strip foundations which is a concern from a heritage perspective as the new foundations could adversely impact upon the interest of any existing (original?) floor in the barn and any below ground interest. Whilst a floor supported on non-invasive pads overlaid onto the existing floor would preserve any in-situ floor and any archaeological interests, this may not be necessary depending on what is actually there in terms of the floor/below ground interest. At this stage however, we can't say until the full building appraisal and heritage impact assessment has been carried out to inform what might be in or under the floor, what its significance is and how it might be affected by the proposed work. Clearly the detail of your scheme will be informed by the report when it is published so until then we cannot comment further on but I hope you can understand the concern on this aspect so far. If the building is listed then Listed building Consent would be required for the floor alterations.
22. Another concern, again from a heritage perspective is the proposed infilling of the 'ventilation slots' in the gable end of the proposed meeting room. We note the louvered style vents proposed but these are quite intrusive. Normally such openings are glazed with a simple small frame inset into the reveal quite deeply so from both sides the opening looks like an unaltered vent 'slot'. I would prefer to see these dealt with this way rather than the vents grills approach on the plans. Again the heritage expert report will advise on this and if it is listed then Listed Building Consent will be required for the vents as an alteration to the building.
23. Given most of the internal barn work relates to new/altered stud partitions or the removal of later blockwork to reorder the same accommodation we would have no objections, especially as the original fabric will remain unaltered. It appears that at least one original roof truss remains and so we are concerned to ensure that in any application this(se) remain unharmed, otherwise any alteration may require Listed Building Consent as explained above.
24. The work to the modern attached shed to reorder the internal layout raises no concerns or planning issues. None of the plans show any works to the external areas which would otherwise be a concern from an archaeological perspective. Please ensure if they are any external works for new paths or services perhaps are covered by the heritage report which should assess the impact of all works upon the significance of the

building and its environment including the setting of the listed chapel and the scheduled monument.

25. In summary therefore as the use appears to be the same as existing with only a slight change to layout and bed numbers it would appear that no change of use would be involved. Planning permission would however be required for the new rooflights which would be an external alteration to the barns appearance but with the use of more appropriate replica conservation rooflights (NOT Velux conservation style ones) this should be beneficial and capable of being an enhancement. Listed Building Consent may be required for the physical alterations to the building (both inside and the rooflights) IF it were considered to be a curtilage listed building.
26. Finally the end of the barn would be a likely home to protected species such as bats so an ecological assessment should be obtained before any work and would be a requirement in any case to accompany any planning application affecting the roof or walling fabric of the building.
27. I hope the above advice is useful and would be happy to discuss further, most likely once the heritage report I am aware you have commissioned is received as then we can conclude on the key issue of whether it is a curtilage listed building and the consequent need for any requirement for Listed Building Consent.

### **Consultations**

#### **28. Amended plans have been received so in some cases there are two responses.**

29. **Derbyshire County Council Highways** – No highway safety objections in principle in view of the existing use and scale. No doubt you will ensure that an adequate level of off-street parking is provided, in line with your Authority's standards.

23 April 2021 I refer to the above-mentioned planning application, details of which were referred to this Authority on 4<sup>th</sup> April 2021 for further consideration, following additional information being submitted after the Highway Authority's initial comments.

From the application form it is noted that the site has a mixed extant use consisting of a base for Peak District National Park Authority Rangers and volunteers, an activity centre with dormitories (12 beds) and workshop for the rangers equipment and vehicles.

It is noted in the Planning Statement that there is no significant change to the property use. However, it is noted that a meeting room is proposed, that 'would provide opportunities for collaborations with the Dioceses of Sheffield and Hallam'. There are concerns that the above has the potential to result in an intensification in use of the site.

Access to the site is via an existing narrow track that is limited to single width which also carries a public right of way (Footpath 51 in the Parish of Grindleford). The Highway Authority would not wish to see a material increase in traffic generation associated with the site, given the limited width and potential conflict between vehicles and pedestrians.

It should be noted that the applicant has not shown the site connecting to the public highway and it is assumed that you are satisfied that the applicant has control/ownership over the track from the publicly maintainable highway to the site. Should this not be the case please inform me.

In terms of parking, it is not proposed to increase parking provision over the 6 existing spaces within the site. It should be noted that such spaces have not been demonstrated as part of the submission. I trust you will satisfy yourself that the level of parking provision is acceptable, with the nearest public parking being approximately 600m, south of Grindleford Station.

Clarification is sought regarding the intended use of the meeting room. Whilst its scale is relatively modest, its use has the potential to generate an increase in vehicular activity associated with site.

Subject to the above and on the basis that use of the residential institution, office space and workshop will not change in terms of their extant use as part of the refurbishment and remodelling, it is considered unlikely that the Highway Authority would be in a position to sustain an objection to the application, in view of the sites existing scale and use.

30. **Grindleford Parish Council** – Concern was expressed that the plans indicate a significant intensification of use, and with the partnership with Hallam Diocese there will be a greater number of people using Brunt's Barn. This could result in the existing parking provision for 6 vehicles being inadequate. The only alternative parking is more than 600 metres away at Grindleford Station pay and display.

A further concern is that the development will lead to a deterioration in the condition of the unmade track which serves as access to Brunt's Barn. The cost of maintaining this track is paid for by the residents of Upper Padley. A condition of any consent should be that the applicant makes a significant annual contribution (financial or in kind) to the ongoing maintenance of the track.

2<sup>nd</sup> response 02/05/2021 Grindleford Parish Council would like to make clear that there are important issues to be addressed before any planning permission approval is given to this project.

Cllrs and Grindleford residents very much appreciate that they live in a National Park which should be shared by all, and in that respect fully support the idea of making better use of Brunt's Barn for visitors, especially when it is for educational purposes.

The key issue in question is the access road to the Barn. It is a private road and bridge maintained by residents, and is already a difficult and expensive overhead as it services a number of houses and there is considerable wear and tear. It is only a single-track lane and has no passing places, its principal purpose is to allow access for the residents and of course emergency vehicles, Brunt's Barn is secondary to that.

The current limited parking is already filled to capacity by residents' own vehicles. Therefore, before we can support this application, we need to see answers to some of the concerns raised by the local residents.

What is the anticipated increase in traffic levels as a result of opening up the Barn to additional users?

Where are these additional vehicles going to be accommodated?

Are Brunt's Barn willing to enter into discussions about paying for the maintenance of the lane?

31. **Derbyshire Dales District Council** – No response to date

32. **Natural England** – No objection; 9<sup>th</sup> April No Objection.

33. **Peak District National Park Authority Archaeology** – 26/02/2021 -Object- Detailed comments are available on the electronic file. But the recommendation as submitted was that -

**The proposed development must conserve and sustain the significance and heritage values of the heritage assets.**

NPPF para 190 requires Local Planning Authorities to avoid or minimise any conflict between the conservation of a heritage asset and any aspect of a development proposal. **Therefore, in the first instance I recommend that these concerns are addressed, and the scheme revised in order to minimise conflict between the conservation of the heritage assets and aspects of the proposed development. I would welcome the opportunity to provide further comments on any revised proposals.**

Following meeting with the applicants amended plans were submitted. Detailed comment on the amended plans were received on the 23/03/2021 and are available in full on the electronic file, the recommendation was as follows –

Should the planning balance be favourable I recommend that the minor harm identified is mitigated by a conditioned scheme of building recording and archaeological monitoring. This should build on and not duplicate the information in the Heritage Statement. It needs to include:

- i. A photographic and descriptive record of the historic fabric at the location of the new window and doorway.
- ii. Photographic and descriptive record of the currently unconverted storage bay.
- iii. Archaeological monitoring of the ground disturbance required for the installation of the new floor.

I also recommend that it includes additional recording where the removal of fixtures, fittings, floor and wall finishes from the existing converted areas of the barn allow. These changes themselves will not result in harm to the significance of the building but may reveal currently concealed evidence for the barn's date and function and this presents the National Park Authority, as the responsible owner of a heritage asset, with an opportunity to investigate and record such remains and features to better understand the history and development of the building.

This work needs to be carried out by a suitably qualified and experienced heritage/archaeological contractor in accordance with the nationally agreed standards of the Chartered Institute for Archaeologists, and to a written scheme of investigation approved by the Senior Conservation Archaeologist. These recommendations are in accordance with NPPF para 199, and a suitable condition to achieve this is suggested below.

34. **Peak District National Park Authority Built Environment** – 02/03/2021 (full detailed comments are available on the electronic file) comments on scheme as submitted in summary - At present, insufficient information has been provided, some proposed alterations have not been addressed with the Heritage Statement and some proposals are unacceptable. At this stage, therefore, I would not support an approval.

Following meeting with the applicant comments on the amended plans are that provided as suggested the bin store is now omitted then The revised Planning Supporting Statement and the amended plans received on 19/03/2021 are acceptable, subject to conditions.

35. **PDNPA Ecology** – 22/01/2021 Further survey work is required as set out in the

submitted protected species survey.

2<sup>nd</sup> response 29/06/2021 Full response is on the electronic file a summary is below.

A common pipistrelle roost associated with the 'dove cotes' was identified during a survey undertaken at the end of the survey season in 2020. Further activity surveys have been undertaken confirming the original roost site as well as an additional roost located along the wall plate of the north western elevation.

Both roosts are considered to be satellites to suspected pipistrelle maternity roosts located in the adjacent chapel. The number of bats associated with satellite roosts can fluctuate at different times of the year. The proposed works need to consider impacts associated with Brunts Barn itself as well as on suspected maternity roosts in the adjacent Chapel. For example disturbance impacts during construction works and any lighting proposals.

Bats are sensitive to light pollution and the roosts at the development site are connected with maternity roosts at the adjacent chapel. The proximity of the chapel roosts can be seen below. Any new lighting needs to be carefully considered. There is also an opportunity to review existing lighting to minimise and reduce light disturbance impacts.

Conditions and advisory notes have been suggested to ensure no harm and provide adequate mitigation and some enhancement this includes bats, birds and slow worms. Subject to these conditions there is no objection.

### **Representations**

36. Representations from 11 parties have been received 10 are in objection 1 is in support.

### **Objection is raised on the following grounds –**

- Concern there may be a change of use.
- Concern there could be an increase in pedestrian and vehicular traffic eg if classes of children were brought to the barn.
- What about the upkeep of the access road.
- All parking of visitor's vehicles should be restricted to the area within the boundary of Brunts Barn's land to avoid parking on the approach road or other peoples land. There has already been nuisance parking.
- Concern over increase in traffic over the bridge and what construction traffic there will be.
- Parking at the Barn is often already fully taken up.
- Concern over the noise from the air source heat pumps as they will likely be running most of the time.
- Concern over the land shown in ownership of the applicant not being correct.
- Collaborating with Padley Chapel and its diocese will greatly increase traffic.
- Erosion to the track.
- Concern over the behaviour of overnight residents to the barn.
- Will spoil a quite hamlet.



- State a legal agreement is required to ensure the applicant makes regular payments towards the upkeep of the private access road.
- Application should not have been validated as it does not include in the site area the land upto the nearest publically maintainable highway.
- The lighting plan shows external lights, which are a problem in national parks. Concern over the colour and brightness of the lights as well as control requesting they are controlled by PIR sensors.
- Not sensitive to the historical significance of the setting of the Grade 1 listed Padley Martyr's Chapel in in the heart of the Conservation Area.
- Double glazing should not be installed on the barn as a replacement for the current single glazing.
- Far too many rooflights proposed and the description eludes that there would only be 1.
- A caged bin and recycling facility next to the footpath does not seem appropriate as it would be visible in the setting of the barn and the grade 1 listed chapel.
- Intensification would affect the tranquillity and quite enjoyment of the area.

**Support is raised on the following grounds –**

- Will enable the continuation of hosting small groups of volunteers to experience an enjoy conservation working the peak district.
37. *Officer's comment that most of these issues are dealt with in the body of the report. Issues of right of access and responsibility for maintenance of the track are legal matters rather than ones directly associated to the planning application. Planning conditions have been suggested which require the external lighting to be agreed including to ensure there is no adverse impact on bats and the applicants have confirmed that the lighting shown is on PIRs and pointing downwards so this should address the concerns raised over light pollution. Concerns raised about a potential change of use are relevant but no change of use has been applied for in this application just operational development, and this also links to any concerns about parking provision as the internal works alone are not development in their own right and there is no extension to the existing facilities just reconfiguration and improvement. If at some point a change of use does occur then planning permission would be required for such a change of use, but as submitted the applicants intentions are to work within the scope of the existing permissions as a base for the Authority's ranger service and for volunteer accommodation, along with ancillary storage and workshop facility. Similarly any extensions would also require planning permission.*

**Main Policies**

38. Relevant Core Strategy policies: GSP1, GSP2, GSP3, GSP4, L1, L2, L3, CC1, CC2.
39. Relevant Development Management policies: DMC3, DMC4, DMC5, DMC6, DMC7, DMC8, DMC11, DMC12, DMC14.

### National Planning Policy Framework

40. The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect, the revised version was published in July 2021. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and the Development Management Policies 2019. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and Government guidance in the NPPF.
41. Para 176 of the NPPF states that 'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.'
42. Para 194 In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation
43. Para 197 In determining applications, local planning authorities should take account of:
  - a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.
44. Para 199 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
45. Para 202 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
46. Para 203 The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

47. Para 180 When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

### Core Strategy

48. Policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GPS1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.

49. Policy GSP2 says that opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon, and opportunities will be taken to enhance the National Park by the treatment or removal of undesirable features or buildings.

50. Policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.

51. Policy L1 identifies that development must conserve and enhance valued landscape character and valued characteristics, and other than in exceptional circumstances, proposals in the Natural Zone will not be permitted.

52. L3 deals with heritage assets including Conservation Areas, the setting of listed buildings and Scheduled Monuments and requires that development must conserve and where appropriate enhance or reveal the significance of the heritage assets and their settings. Other than in exceptional circumstances development is not permitted that is likely harm the significance of a heritage asset.

### Development Management Policies

53. In summary the development management policies require a high standard of design in accordance with the SPD 'the Design Guide' including ensuring amenity is not harmed (DMC3), they require a heritage assets significance to be identified and conserved or enhanced (DMC5), development that harmed the setting of a listed building would not be permitted (DMC7), and development needs to conserve and enhance the character and appearance and setting of a Conservation Area (DMC8).

### **Assessment**

54. Brunts Barn is not a listed building but is a non-designated heritage asset of historic and vernacular merit and contributes positively to the character and appearance of the Conservation Area and also the setting of the adjacent Grade 1 listed building Padley Chapel and the Scheduled Monument.
55. No change of use has been proposed in this application and the plans and design and access statement show that the use will remain the same, a mixed use, providing a rangers station with workshop and accommodation for volunteers.
56. As submitted there were some issues with the scheme. On the external works the main issues were the insertion of numerous rooflights. Whilst the existing ones clearly provide an opportunity for enhancement officers didn't consider that the submitted scheme achieved that in a way which is appropriate to its significance as a non-designated heritage asset in the Conservation Area and within the setting of listed building and a scheduled monument. Officers considered it was also harmful to the northwest facing elevation which is open to public view from in front of the Grade 1 listed Padley Chapel. Following a meeting with the applicant the PDNPA Heritage Team (including Conservation Officers and Archaeologists) have been able to agree a scheme which will achieve an appropriate enhancement and won't harm the character and appearance of the building or its setting.
57. Externally there is also the insertion of a new window to provide natural light into an accessible bedroom. We consider that whilst there is some impact on the significance of the building by inserting a new opening this is one that is outweighed by the public benefit of providing an accessible bedroom that will be available to volunteers with such needs. Three replacement windows are also proposed. Our conservation officers have sought planning conditions to agree the details of all new windows and with such a condition we can ensure that the detail is appropriate. And the harm from inserting the new window can be mitigated via an archaeological condition which records this and other archaeological interest in the building via agreeing a Written Scheme of Investigation.
58. The changes to the levels to provide a level access into the building is just some minor regrading of an existing tarmac surface and is acceptable and won't have any impact on significance.
59. The bin store has been omitted as the details have not been included in the public consultation and those that were received were not considered to be acceptable to PDNPA Planning, Conservation or Archaeology Officers.
60. The air source heat pumps (ASHP) will be well hidden from immediate public view by utilising the existing stone built bin stores. The reduction in the height of those walls will not have a significant impact on character appearance or significance of the building. The site is some significant distance from the nearest dwelling and there is also a significant change in levels between the proposed air source heat pumps and the nearest dwelling, therefore any noise from the air source heat pumps will not be significant.
61. These units are generally comparable to the noise generated by standard air conditioning units. The installer has explained that the specific unit proposed the noise they generate is 61db but it reduces over distance as follows at 2m it is 47db, at 6m 37.5db and at 10m 33db. These figures are based on there being a single unit, and two are proposed here so this will increase the impact and Officers have requested details of this from the installer. They have explained that for each of the figures quoted to add 3db, for example at 10m it would be 36db.

62. A loudness comparison chart has been used to compare these stated levels of sound and at 10m a noise level of 36db is comparable to a whisper quite library, which is said to be approximately 30db. For reference normal conversation is a level of approximately 60-65db.
63. The nearest dwellings boundary is approximately 25m to the north of the site (Padley Chapel Bungalow) and there is a change in levels with the air source heat pumps being on lower ground. The next nearest is Padley Manor Farm, its boundary is approximately 45m to the north east of the site. It also needs to be considered that there will still be the stone wall of the bin store between these properties and ASHP. Considering these factors we do not consider that the impact of noise from the proposed air source heat pumps would be significant enough to harm the amenity of these nearby properties.
64. The nearby track which carries a public right of way is approximately 15m from the ASHP also with a change in levels it will not affect the tranquillity of this footpath for its users. Essentially we consider that if the noise is present off site it would not be intrusive and therefore no further measures are required to mitigate its impact. The Air Source Heat Pumps will comply with our core strategy policies CC1 and CC2 and the relevant SPD.
65. In general, externally the changes in the amended scheme offer an enhancement to the character and appearance of the building and its setting including the designated heritage assets, and should be accepted.
66. The internal changes have been scrutinised by our conservation and archaeological officers, as submitted there were issues but based on the amended scheme these are accepted subject to conditions. One of the conditions includes a pre-condition to submit and agree a programme of archaeological works via a Written Scheme of Investigation. Such pre conditions need the applicants to agree to them being imposed. The applicants have accepted the suggested pre condition.

#### Highways

67. The representations and consultation responses have expressed concern over a potential intensification of the site and the access and parking available to the site. The Highway Authority have sought some assurance on these matters but if satisfied raise not objections.
68. Therefore further information on these matters has been requested of the applicant who believe that there was no intensification suggested in the submitted statements, nor one intended, and therefore there is no additional parking shown. They explain the only capacity increase shown is 2 bedspaces. And that there is no intention to increase the numbers of people using the barn, only to increase the diversity of the groups that can visit. From a planning perspective given the existing use of the site this is not considered to be a material intensification nor one which would raise any concerns over access or parking.
69. The applicants have advised that the purpose of the application is to make the site fit for its existing purposes by bringing it up to current standards including fire safety and for safeguarding of various groups of volunteers for example ones where gender groups need to be accommodated separately and/or away from the other functions of the site. Or where for example group leads needs to be accommodated separately. And to increase the accessibility of the site with provision of accessible bedroom and washing facilities.

70. The applicant also believes they have right of access across the bridge and along the road to Brunts Barn for the permitted uses of the site as a volunteer and ranger base.
71. Therefore we consider that these matters are adequately addressed and the proposal will not intensify the use or increase the need for parking on the site.

### Protected Species

72. Core Strategy Policy L2, Development Management Policy DMC11 and DMC12 together require that development must conserve and enhance any sites, features or species of wildlife, geological or geomorphical importance. DMC11 amongst other things states that development will not be permitted unless adequate information is provided about its likely impact on the special interests of a site.
73. The submitted protected species survey found that further survey work would be required, our ecologists confirmed that this is needed, and this further survey has now been carried out whilst this application has been live.
74. Bats and birds have been found to be using the site and a range of mitigation measures are proposed in the report to ensure they would not be harmed, these include timing of the works, talkbox toolkit, ensuring that roost entrance are not obstructed by scaffold and not repointing the dove cote hole. There are recommendations in the report for mitigation. Our ecologists have scrutinised the report and agree with the mitigation but require further conditions to safeguard and mitigate the impact on bats, birds and slow worms. Therefore we consider that planning conditions and informative as set out in our ecologists final response of 29/06/2021 which combines the recommendation of the applicants submitted protected species survey and goes further, can ensure that protected species and the biodiversity of the site are not harmed and that the impact is appropriately mitigated. With these measures we consider that the proposal is in accordance with both local and national planning policy insofar as it relates to protected species and biodiversity.

### Conclusion

75. Subject to conditions the amended plans are acceptable and will enhance the building and its setting and make it more accessible and enable adequate safeguarding for groups of volunteers and also introduce low carbon and renewable energy use to the site. The proposal is therefore considered to be in accordance with the policies of the development plan and should therefore be approved.

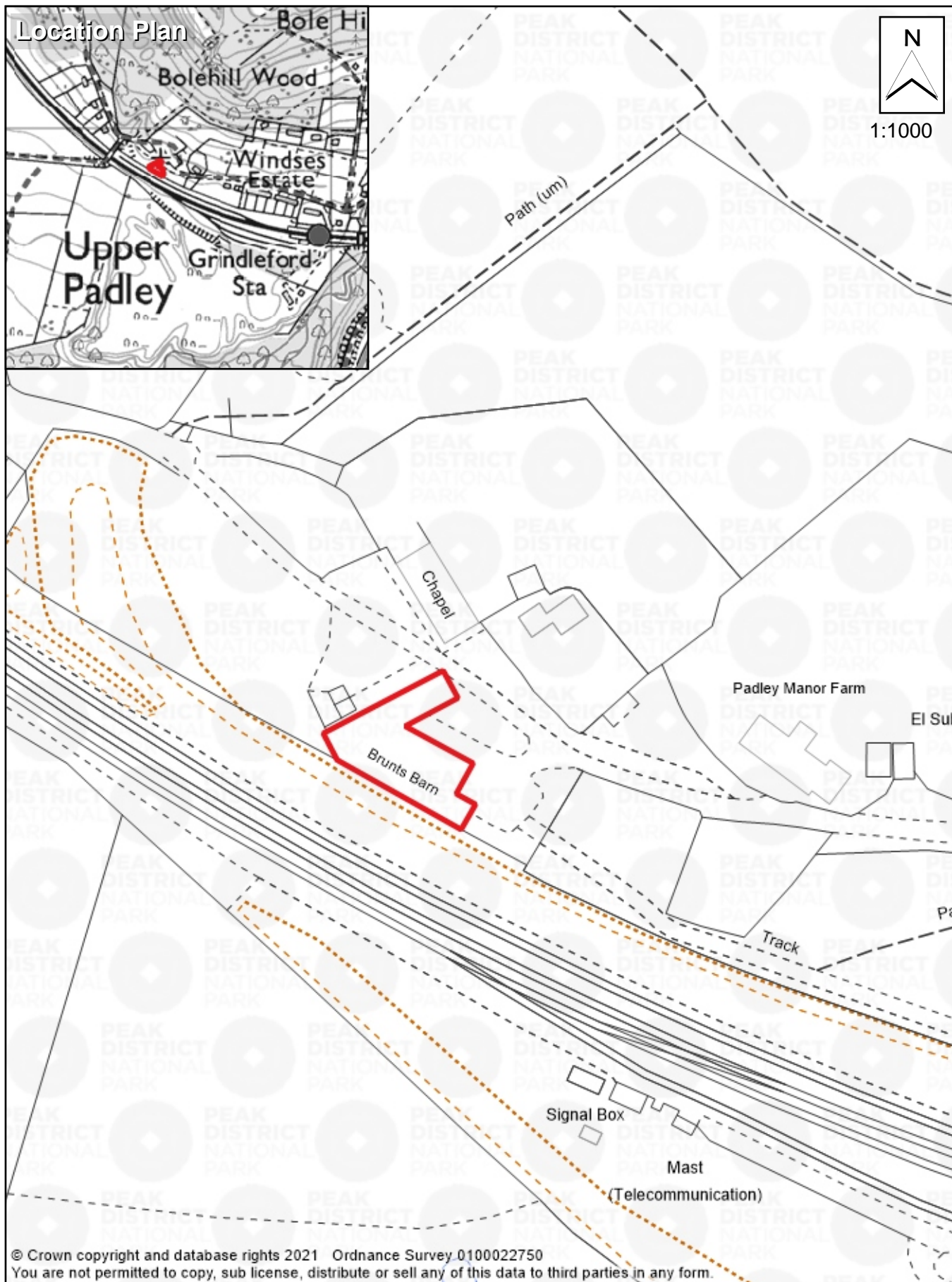
### Human Rights

76. Any human rights issues have been considered and addressed in the preparation of this report.

### List of Background Papers (not previously published)

Nil

77. Planning Officer – Steven Wigglesworth, Planner



Committee Date: 6th August 2021  
Item Number: Item10  
Application No: NP/DDD/1220/1199  
Grid Reference: 424671, 378923

**Title:** Brunt's Barn Centre,  
Upper Padley



**PEAK  
DISTRICT  
NATIONAL  
PARK**

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**11. FULL APPLICATION - PROPOSED MANEGE, PEAR TREE COTTAGE MAIN STREET CALVER. (NP/DDD/0321/0241, BJT)**

**APPLICANT:** Mr and Mrs Clayton

**Summary**

1. This application proposes the construction of a horse exercise manege for the private use of the owners of Pear Tree Cottage. The manege would be located in a well screened location and would not have a harmful impact on the character of the site and its setting, including Calver Conservation Area. There are no other concerns about the impact of the development, including the potential impact on drainage in the area. Consequently, the application is recommended for approval, subject to conditions.

**Site and Surroundings**

2. Pear Tree Cottage is a traditional two storey dwelling set hard up against the road off Main Street, Calver. A stone built stable is located to the rear of the property. Pedestrian and vehicular access is directly off Main Road along an unmade track. The track also serves other properties, in particular Woodland Cottage and Well Green Cottage. At the end of the track and beyond the rear garden boundary of the property, is a field gate accessing land owned by the applicant. The property and part of the land associated with the development is located within the Calver Conservation Area.

**Proposal**

3. Construction of a horse exercise manege, 40 metres by 20 metres. The manege would be used by the applicants, who own the property and live in Pear Tree Cottage. The supporting letters states that they require the manege to train and exercise the horses. It is for their private use only. The manege is to be surfaced with 'Flexiride' an all-weather grey coloured synthetic material. An existing stone wall adjacent to the proposed manege is to be removed. The existing track is only to be used for access by horses to the manege.
4. A limestone gabion wall would be erected as a retaining wall in the south-west corner of the site where the manege would be cut into the slope, with nearly a 2 metre difference in levels. The north-east corner would be roughly at ground level.

**Planning History**

- 2013: NP/DDD/0813/0712 - Extension and alterations to dwelling. Approved
- 2014: NP/DDD/0214/0106 - Erection of stables. Approved
- 2019: NP/DDD/0519/0483 Demolition of existing garage and erection of double garage with store. Approved
- 2019: NP/DDD/0519/0470 - Change of use of agricultural land for proposed manege and access track. Withdrawn following concerns over the proposed access track. The planning officer advised that there were no objections in principle to the manege but suggested that a visual impact study should be carried out.
- 2020: NP/DDD/0120/0096 - Proposed replacement store and change of use of agricultural land. Withdrawn

**RECOMMENDATION:**

**That the application be APPROVED subject to the following conditions:**

- 1) **Statutory time limit for implementation**
- 2) **Development in accordance with the submitted plans and specifications, subject to the following conditions:**
- 3) **Submit sample/specifications of material to be used for surfacing**
- 4) **Carry out landscaping scheme within first planting season following commencement of the development**
- 5) **There shall be no new floodlighting or other external lighting whatsoever to the existing manège and to the extension hereby approved.**
- 6) **Use of the manège hereby permitted shall remain ancillary to Pear Tree Cottage for private use only by the occupants of Pear Tree Cottage.**
- 7) **At the time of erection the new fencing (and the existing fencing) shall be painted or stained dark brown.**
- 8) **Ecology conditions**

### **Key Issues**

- Impact of the manège on the character and appearance of the site and the Conservation Area.
- Impact on the privacy and amenity of neighbouring properties.
- Impact on flooding.

### **Consultations**

5. **Highway Authority:** Please see highway comments in connection with previous similar application at this site, under application reference NP/DDD/0519/0470.
6. **DCC Flood Risk:** As this is a minor application we will not be making a comment.
7. **District Council:** No reply
8. **Parish Council:** No reply
9. **Natural England:** No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on protected landscapes and has no objection.
10. **Environment Agency:** The site lies fully within flood zone 1 and therefore we have no fluvial flood risk concerns associated with the site. There are also no other environmental constraints associated with the site and therefore we have no further comment to make.
11. **Senior Archaeologist (PDNPA):** I have reviewed the application and the revised proposals, which remove the proposed access track arrangement from the earlier application, which is the element that impacted upon a historic building and the site of a possible historic mill pond, and I confirm that there are no archaeological comments on the revised proposals in this application
12. **Built Environment Officer (PDNPA):** The manège is much larger than that proposed on the previous (withdrawn) application (0519-0470). The HS states that it will not be visible from within the Calver Conservation Area (CA) or in views towards to CA (so will not impact on the setting of the designated heritage asset). However, a section of drystone boundary wall forming the southern boundary to the Calver Conservation Area is to be removed – it's not clear why this is to be removed (it was retained in the previous scheme). The boundary walling should be retained if possible.

If approved, the following details should be conditioned: • Groundworks • The gabion

retaining wall and any associated planting • Fencing • Landscaping • Lighting would not be acceptable

13. **Tree Officer (PDNPA):** No objection, subject to conditions. The proposed development will result in the loss of two Category 'C' ash trees, one semi-mature and one early-mature. It may also result in possible damage to a mature Category 'C' hawthorn hedgerow tree. Three 'Standard' oak trees will be planted to mitigate the loss of the two ash trees and possible damage to the hawthorn tree. This is considered to be an acceptable mitigation for the negative impact of the development on canopy cover and trees on site.
14. **Ecology (PDNPA):** No objection subject to conditions. There are two ash trees, a drystone wall and possibly a small amount of grassland / scrub to be removed from the proposed manege site which may possibly have some significance with regard to Great Crested Newts (GCN) and nesting birds. The proposed works need to be undertaken between late spring to early autumn when any potential GCN in the area are most likely to be using the ponds and terrestrial habitat near to them and less likely to be using any habitat around the proposed manege. When the site is cleared the drystone wall and any features likely to be sheltering newts need to be carefully dismantled and checked to avoid crushing any that may be sheltering inside. Work associated with this removal needs to be completed within one or two days. Any GCN found during works must be carefully placed in a sheltered location within vegetation and Natural England should be contacted immediately.

### **Representations**

A total of 11 objections have been received, objection on the following grounds (full responses are available on the web site):

- Increased flood risk: Existing soughs/tunnels are becoming increasingly inadequate in the face of increased rainfall. The safeguarding of dwellings in Well Green and Brookfield's estate from surface water flooding is in question. Concerned about the potential flooding hazard to properties downstream towards the river, should present drainage be disturbed. The tree survey specifically states that no drainage works are planned. It may well be that such substantial earthworks and level changes will have a further adverse impact.
- New or re-development should adopt source control SuDS techniques to reduce the risk of frequent low impact flooding due to post-development runoff. at an early stage to ensure surface water management is undertaken and that SuDS are promoted and implemented, designed in response to site characteristics and policy factors. It should be demonstrated that a proposed drainage scheme, site layout and design will prevent properties from flooding from surface water, allowing for climate change effects
- Traffic and Parking - there is already a large lorry / horsebox permanently parked at the entrance to this field on land that does not belong to the applicants. Whilst the applicants state that the facility is for their own use, it may well be used by other horse owners resulting in more unacceptable and unsightly parking of vehicles.
- Consider that the area at the bottom of Main Street near to the Village Hall is a very attractive part of the village. The proposed development, if it is given permission, should be adequately screened from view from here by natural vegetation.
- Design: It is noted that the substantial excavation is to be retained by a Gabion wall. Whilst this is an economic method, it is unsightly and not appropriate in the heart of the Peak District.
- The use of Flexiride as a surface material for the manege. This is well recognised product; however, care does need to be taken regarding drainage in the construction of any such site.
- If this development were approved, it should be screened from view by appropriate

planting and a clear condition imposed that the use would be for the owners only to avoid increased traffic of other horse boxes on Main Street. There is already one-horse box parked permanently at the entrance to the site which is unsightly.

- The environmental impact of disturbing such a large area will be enormous and local wildlife and biodiversity will also be severely compromised.
- Lack of information or incorrect information in the application.

### **Key Policies**

15. The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. It was last updated in February 2019. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and those in the Development Management DPD adopted in May 2019. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.
16. Paragraph 172 of the NPPF states that *"great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas and should be given great weight in National Parks and the Broads."*

### **Development Plan**

17. The main Development Plan policies which are relevant to this proposal are: Core Strategy policies: GSP1, GSP2, GSP3, L1, L2, L3 and CC1 and Development Management policies: DMC3, DMC8, DMC14, DMR4.
18. Core Strategy policies GSP1, GSP2 and GSP3 together say that all development in the National Park must be consistent with the National Park's legal purposes and duty and that the Sandford Principle will be applied where there is conflict. Opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon and development which would enhance the valued characteristics of the National Park will be permitted. Particular attention will be paid to impact on the character and setting of buildings, siting, landscaping and building materials, design in accordance with the Design Guide and the impact upon living conditions of local communities. Core Strategy policy GSP4 highlights that the National Park Authority will consider using planning conditions or obligations to secure the achievement of its spatial outcomes.
19. Policy GSP3 *Development Management Principles* sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.
20. Core Strategy Policy L1 *Landscape character and valued characteristics* states that development must conserve and enhance valued landscape character and valued characteristics, and other than in exceptional circumstances, proposals in the Natural

Zone will not be permitted.

21. Core Strategy Policy L2 states that development must conserve and enhance any sites or features of geodiversity importance, and any sites, features or species of biodiversity importance and where appropriate their settings.
22. Core Strategy policy L3 provides core policy principles for cultural heritage assets and requires that all development conserves and where appropriate enhances or reveals the significance of archaeological, architectural, artistic or historic assets and their settings. Development will not be permitted where there is harm to the significance of a heritage asset other than in exceptional circumstances.
23. Policy CC1 *Climate change and mitigation* requires that all development must build in resilience to and mitigate the causes of climate change.
24. Development Management policies
25. Development Management policy DMC3: *Siting, design, layout and landscaping* requires development to be of a high standard that respects, protects, and where possible enhances the natural beauty, quality and visual amenity of the landscape, including the wildlife and cultural heritage that contribute to the distinctive sense of place. It also provides further detailed criteria to assess design and landscaping, as well as requiring development to conserve the amenity of other properties.
26. Development Management policy DMC12 *Sites, features or species of wildlife, geological or geomorphological importance* states:
  - A. For Internationally designated or candidate sites, or European Protected Species, the exceptional circumstances where development may be permitted are those where it can be demonstrated that the legislative provisions to protect such sites or species can be fully met.
  - B. For sites, features or species of national importance, exceptional circumstances are those where development is essential:
    - i. for the management of those sites, features or species; or
    - ii. for the conservation and enhancement of the National Park's valued characteristics; or
    - iii. where the benefits of the development at a site clearly outweigh the impacts on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs.
  - C. For all other sites, features and species, development will only be permitted where:
    - i. significant harm can be avoided and the conservation status of the population of the species or habitat concerned is maintained; and
    - ii. the need for, and the benefits of, the development in that location clearly outweigh any adverse effect.
27. Development Management policy DMC14 addresses pollution and disturbance. It states that development that presents a risk of pollution or disturbance including soil, air, light, water or noise pollution, or odour that could adversely affect any of the following interests will not be permitted unless adequate control measures are put in place to bring the pollution within acceptable limits:
  - i. the amenity of neighbours and neighbouring uses; or
  - ii. the amenity, tranquility, biodiversity or other valued characteristics of the area; or
  - iii. existing recreation activities; or
  - iv. extensive land uses such as forestry and agriculture; or
  - v. ecosystem services including water supply, groundwater resources and

- the water environment; or vi. established businesses; or
- vi. potential future uses of the land; or
- vii. any nuisance.

28. Policy DMR4 allows for facilities for the keeping and riding of horses provided that the developments specifically designed to accommodate horses; does not detract from the landscape or valued characteristics of the area, is located adjacent to existing building or groups of building, is not likely to cause road safety problem.

## **Assessment**

### **Principle of Development**

29. Development Management policy DMR4 allows for facilities for the keeping and riding horses in principle subject to a number of criteria. In this case, the main issues are the visual impact of the proposed manege extension and impact on the amenity of nearby residential properties.

### **Impact of the manege on the character and appearance of the site and the Conservation Area**

30. The application site is in an area of small fields and enclosures to the south of Pear Tree Cottage on Main Street Calver. The boundary of the application adjoins Calver Conservation Area. The manege would be sited in an area that is not readily visible from outside the site, even in longer distance views, because of the topography and screening. Whilst some of this may be removed as part of the development, additional planting is proposed. Although the manege looks relatively large on plan and will inevitably be an unnatural flat surface, the impact on the wider landscape setting would not be significant. This includes the impact from footpaths which cross the fields to the south of as the site is well screened from these and would sit in a hollow. The site would not be readily visible in views from the road running through Calver (Main Street) because it is set to the rear of existing trees and Pear Tree Cottage. The access track which was proposed to run through the open field from Main Street in the earlier, withdrawn, application has been omitted from this application.
31. In terms of the impact on the setting of the adjacent Conservation Area, this is assessed by the submitted Heritage Statement. The Conservation Area (CA), which lies immediately to the north of the site and analyses the impact of the development on its setting. The application site sits between the two CA character areas but is low lying and invisible in relation to views “into” and views “out of” the Conservation Area. The Heritage Statement concludes that to this extent the proposal will have no impact on character as described in the Area Appraisal It also notes that no designated buildings would be affected by the proposal. It acknowledges that the cluster of buildings identified around Well Green may be considered as “non designated” but are similarly unaffected due to natural topography and screening and will suffer no adverse visual impact on setting.
32. With regard to trees, a separate tree report has been submitted with the application. It states that two self-set ash trees are to be removed and are not large trees, and their loss to Ash Dieback disease would anyhow be very likely in the next few years. A hawthorn may be lost due to rooting area damage, though this is not certain - it may survive, and it will not be removed unless its condition deteriorates following the works. Three new sessile oaks are to be planted (*Quercus petraea*). The report also says that excavation for the gabion wall along the edge of the manege will in places be in close proximity to the base of the existing close-cropped semi-mature hawthorn hedge. The age and structure of this hedge is such that it will likely suffer little effect; any selective replanting if needed would be straightforward and satisfactory. Physical protection of the

relevant section of hedge during works is not practicable. Temporary tree protection fencing is specified where appropriate and practicable.

33. Subject to conditions, in particular to prevent any lighting and to implement a landscaping scheme, the proposal is considered to be acceptable.

### **Drainage Issues**

34. Neighbours have raised concerns about the potential for increased flooding in the area as a result of the construction of the menage. Whilst no drainage details have been provided, the surface of the menage would be a porous material. In addition the area is in Flood Risk zone 1, that is those areas at least risk of flooding. The Environment Agency has not objected to the application and DCC Flood Risk team have offered no comment as they consider this to be a minor application (see consultation responses above). Whilst the local representations clearly reflect a concern about existing flood problems (the area below the site is low lying and has a stream running through it), there are no planning grounds for refusal as it is unlikely that the proposed development would cause any unacceptable risk of increased flooding from surface water run-off.

### **Amenity issues**

35. Some of the representations received in respect of this application raise concerns about the impact of the use of the manege on neighbouring properties. The application says that vehicular and pedestrian access to the site is via the unadopted lane off Main Street and that only horses will use the field access now that the proposed track has been omitted. Some neighbours are concerned that the narrow lane serving the site and some adjacent properties cannot accommodate large commercial vehicles such as a horse box. They suggest that restrictions should be put in place in respect of the number, size and width of vehicles allowed to access via the unadopted lane. Given that this is currently the access to the site and the existing stables, officers consider that it would not be reasonable to impose these restrictions. However, it would be entirely reasonable and necessary to restrict the use of the manege to the personal use of the occupants of Pear Tree Cottage, as it suggested in the application.

### **Conclusion**

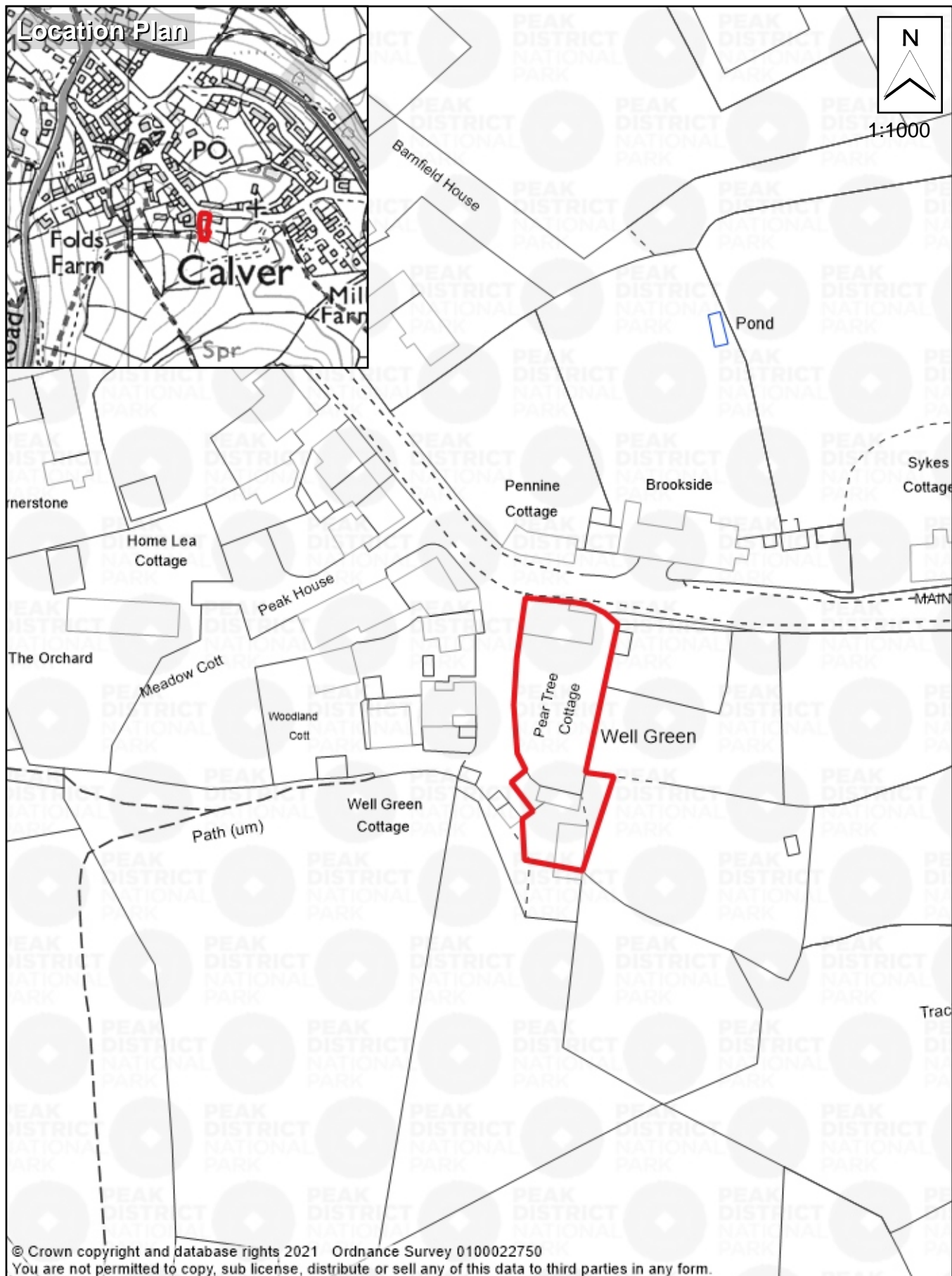
36. Subject to conditions including to ensure private use only that an adequate planting scheme is implemented in a timely manner and no external floodlighting is installed, the proposed development would conserve the character of the site and its setting, including Calver Conservation Area and would not cause harm to the privacy and amenity of the neighbouring residential properties in accordance with policies GSP3, L3, DMR4 and DMC3. Based on the advice received, it is also not likely to exacerbate any existing flood problems. Consequently the application is recommended for conditional approval.

### **Human Rights**

37. Any human rights issues have been considered and addressed in the preparation of this report.
38. List of Background Papers (not previously published)
39. Nil
40. Report author: Brian Taylor

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Committee Date: 6th August 2021  
Item Number: Item 11  
Application No: NP/DDD/0321/0241  
Grid Reference: 424139, 374483

**Title:** Pear Tree Cottage, Calver



**PEAK  
DISTRICT  
NATIONAL  
PARK**

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**12. BROSTERFIELD CAMPING AND CARAVAN SITE-DELEGATION TO HEAD OF PLANNING TO MAKE A DISCONTINUANCE ORDER UNDER SECTION 102 TOWN AND COUNTRY PLANNING ACT 1990 (“TCPA 1990”)**

**1. Purpose of the report**

To delegate to the Head of Planning authority to make a discontinuance order for Brosterfield caravan site, Foolow (“the site”).

**Key Issues**

- **To provide discretion as to when a discontinuance order is made in connection with sale of the site.**

**2. Recommendations**

- 1. That the Head of Planning in consultation with the Head of Finance and the Head of Law be authorised to make a discontinuance order for Brosterfield caravan site, Foolow.**

**How does this contribute to our policies and legal obligations?**

**3. Section 102 TCPA 1990 provides briefly and as relevant –**

“.... If, having regard to the development plan and to any other material considerations, it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity) –

- a) that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land;
- b) they may by order –
  - i. require the discontinuance of that use, or
  - ii. impose such conditions as may be specified in the order on the continuance of it, or
  - iii. ...

**4. The proposed discontinuance order will have the effect of imposing a new planning condition upon a 1998 permission, (NP/DDD/0497/156-Change of use of part of agricultural land to caravan site) (“the 1998 permission”), to replace condition 2. The proposed condition would allow touring caravans or tents only on the site by inserting a definition of a touring caravan thereby excluding static caravans as currently allowed**

**5. Existing condition 2 states:**

“The number of caravans and/or tents in the site on any day shall not exceed the following:

- a) Between 31 March (or Good Friday if earlier than 31 March) and 31 October inclusive-30 caravans and/or tents
- b) On Bank Holiday weekends (i.e. Thursday to Tuesday) between 31 March (or Good Friday if earlier than 31 March) and 31 October inclusive-50 caravans and/or tents.

c) Any other time-20 caravans and/or tents”.

6. The proposed condition would also restrict the period of occupation for any one caravan or tent for no more than 28 days in any calendar year. It would also restrict the total number of caravans or tents to no more than 20 except between 31st March or Good Friday, if earlier, and 31st October (all inclusive) when no more than 50 touring caravans or tents can be stationed on the site.
7. The proposed condition would control the on-going use of the Land in a way compatible with development plan policies. It ensures that camping and caravanning can be accommodated without harming the visual amenity of the local area or the scenic beauty of the National Park.

## **Background Information**

### **8. Site and Surroundings**

9. The site is located in open countryside, approximately 440 metres to the south of Foolow, Derbyshire. Access to it is from a track which runs along the southern boundary of the site and joins the Foolow – Howsley Road to the east. The track is used jointly with Brosterfield Farm and Brosterfield Hall. A public footpath runs along this track towards the south west. The land is owned by the Peak District National Park Authority (“the Authority”).
10. The site consists of two fields bounded by dry stone walls. A block of native trees and hedges has been planted along the eastern boundary of the westernmost field. There are a number of native trees and hedges planted along parts of the western and southern boundaries outside of the site along with a leylandi hedge.
11. For the purposes of the Authority’s adopted Landscape Strategy and Action Plan the site is located within the White Peak and specifically within the Limestone Village Farmlands landscape character type.
12. It was purchased by the Peak District National Park Authority with the specific intention of changing the 1998 permission to align it with development plan policies.

### **13. Relevant Planning History**

14. The 1998 permission was granted for change of use of part of agricultural land to caravan site. Planning permission was also granted in 2003 for the erection of amenity block to serve existing caravan park (ref NP/DDD/0203/070), however the 2003 permission was not implemented and has expired.
15. In 2011, a planning inspector issued a certificate of lawful use for unrestricted all year round occupation of 20 caravans falling within the statutory definition (see next paragraph i.e. to include ‘park’ homes) (ref APP/M9496/X/09/2105897).
16. The Inspector determined that there is no restriction on the type of caravan that can be sited, period of stay or purpose of occupation. The effect of the 1998 permission and the Inspector’s decision is that 20 residential caravans can be permanently sited on the site. This includes static caravans or any other structure that falls within the definition of a ‘twin-unit caravan’ as set out in the Caravan Sites Act 1968 Section 13. This conflicts with development plans policies as set out below.
17. In 2020, planning permission reference NP/DDD/1219/1272 for erection of amenity building with turning head, new vehicular access, landscaping and associated facilities

for camping and caravan site at Brosterfield Caravan Park, Foolow was granted. This planning permission is extant but has not been implemented.

**18. Justification For Discontinuance Order**

19. Core strategy policy HC1 says that provision for housing to meet open market demand will not be made within the National Park. Open market housing is only acceptable in exceptional circumstances within the National Park where it is required in order to achieve conservation or enhancement in accordance with HC1 C. There is no provision within housing policies for sites for permanent residential caravans.
20. The Authority's housing policies closely reflect paragraphs 54 and 55 of the National Planning Policy Framework (the Framework) which restricts the provision of new housing in the countryside unless there are special circumstances. The National Parks Circular (2010) also makes clear that government considers it inappropriate to set general housing targets within National Parks.
21. It is clear that the siting of 20 permanent residential caravans on the site would be wholly contrary to housing policies within the Development Plan and National Policies within the Framework because this would represent wholly unsustainable development.
22. Core Strategy Policy RT3 and saved Local Plan Policies LR3 and LR5 say that small touring camping and caravanning sites will be acceptable in principle provided that their use is restricted to holiday accommodation. RT3 specifically states that static caravans, chalets or lodges will not be permitted. These policies are consistent with paragraph 28 of the framework which supports sustainable rural tourism which conserves the valued characteristics of the National Park. The siting of static caravans or 'park' homes would be clearly contrary in principle to Core Strategy Policy RT3.
23. Core Strategy Policy L1 says that all development must conserve and enhance the landscape character of the National Park. This policy is consistent with paragraph 115 within the Framework which states that great weight should be given to conserving landscape and scenic beauty in National Parks.
24. The siting of up to 20 static caravans, chalets, 'park' homes or similar structures upon the site would also have a considerable impact upon the character of it. They would have a visual impact on the public views from nearby footpaths and highways and in the wider landscape where the larger size of static caravans or 'park' homes and formal layout typically found on these types of sites would be obvious and would draw attention to the site.
25. It is clear that the siting of 20 permanent residential caravans on the site would be contrary to conservation, recreation and tourism policies within the Development Plan. The siting of 20 static caravans, chalets or 'park' homes falling within the definition of a 'twin-unit caravan' set out in the Caravan Sites Act 1986 Section 13 could not be accommodated without a significant harmful impact upon visual amenity and the scenic beauty of the surrounding landscape which is given the highest status of protection in local and national planning policies.
26. The continued use as a caravan site in the absence of planning conditions to restrict the type, period of stay or purpose of occupation of any caravan is wholly unsustainable development and is contrary to local housing, recreation and conservation policies and the National Planning Policy Framework.

**27. Effect Of The Discontinuance Order**

28. The Discontinuance Order will impose a new planning condition upon the 1998 permission to replace condition 2. The proposed condition would allow touring caravans

or tents only on the site. Any touring caravan would be single or twin axle and capable of being lawfully towed or driven on a public highway without division into separate parts.

29. The proposed condition would also restrict the period of occupation for any one caravan or tent for no more than 28 days in any calendar year. It would also restrict the total number of caravans or tents to no more than 20 except between 31st March or Good Friday, if earlier, and 31st October (all inclusive) when no more than 50 touring caravans or tents can be stationed. The proposed new condition would control the on-going use in a way compatible with development plan policies. It ensures that camping and caravanning can be accommodated without harming the visual amenity of the local area or the scenic beauty of the National Park.

### **Proposals**

30. **That authority be delegated to the Head of Planning in consultation with the Head of Finance and the Head of Law to make a discontinuance order for Brosterfield Caravan Site, Foolow.**

### **Are there any corporate implications members should be concerned about?**

#### **Financial:**

31. An effect of making a discontinuance order will be to substantially devalue the site compared with the price paid by the Authority for it. This has been taken into account and is being overseen by the Head of Finance. The size of devaluation can only be estimated at the time the discontinuance order is made but this will be a material consideration in deciding whether or not to make the order.

#### **Risk Management:**

32. If the size of the devaluation is too great, then the order need not be made. This will be a matter within the discretion of the Head of Planning taking into account the advice of the Head of Finance and the Head of Law and having regard to valuation advice. There is considerable local support in preventing development of static caravans on the site which will be achieved by making the discontinuance order.

#### **Sustainability:**

33. The effect of the order will be to bring the use of the site into alignment with the sustainability policies incorporated in the development plan.

#### **Equality:**

34. No equality issues are identified.

#### **35. Climate Change**

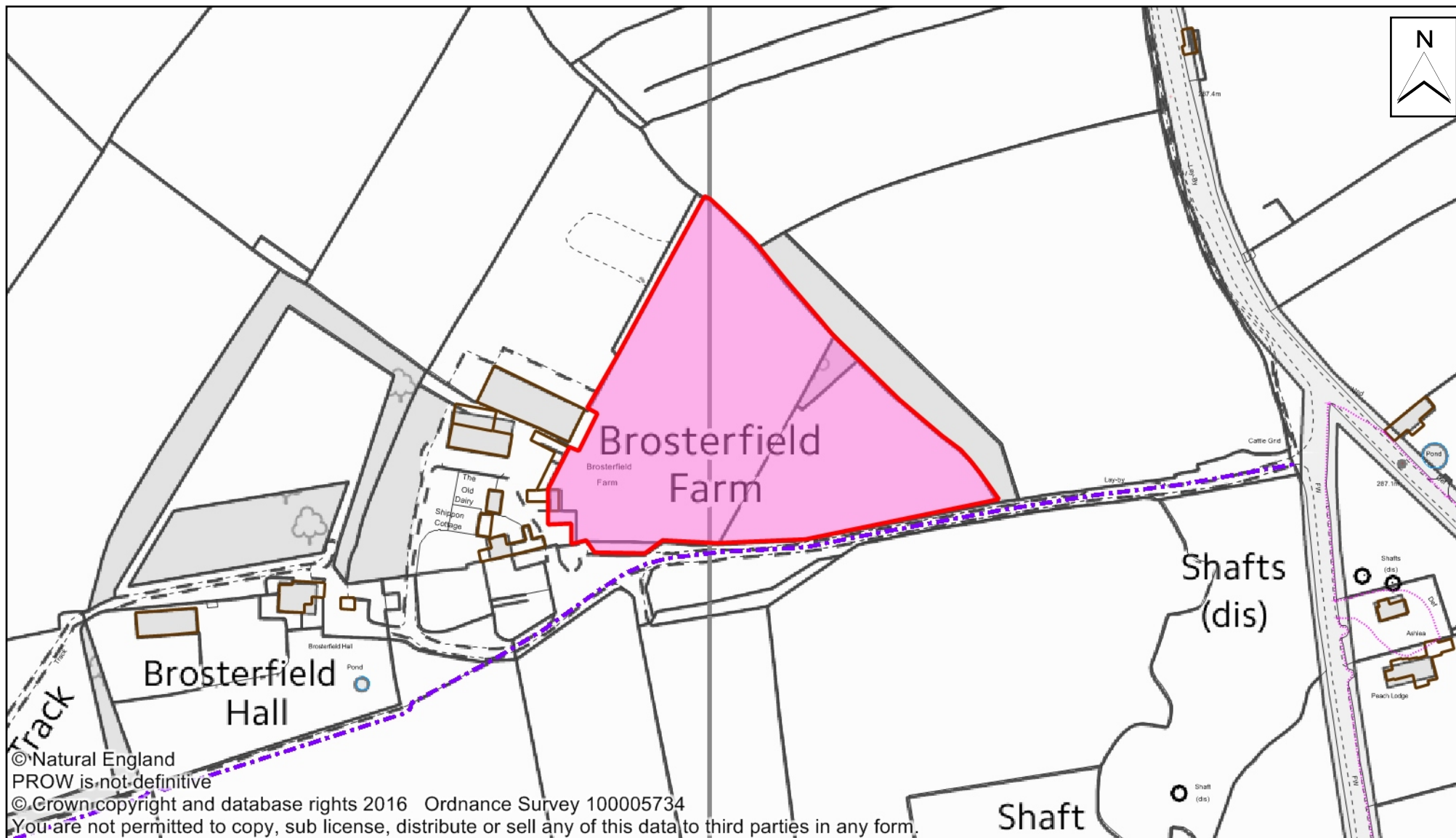
No Climate Change issues are identified.


#### **36. Background papers (not previously published)**

None.

#### **Report Author, Job Title and Publication Date**

Reg Cooper, Assistant Solicitor, 28 July 2021



Drawn by:	Collins Rich	<b>Title:</b> Plan Referred to in Brosterfield Caravan Site Discontinuance Order	 <b>PEAK DISTRICT NATIONAL PARK</b>
Date:	11 November 2016		
Drawing No:	Plan 3		
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### **13. MONITORING & ENFORCEMENT QUARTERLY REVIEW – JULY 2021 (A.1533/AJC)**

#### **Introduction**

1. This report provides a summary of the work carried out by the Monitoring & Enforcement Team over the last quarter (April – June 2021).
2. Most breaches of planning control are resolved voluntarily or through negotiation without resorting to formal enforcement action. Where formal action is considered necessary, the Head of Planning and Head of Law have joint delegated powers to authorise such action whereas authority not to take formal action is delegated to the Head of Planning, the Monitoring & Enforcement Manager and Area Planning Managers.
3. The Authority has a duty to investigate alleged breaches of planning control, but enforcement action is discretionary and must only be taken where it is 'expedient' to do so, having regard to planning policies in the development plan and any other material considerations. This means that the breach must be causing unacceptable harm to the appearance of the landscape, conservation interests, public amenity or highway safety, for example. When we take formal action it must be proportionate with the breach of planning control. It must also be clear that resolving the breach would be in the public interest.
4. The National Planning Policy Framework states that Local Planning Authorities (LPAs) should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. Many, but by no means all, LPAs have published a Plan. In March 2014 we published our Local Enforcement Plan, which sets out what breaches of planning control are, how potential breaches can be brought to the attention of the Authority, what matters may or may not be investigated and the priorities for investigation and action. It also outlines the tools that are available to the Authority to resolve any breaches. It is available on the Authority's website.

#### **RECOMMENDATION:**

**That the report be noted.**

#### **Summary of Activity**

##### **5. Notices issued**

21/0034 Land at Thornbridge Hall Ashford in the Water Bakewell	Erection of a building, construction of driveways and a car park, laying of hardsurfacing and erection of fences (including gateways and stiles)	Enforcement Notice issued 25 May 2020 – due to come into effect 5 July 2021 – Notice withdrawn 15 June 2021 and replacement Notice issued (see below)
15/0028 Land at 'The Stone Yard' On the junction of Stanedge Road and Sheldon Lane Bakewell	Change of use from an architectural salvage and storage yard (B8) to importation, processing and sale of stone (B2) and deposit of waste materials generated by the unauthorised use	Enforcement Notice issued 9 June 2021 – due to come into effect 23 July 2021 – 6 month compliance period for cessation of use and removal of plant, machinery, portacabins, shipping containers etc and 8 month compliance period for removal of deposited waste stone and silt material and restoration of

21/0034 Land at Thornbridge Hall Ashford in the Water Bakewell	Erection of a building, construction of driveways and a car park, laying of hardsurfacing and erection of fences (including gateways and stiles)	the land  Enforcement Notice issued 15 June 2021 – due to come into effect 23 July 2021 – 6 month compliance period for removal of building, driveways, car park, hardsurfacing and fencing (including gateways and stiles) and restoration of the land
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6. Breaches resolved

21/0029 Peppercorn House South Church Street Bakewell	Breach of condition 2 on NP/DDD/0218/0121 - Flue height not raised in accordance with approved plans.	Condition complied with
21/0004 Leys Barn Slaley Bonsall	Alterations to agricultural building – possible change of use	No breach of planning control - Use ancillary to agriculture and installation of services is permitted development
20/0012 Little Marnshaw Head Farm Marnshaw Head Barrow Moor Longnor	Erection of a garden shed	Not expedient to take enforcement action - Shed stained and planting carried out
19/0046 Longnor Craft Centre Market Hall Market Place Longnor	Listed Building - Removal of 'Table of Tolls' sign. Installation of extractor flue, various internal works.	Sign replaced - flue altered and internal works completed as agreed
17/0081 Dunnfield Queen Street Longnor	Untidy land – storage of household items	Items removed and land tidied
17/0180 Big Marnshaw Head Leek Road Longnor	Change of use of ancillary barn to dwelling. Breach of Condition attached to Planning Permission NP/SM/0714/0705	Condition complied with – use of barn ancillary to dwelling
12/0064 Land south of Cliff Lane	Erection of stables	Building relocated in accordance with planning permission granted on

Calver		appeal
17/0141 All Saints Church Church Lane Bakewell	Listed building – removal of gate	No breach – gate replaced 'like for like'
16/0099 Needham Barn Main Street Chelmorton	Erection of fence – PD rights removed under NP/DDD/0607/0537	Fence removed
16/0096 Land adjacent at Bank House Town End Taddington	Breach of condition re external storage on NP/DDD/0611/0517 (Erection of agricultural implement store)	No evidence of current breach
09/0049 Manor Farm Over Haddon Bakewell	Erection of stables and associated structures and change of use of land to equestrian	Retrospective permission for stables and use of land granted on appeal - other structures immune from enforcement action
19/0069 Pitchings Farm Whitefields Lane Waterfall	Breaches of Conditions 11 (delivery times) and 12 (hours of operation) on NP/SM/1014/1059 (Change of use to yard/storage area for existing steel fabrication business)	No evidence of current breach
18/0104 Chelmorton Low Chelmorton	Display of advertisement	Immune from enforcement action
19/0099 3 Victoria Mill Buxton Road Bakewell	Erection of replacement car port	Retrospective permission granted
21/0041 Johnson Lane Farm Johnson Lane Sheldon	Mobile home on agricultural land	Mobile home removed
20/0119 Pethills Lane Farm Pethills Lane Winkhill Leek	Change of use of part of agricultural building to vehicle repair business	Retrospective permission granted
19/0056 Rohan Ltd 5, King Street Bakewell	Display of advertisement	Not expedient to take enforcement action

18/0189 The Joiners Shop Tagg Lane Crowdicote	Surfaced driveway	No breach of planning control – existing driveway re-surfaced
18/0117 Inglewood Burton Close Drive Haddon Road Bakewell	Excavations within garden	No breach of planning control – minor re-grading
17/0159 Erica Cottage Butts Road Bakewell	Erection of fence	Not expedient to take enforcement action
17/0116 Land at Long Rake Youlgrave	Laying of hardsurfacing	Not expedient to take enforcement action
20/0091 Swiss House How Lane Castleton	Breach of condition 3 (noise mitigation) on NP/HPK/1019/1138 – change of use of guest house to guest house and public bar	Condition complied with
10/0118 Bramley Dale Off Hassop Road Calver (Grid ref: SK 239 741)	Use of agricultural building for storage	Immune from enforcement action
20/0079 Belmont Unnamed Road From Hope Road To Stonecroft Edale	Change of use from residential dwelling (C3) to commercial short-term holiday let	Use restricted to C3
16/0150 The Plough Inn New Road Bradfield	Display of advertisements	Advertisements removed
13/0059 Land at Thornsett Lane, Birch Vale Hayfield	Untidy land – dilapidated caravan and other items	Caravan removed and land tidied
21/0016 Butterton Moor	Construction of a track and fencing	Fencing removed – not expedient to take

Bank Road Butterton		enforcement action against track
18/0030 Mill Wheel Field Off Dukes Drive Ashford-in-the- Water	Erection of stables	Not expedient to take enforcement action
18/0096 Hill Crest House Bed And Breakfast Ilam Road Thorpe	Installation of rooflights	Not expedient to take enforcement action
18/0070 Land opposite Knowsley Cross Farm Knowsley Hill Longnor	Storage of caravan	Not expedient to take enforcement action
16/0023 Bank Top Farm Dig Lane Hartington	Residential caravan on agricultural land	Immune from enforcement action
19/0191 The Levens Weags Bridge Road Grindon	Rebuilding of external steps, excavation of trench and possible change of use of agricultural land to garden	Steps and excavations granted planning permission – land reverted to agricultural use
21/0055 Manor House Farm School Road Wetton	Breach of conditions 2 (landscaping) and 4 (use by occupants of Manor House Farm) on NP/SM/0920/0866 – extension to menage	Not expedient to take enforcement action
20/0117 Bleak House Newtown Fawfieldhead	Subdivision of dwelling to form a holiday let	Lawful Development Certificate granted
13/0150 Devonshire Buildings Sparrowpit	Residential caravan on agricultural land	Caravan removed
13/0030 Five Clouds Upper Hulme	Erection of field shelter	Field shelter removed
18/0146 Bank Top Farm Tagg Lane	Erection of agricultural building	Retrospective planning permission granted

High Needham  
Earl Sterndale

19/0022 Caskinlow Farm Hartington	Erection of feed silo	Not expedient to take enforcement action
19/0114 Joiners Arms Rutland Square Bakewell	Display of advertisements	Not expedient to take enforcement action
19/0079 Mount Pleasant Elkstones Longnor	Conversion of garage to office, resurfacing and extension of drive/parking area and erection of dishes and antenna	Not expedient to take enforcement action
19/0038 Tansy Hair and Beauty Rutland Square Bakewell	Listed building – display of advertisement	Not expedient to take enforcement action
18/0033 Dingers Hollow Farm, Wildboardclough	Breach of conditions 7 (installation of external cladding) and 4 (permitted use for agriculture etc) on NP/CEC/1211/1296 – redevelopment of barn	Conditions complied with
18/0142 White House Farm Main Road Wardlow	Use of land as camp site	Use ceased
17/0046 Woodseats Farm Hollowford Road Castleton	Erection of agricultural building	Immune from enforcement action
18/0090 Slack House Farm The Wash Chapel-En-Le-Frith	Installation of rooflights in curtilage listed building	Consent granted
17/0149 The Green, The Hills, Bradwell	Erection of shed, tree house (with walkway) and associated structures	Shed, tree house and structures removed
19/0026 Nether Hall Mill Lane Hathersage	Listed building – numerous internal and external alterations	Remedial works carried out in accordance with listed building consent

18/0152 Jadestone Burton Close Drive Bakewell	Extension of drive/parking area	Not expedient to take enforcement action
19/0065 Lane House Farm Wincle	Erection of barn	Not expedient to take enforcement action
19/0049 Hope Cottage The Butts Bakewell	Rebuilding and alteration of boundary wall	Not expedient to take enforcement action
19/0086 Mazzi Restuarant The Square Hathersage	Installation of extractor flue	Not expedient to take enforcement action
17/0131 Land near Smelters Cottage Hathersage	Erection of stables	Not expedient to take enforcement action
21/0024 Dale Head Farm Main Road Flagg	Change of use of agricultural buildings to workshops and storage (B1/B8)	Retrospective planning permission granted
15/0077 Bakewell Showground Coombs Road Bakewell	Use of the land for displays, events and exhibitions	Immune from enforcement action
17/0094 Hob Hay Farm Elkstones Longnor	Residential caravan on agricultural land	Caravan removed
17/0109 Cruck Barn Woodseats Farm Bradfield	Breach of Condition 1 (temporary roof covering to be removed and building refurbished) on LBC NP/S/1099/024 – structural alterations	Condition considered to be unenforceable
16/0081 New House Farm Onecote Road Onecote	Change of use of land to mixed use of agriculture, manufacture, storage and distribution of timber products. Erection of extension to dwelling	Use immune from enforcement action - Not expedient to take enforcement action against extension
17/0145 Hob Hay Farm Elkstones	Erection of conservatory and decking	Immune from enforcement action

## Longnor

21/0001 Smelters Cottage Callow Bank Hathersage	Development not in accordance with planning permission NP/DDD/0915/0913 - Proposed conversion of house to form accessible holiday let accommodation	No breach of planning control - differences between approved and 'as built' development not material
17/0173 Wye House Water Street Bakewell	Installation of air conditioning units	Air conditioning units removed

### Workload and performance

- The table below provides an overview of the Monitoring & Enforcement Team's caseload and performance in the quarter. The figures in brackets are for the previous quarter. Our main performance target is to resolve 150 breaches of planning control each year. In the latest quarter (April – June 2021) we resolved 60 breaches so we are currently on track to meet or exceed our target. The number of breaches outstanding has fallen by 23 since the end of March and currently stands at 630 cases.
- For enquiries, we have a performance target of dealing with 80% of enquiries within 30 working days. This involves carrying out an investigation (usually including a site visit) and coming to a conclusion on whether there is a breach of planning control. In the latest quarter, 75% of enquiries were dealt with within 30 working days, which is just below our performance target. However, we resolved 150 enquiries in the quarter which is well in excess of the figure for the previous quarter.

	<b>Received</b>	<b>Resolved</b>	<b>Outstanding</b>
Enquiries	140 (139)	150 (108)	140 (145)
Breaches	37 (41)	60 (53)	630 (653)

Report Author – Andrew Cook



## **14. HEAD OF LAW REPORT - PLANNING APPEALS (A.1536/AMC)**

### **1. APPEALS LODGED**

The following appeals have been lodged during this month.

<b><u>Reference</u></b>	<b><u>Details</u></b>	<b><u>Method of Appeal</u></b>	<b><u>Committee/ Delegated</u></b>
NP/DDD/1120/1044 3271933	Change of use to touring caravan site with 10 pitches and erection of shower/toilet block at Ballindon Moor Farm, Brassington	Written Representations	Delegated
NP/DDD/1120/1062 3270648	Creation of driveway for dwelling with associated works includes change of use of land to domestic and partially retrospective at Moor Lodge, Sugworth, Bradfield	Written Representations	Delegated
NP/DDD/1220/1143 3271911	Erection of 2 affordable local needs dwellings on Land off Hardy Lane, Tideswell	Written Representations	Committee
NP/DDD/0620/0548 3271913	Erection of 3 affordable local need dwellings on Land off Hardy Lane, Tideswell	Written Representations	Committee
NP/DDD/0221/0114 3272113	Proposed Porch Extension at 17 Windses Estate, Grindleford	Written Representations	Delegated
NP/SM/0121/0077 3274347	Construction of a porch to the east facing elevation. Construct a dwarf wall of blocks with stone cladding to match house, hardwood framed windows, single entrance door to north side of porch, pitched tiled roof with lead flashing at Deepdale Farm, Grindon	Written Representations	Delegated
NP/DDD/0221/0150	Proposed erection of one local needs home at Hades Lane, Taddington	Written Representations	Committee
NP/HPK/0420/0329 3275739	Proposed change of use and extension of existing domestic garage and hobbies room to form a holiday let at Bennett Barn Farm, Sandy Lane, Chinley	Written Representations	Delegated
NP/DDD/0420/0300 3273315	Take down (half of the) outside toilet and coal house block at 2 Club Row, Eyam	Householder	Delegated
NP/HPK/0720/0636 3273472	S.73 removal or variation of condition 2 on NP/HPK/0819/0835 for demolition of outbuildings and erection of a two storey extension and subterranean accommodation with link to existing house a Moor Edge, New Road, Bamford	Householder	Delegated

NP/HPK/1220/1142 3275704	Remove existing front porch and replace with single story porch, new timber framed window to the front elevation and alterations to an existing rear window to form a door at Pear Tree Farm Chinley	Householder	Delegated
NP/DDD/0320/0224 3273608	Vehicle pull-in with pedestrian path at 3 Wheatlands Lane, Baslow	Householder	Delegated
NP/SM/0221/0138 3276874	Proposed alterations and extension to dwelling including replacement outbuilding at Daisy Bank, Newtown, Longnor	Householder	Delegated

## 2. APPEALS WITHDRAWN

No appeals have been withdrawn during this month.

## 3. APPEALS DECIDED

The following appeals have been determined this month.

<u>Reference</u>	<u>Details</u>	<u>Method of Appeal</u>	<u>Decision</u>	<u>Committee/ Delegated</u>
ENF 19/0217 3263527	Engineering operations comprising the ongoing formation of an artificial man made platform feature at Withamley House Farm, Bradfield	Written Representations	Dismissed Enf Notice Upheld	Delegated

The Inspector considered that the materials deposited were not just being stored, but had been moulded and compacted to provide access into the lower field. The Inspector also considered that the amount of material deposited was so substantial that it was assumed that it was moved by heavy machinery, which would constitute an engineering operation, which would have required planning permission. The appeal was dismissed and the enforcement notice upheld.

NP/HPK/0720/0602 3265928	Replacement Porch, 2 cat-slide dormers to match adjacent property. 2 velux to rear roof slope. Removal of render to expose and reinstate original stonework. Erection of timber garden shed at Wayside Cottage, Chapel Walk, Hope	Householder	Dismissed	Delegated
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The Inspector considered that the dormers would be an incongruous addition to the roofscape and would radically alter the appearance of the front elevation of the dwelling, as well as resulting in significant harm to the character and appearance of the conservation area. The Inspector also considered that the proposed development would be contrary to GSP3 and L3 of the Core Strategy as well as DMC3, DMC5 and DMH7 of the Development Management Policies. The appeal was therefore dismissed.

NP/DDD/0220/0126 3260846	Conversion of barn and holiday unit to dwelling, including removal of modern lean-to barn at Lane End Farm, Abney	Hearing	Dismissed	Delegated
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The Inspector considered that the proposal would conflict with the Development Plan. The Inspector also felt that it had not been demonstrated that the proposed market dwelling would be necessary to secure the conservation of barn 1, nor that it would be either necessary or proportionate to achieve the conservation of barn 2. The harm to protected species also weighed against the proposal to a moderate degree. The conversion of barn 2 would detract from its vernacular character and appearance and there would also be a loss of historic fabric. The appeal was dismissed.

NP/DDD/0820/0713 3270501	Erection of an agricultural barn for the Housing of livestock and storage at Dale Farm Middleton-by-Youlgreave	Written Representations	Allowed	Committee
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The Inspector considered that the proposal met a reasonable agricultural need, and would modestly enhance the area's landscape character and scenic quality, so would fit in with the village's countryside setting. Although the Inspector considered that there would be a conflict with GSP3 of the Core Strategy, it did comply with the Development Plan as a whole. The appeal was allowed.

#### 4. **RECOMMENDATION:**

**To note the report.**

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