

# Public Document Pack

**Peak District National Park Authority**

**Tel: 01629 816200**

E-mail: [customer.service@peakdistrict.gov.uk](mailto:customer.service@peakdistrict.gov.uk)

Web: [www.peakdistrict.gov.uk](http://www.peakdistrict.gov.uk)

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



Our Ref: A.1142/2868

Date: 22 October 2020



## NOTICE OF MEETING

Meeting: **Planning Committee**

Date: **Friday 30 October 2020**

Time: **10.00 am**

Venue: **Webex - Virtual Meeting**

**(Joining instructions will be sent to Authority Members separately)**

SARAH FOWLER  
CHIEF EXECUTIVE

In response to the Coronavirus (Covid -19) emergency restrictions, all meetings of the Authority and its Committees will take place using video conferencing technology.

You can watch our meetings live on YouTube using the following link:

<https://www.youtube.com/user/peakdistrictnpa/live>

Members of the public who have given notice may still speak at this meeting for three minutes. Please call 01629 816352 for more information.

Link to meeting papers:

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

## **AGENDA**

**1. Roll Call of Members Present, Apologies for Absence and Members Declarations of Interest**

Members are asked to declare any disclosable pecuniary, personal or prejudicial interests they may have in relation to items on the agenda for this meeting.

**2. Urgent Business**

**3. 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.

**4. Full Application - Erection of 3 affordable local need dwellings on land off Hardy Lane, Tideswell (NP/DDD/0620/0548, JK) (Pages 5 - 22)**

Site Plan

**5. Full Application - Semi subterranean out-buildings in the rear garden including creation of garden terrace at The Mount, The Hills, Bradwell (NP/DDD/1219/1340, CW) (Pages 23 - 32)**

Site Plan

**6. Offer of Section 106 Agreement in relation to enforcement action against the creation of a surfaced track on land at Mickleden Edge, Midhope Moor, Bradfield (Pages 33 - 60)**

Appendix 1

Appendix 2

**7. Monitoring and Enforcement Annual Review - October 2020 (A.1533/AJC) (Pages 61 - 70)**

## **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. Therefore all meetings of the Authority and its Committees will take place using video conferencing technology. Public participation is still available using a telephone connection. Anyone wishing to participate at the meeting under the Authority's Public Participation Scheme is required to give notice to the Director of Corporate Strategy and Development 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 816362, 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.

## **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. Therefore all meetings of the Authority and its Committees will take place using video conferencing technology.

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## **To: Members of Planning Committee:**

Chair: Mr R Helliwell  
Vice Chair: Mr K Smith

Cllr W Armitage  
Cllr M Chaplin  
Cllr A Gregory  
Cllr A Hart  
Cllr A McCloy  
Cllr K Richardson  
Cllr G D Wharmby

Cllr P Brady  
Cllr D Chapman  
Ms A Harling  
Cllr I Huddleston  
Cllr Mrs K Potter  
Miss L Slack

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

Mr Z Hamid

Prof J Haddock-Fraser

Constituent Authorities

Secretary of State for the Environment

Natural England

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**4. FULL APPLICATION, ERECTION OF THREE AFFORDABLE LOCAL NEED DWELLINGS LAND OFF HARDY LANE TIDESWELL NP/DDD/0620/0548 JK**

**APPLICANT: ELLERT**

**Summary**

1. The site is a rectangular area of open green space within Tideswell village and within the Conservation Area. It contains several mature trees covered by Tree Preservation Order (TPO) and a small block of dilapidated flat roofed prefab garages.
2. Alongside the open space, the trees are significant structural features in the public realm and together they make a considerable contribution to the special character and appearance of the local streetscene along Sherwood Road and thereby to the significance of the Tideswell Conservation Area.
3. The proposal is to remove one healthy Lime tree and the garages to provide room to erect three houses and six parking spaces. Each house would however, still be sited partly underneath the canopies of the trees along with two of the parking spaces. This would cause immediate harm to the remaining protected trees through damage and disturbance to their root protection area. It would also be a medium to long term threat to the life of these remaining trees resulting from the inappropriate siting of housing, parking and gardens underneath the canopy of mature trees being uses that are fundamentally incompatible with preservation of the trees.
4. Although of simple traditional design and use of natural materials the layout of the houses does not reflect the established pattern of development in the immediate locality and therefore would detract from, instead of conserve, the special character and appearance of the local area.
5. There are other more appropriate sites identified within the village for development of affordable housing to meet local needs without the harm identified on this site.
6. The public benefits arising from the provision of affordable housing would not outweigh the loss of biodiversity, the adverse impact on the streetscene and the harm identified to the Conservation Area and the proposal is therefore recommended for refusal.

**Site and Surroundings**

7. The application site is located within Tideswell Village and forms a roughly rectangular plot of land bounded by stone walls lying on the east side of Sherwood Road at its junction with Hardy Lane. Sherwood Road is a quiet residential street running broadly north-south along the hillside to the west, and parallel with, the main road (B6049) through the village. Hardy Lane is a minor lane/footpath which runs down the hillside to link Sherwood Road with Fountain Square and the Main Street.
8. The plot of land contains a number of mature trees covered by Tree Preservation Order along with a small block of three flat roofed sectional precast concrete garages (unused). The garages lie toward the front of the site but at a lower level than Sherwood Road as the land slopes down from Sherwood Road west to east down the site. Vehicular access is off Hardy Lane, via a gateway located a short distance down from Sherwood Road, after which Hardy Lane narrows appreciably. A bollard located just past the access, restricts vehicular access east of the site access after which Hardy Lane therefore becomes a public footpath.

9. The land was somewhat overgrown and generally unkempt at the officer's site visit. Although the garages are in a dilapidated condition they are not overly prominent in the streetscene being lower than Sherwood Road. The overall appearance of the site is that of a green space with the mature trees adding large structural features which contribute significantly to the special character and appearance of both the streetscene and the Conservation Area.
10. The site is surrounded by residential dwellings with a detached house; Stanley Croft to the immediate north whose large garden about the northern site boundary. To the west across Sherwood Road terraced cottages line the street frontage. Across Hardy Lane to the south sits Hardy House a Grade II Listed Building which also takes access off Hardy Lane opposite the site entrance. To the east, the site backs onto the rear garden of a lower dwelling.

### **Proposal**

11. Full Planning permission is being sought for the demolition of the garage block and the erection of 3 affordable houses to meet local needs. Plans also show that a mature Lime tree on the north side of the site and covered by the TPO would be felled.
12. Plans show a layout comprising one detached 2 bed house sitting gable facing Sherwood Road toward the front SW corner of the site with a pair of 3 bed semi-detached houses centrally located within the plot and sited gable end facing onto Hardy Lane. Vehicular access would remain off Hardy Lane as existing and lead to a parking and turning area between the buildings for six spaces. Outdoor amenity space associated with the semidetached houses would comprise rear gardens covering the eastern third of the site. In sharp contrast the detached house would have a very limited area confined to the North West corner.
13. The houses would be constructed from natural limestone walls under blue slate roofs, with timber windows and doors and natural gritstone dressings to the openings, quoins and lintels to doors. The two bed unit would have a floor area of approximately 70.4 sq. metres and the three bed units 89.2 sq. metres. The supporting statement explains the houses are intended to meet the wider community need for affordable housing identified in the 2017 Tideswell Housing Need Survey.

### **RECOMMENDATION:**

14. **That the application be REFUSED for the following reasons:**
  1. **Significant harm to TPO protected trees from the construction of houses within the root protection areas and underneath canopies resulting in the immediate and unnecessary loss of one tree and immediate damage to remaining protected trees contrary to Policies DMC13, GSP1-3 & L1. This would be highly likely to result in dieback, or death of the trees along with likely significant pressure from future residents for removal or lopping of trees if the development were to proceed.**
  2. **The proposed layout and the design of the houses, especially gable width and roof pitch in respect of the pair of houses, does not adequately reflect the established pattern of development in the locality and would harm the valued character and appearance of the local built environment and the streetscene contrary to Policies GSP1-3 & DMC3.**
  3. **The significant harm to local biodiversity contrary to Policy GSP1-3, DMC11**

**from the immediate loss of the Lime Tree, the loss of semi natural green space and the adverse impact of the development on the remaining protected trees some or all of which would suffer immediate and longer terms damage which would shorten their lifespan and likely result in pressures for removal/and/or significant alteration to their crowns from any future residents were the development to go ahead.**

- 4. Harm to the significance of the Conservation Area from the loss and damage to the protected trees and the poor layout/design which is not outweighed by the public benefit arising from the limited provision of affordable housing contrary to Policies DMC5 and 8.**
- 5. Inadequate and incomplete information to support the application; No protected species survey and the submitted Tree Report does not meet the required standard as it contains a significant error in tree identification along with other inaccuracies. Furthermore the plans are incompatible with recommendations of the tree report most notably in respect of proposing strip foundations contrary to the report's recommendations.**

### **Key Issues**

15. The impact of the proposed dwellings upon the valued characteristics of the National Park, in terms of siting, layout, design, amenity and highway safety.
16. The impact upon the Tideswell Conservation Area and the listed Hardy House.
17. The impact of the development upon local biodiversity especially the trees themselves
18. Neighbouring amenity impacts
19. Highway implications
20. Climate change and sustainable building.

### **History**

1977 – Refusal of outline permission for the erection of two dwellings

1978 – Refusal of outline planning permission for one dwelling

1983 – Refusal of Outline planning permission for erection of one dwelling on the then applicable settlement policy ground and also on grounds that if it were possible to erect a house beneath the trees it would result in a cramped relationship with the trees and lead to requests for tree lopping and felling due to the relationship and shading and therefore acceptance of that proposal was not considered to be in the long term interests of protecting the trees.

1994 – Refusal of outline permission for erection of one dwelling.

1994 – Refusal of planning permission for erection of vehicle store building ad improvements to access on grounds that it would not preserve or enhance the valued characteristics of the residential area and Conservation Area, as well that it would perpetuate an unauthorised vehicular storage use and cause unacceptable disturbance and loss of amenity to neighbours.

1994 – Appeals against both 1994 refusals dismissed.

2016 – Pre-application advice given that a proposed market dwelling would not be acceptable in policy terms and there would be insufficient enhancement in the removal of the garage to outweigh the policy objection. Cautious advice that affordable housing could be explored as the only likely policy route, provided conflict with tree protection could be resolved. No further response.

2019 – Land offered for sale which generated a number of enquiries ranging from concerns over mature trees to prospective purchasers interested in developing the site. However no formal paid for pre-application advice requests submitted.

2019 – PDNPA Tree Officer granted approval for minor crown lift to two sycamores on the lower part of the site adjacent the northern boundary.

### **Consultations**

21. Highway Authority – No objections subject to conditions and made the following summarised comments.
22. The proposal will see existing garages demolished with the potential loss of off-street parking, increasing the likelihood of on-street parking nearby. Whilst concerns are raised with regard the above, the site has already been sold and therefore any potential loss of off-parking that could result already has, irrespective of the above planning application.
23. Hardy Lane is a non-classified road with no margins which carries a footpath, whilst the proposal is likely to result an increase in traffic associated with the site, subject to appropriate visibility splays being provided either side of the access, it is considered the proposal will not result in severe harm to highway safety.
24. Recommended conditions covering;
25. Pedestrian intervisibility splays either side of the access; together with visibility sightlines being taken to the extremities of the site in the westerly direction from a set-back distance of 2.0m at the centreline of the junction.
26. Visibility onto Sherwood Road improved, with the boundary treatment along the western site boundary being maintained at a maximum height of 1m in order to enable the furthest extent of the site frontage is visible from a set-back distance of 2.4m at the centreline of the junction.
27. The existing lighting column adjacent the site should be protected, to ensure it is not struck by vehicles, it is therefore recommended that the existing boundary wall be retained but reduced in height so as to provide pedestrian intervisibility in line with the above comments.
28. Bin storage and dwell area clear of the public highway.
29. Agree construction management plan
30. The access to be no steeper than 1 in 15 for the first 10m and measures shall be implemented to prevent the flow of surface water onto the highway.
31. No occupation space provided for the parking and manoeuvring of residents' vehicles,
32. Footnotes re;



- Prior notification regarding access works within the highway.
- Steps taken to ensure that mud or other material is not carried out of the site and deposited on the public highway.
- First 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.).
- Surface water run-off.

33. Derbyshire Dales District Council – No response

34. Tideswell Parish Council - Do not support this application and request it is not permitted. Detailed comments summarised below;

*a. Design and appearance of the development*

The development is not in keeping with the area and would be very inappropriate for the site. The PC are also disappointed that again no green energy provisions are in place in the application.

*b. Impact on landscape*

There is much concern over the damage which may be done to tree roots of important, protected trees on this plot of land. It is also felt that the designs are out of character for the area and not appropriate in the conservation area.

*c. Layout and density of buildings*

The development is trying to include a lot in a small space. The Parish Council believe a single dwelling or possibly a semidetached would be a more appropriate development at this location.

*d. Local needs (e.g. housing provision)*

Whilst we welcome local needs housing we feel this is not an appropriate location for a multi house development due to the size and access issues of the land.

*e. Planning history of the site*

There has been historical applications here which have been rejected and we do not feel this application is an improvement for the land or addresses reasons for previous objections.

*f. Road issues: traffic generation, vehicle access, road safety*

The Parish Council has concerns for safety regarding vehicular access and the increased traffic to an already narrow and busy area which sees many issues with parking. The Parish Council have further concerns about visibility in this area for traffic.

*g. Loss of trees*

The Parish Council are very concerned about any loss of trees within the Parish. The application states that an Elm tree is to be removed; however it is reported this is actually a beautiful Lime tree. These trees are an integral part of the conservation area protected by TPO'S. We have concerns that there may also be damage done to tree roots in this development which will lead to other trees being removed.

35. PDNPA Conservation Officer – Objects, commenting as follows;

The site is a small green space with an important group of trees adjacent to a public right of way, and contributes to the character of the Conservation Area. The proposal would include for the removal of 1 large tree and could affect the other trees on the site, although root protection measures are proposed. The loss of the tree from the site, and potential impact on the others would harm the character and appearance of the

Conservation Area. The location of the buildings on the site and on the boundary with Hardy Lane would remove the current sense of open space from this part of the Conservation Area, which would harm the character.

36. PDNPA Tree Officer – Objects commenting as follows;
37. The submitted BS5837 Tree Survey contains significant errors, including incorrect tree species identification of T3. The proposed development requires the removal of T3, a mature, TPO'd tree. The argument for the removal of T3 is based on an incorrect species identification of this tree as elm and an assumption that the tree is therefore not suitable for retention because it is likely to succumb to Dutch Elm disease. The tree in question is not an elm tree, but rather a lime tree and currently has no signs of physiological ill-health. The lime tree is in a good physiological and structural condition with a potential remaining life expectancy of at least 40 years. There are various other minor inaccuracies within the tree survey, which cast doubt on the efficacy and integrity of this tree survey.
38. The design itself is incompatible with the protected trees on site. The proposed development features too many buildings in too close a proximity to the protected trees. Three of the TPO'd trees on site are beech trees (T1, T2 and T6). Beech trees are particularly intolerant of soil disturbance within their rooting area, as they tend to be fairly shallow-rooted as a tree species. Thus construction within the rooting area of mature beech trees (particularly T6, which has already lost a significant limb, causing damage to a neighbouring wall and neighbouring trees) is not recommended.
39. The current proposal would leave all properties overshadowed by significant, mature trees, casting extensive shade over all the proposed houses, leaving the houses feeling dark and the proposed gardens completely shaded. This would put pressure on potentially already stressed trees for removal, due to fears of limb failure and concerns about shade in gardens and lack of natural light in the proposed houses. It is not possible to mitigate all of these issues with special engineering solutions and the current proposed design would leave these mature, protected trees stressed and with their rooting areas significantly disturbed and thus compromised.

## **REPRESENTATIONS**

40. There have been 9 letters of objection submitted raising a very large number of grounds which are heavily summarised below.
41. Factual errors and omissions in the application documents – tree report and planning statement; most notably incorrect identification of tree to be removed.
42. Loss of mature lime tree.
43. Particular concern for the Beech trees which are susceptible along with compaction, to change in soil depth causing injury to root systems.
44. Impact of development on remaining trees – houses and parking spaces under canopies and root compaction. Cars kept under trees will quickly be covered in sticky debris and vulnerable to dents from falling wood.
45. The proposed dwellings will be very adversely affected by their proximity to the trees from the outset. From the tree report: "BS5837 advises that the physical size of trees can: dominate new development and give rise to concern about safety, cause obstruction of light and views, and incite objections about falling leaves and debris concerns over implication for trees of falling branches on dwellings and gardens

46. The garages have not been used for at least 25 years - Six additional vehicles represents significant increase in vehicle movements adding to traffic congestion and parking problems on Sherwood Road.
47. Hazards to pedestrian using Hardy Lane
48. Highway Authority not visited site have not fully considered conflicts with pedestrians and that parking on Sherwood Road blocks emerging visibility.
49. Building 1 currently blocks emerging sightline from access.
50. The proposed chamfering of the stone wall will do little to improve visibility.
51. Previous applications for development with lesser traffic movements have been rejected on highway grounds – substandard visibility and pedestrian conflicts.
52. Land is not wasteland, it is valuable asset to community rich in biodiversity and one of few natural green spaces left in the village, needs to be retained as such.
53. Development would have a suburban appearance out of keeping with surroundings and behind the established building line.
54. Poor layout - too many buildings squeezed into unsuitable spaces and in the wrong orientations - development conflicts with the surrounding area and adjacent listed building.
55. Adverse impact upon the Conservation Area / development among the trees detracts from their contribution to the valued characteristics of the Conservation Area.
56. There is no pressing need for development that could not have been met with other much more suitable sites in Tideswell.
57. Design does not show how measures deemed mandatory in the tree protection report will be achieved.
58. The quality and amenity of the proposed dwellings is poor for the occupiers because of their gloomy situation within the trees. Occupiers' ongoing ownership of the trees will be onerous.
59. Parking is inadequate and will likely result in additional parking on Sherwood Road which is already highly stressed for parking places.
60. The changes in appearance of Hardy Lane and Sherwood Road cannot be properly assessed from submitted drawings which do not show context.
61. Concern about what would prevent all three dwellings just becoming part of a letting portfolio with near open market rent as unsure about controls in a S106
62. Harm to neighbours amenity, particularly in respect of loss of privacy and light, and the large increase in noise and activity generated by so many additional neighbouring households.
63. Lack of space for bin storage.
64. The tree report does not cover the need for the crown height of tree 6 to be lifted from

3m to clear houses 9.2m

65. Thin soil cover over bedrock means trees have little hold on the site, tree report says specialist foundations must be used but the drawings just show trench footings.
66. Trenches for services will also be difficult without causing root damage. It is stated that the disposal of foul sewage is unknown; it is likely that any works would identify an increase in excavations which would impact on the tree root systems.
67. Concerns that retaining structures and lowering of ground levels will further impact adversely on the trees.
68. Once the dwellings are occupied the trees will continue to be vulnerable to the use of garden pesticides, chemical, oil or fuel spills, cleaning products on anything situated or kept beneath the trees, e.g. buildings, cars, parking surfaces.
69. The ongoing responsibility of owning either one or two such large trees by the purchaser of an affordable dwelling is onerous and disproportionate to the size of house and land they purchased. Considerable costs may be incurred in maintaining the trees.
70. The gardens have zero privacy from each other and adjacent housing and from adjacent thoroughfares and unsightly fencing might be erected.
71. Sustainability concerns over lack of soakaways with surface water going to the sewer which is undesirable. Any water drained off site contributes to the risk of flooding and pollution downstream and reduces the amount of water available to the trees compared with what they get currently. The drying of laundry outdoors in the gardens will be undesirable due to material dropping from the trees increasing the likelihood of the use of electric tumble drying.
72. House 1 is not accessible from parking area for prams wheelchairs etc.
73. A Flood Risk Assessment should be undertaken as although not within a flood risk area the development would significantly increase the hardstanding surface area which would increase the amount of surface water run-off. This would increase the likelihood of this affecting the properties below the site
74. Previous Application and Appeal Refusals in 1993 have quoted development of the site for garaging having - *extremely substandard emerging visibility and right turn exiting and left turn ingress movements are awkward when there are cars parked on the opposite side of Sherwood Road. Acceptance, therefore would lead to further intensification of vehicular use of a substandard road junction resulting in greater hazard and inconvenience for other road users and an intensification of conflicting movements between vehicles and pedestrians using Hardy Lane.*
75. In 1994 it was quoted that; *The trees on the site have been identified as being an important feature in the Tideswell Conservation Area.... The proposed erection of a dwelling would lead both directly and indirectly to the loss of trees because of the inevitable cramped relationship that would result between the dwelling and the trees."*
76. In the 1994 Appeal the Inspector stated; *"These mature forest-trees have spreads in excess of 10m and the canopies dominate the site, restricting light. Whilst a house could be built in the outline shown above, the rooms would be dark and the garden overshadowed. The Board have said that the occupants would inevitably seek the removal of further trees and I would not disagree; if not removal, significant surgery*

*would be likely. Two storey residential development on the site could not be compatibly accommodated within the existing trees.”*

77. Contrary to adopted PDNPA Policies L1, DNC3, DMC11, DMT3, Para 127 and 130 of the NPPF
78. The lack of a protected species report - the forms wrongly state it does not require a protected species report as the site is none of those mentioned on the forms which is wrong.

### **National Planning Policy Framework (NPPF)**

79. 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: Which are; to conserve and enhance the natural beauty, wildlife and cultural heritage and promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. 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.
80. The National Planning Policy Framework (NPPF) has been revised (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 particular Paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
81. In the National Park, the development plan comprises the Authority's Core Strategy 2011 and the Development Management Policies (DMP), adopted May 2019. These Development Plan Policies provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. In this case, it is considered there are no significant conflicts between prevailing policies in the Development Plan and government guidance in the NPPF.
82. Para 127 of the NPPF states that - Planning policies and decisions should ensure that developments:
- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - (f) create places that are safe, inclusive and accessible and which promote health and

well-being, with a high standard of amenity for existing and future users <sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

83. Para 175 of the NPPF states; 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;

84. Para 193 of the NPPF states; 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

85. Para 196 of the NPPF states; 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.

## **86. Main Development Plan Policies**

### **87. Core Strategy**

88. GSP1, GSP2 - *Securing National Park Purposes and sustainable development & Enhancing the National Park*. These policies jointly seek to secure national park legal purposes and duties through the conversion and enhancement of the National Park's landscape and its natural and heritage assets.

89. GSP3 - *Development Management Principles*. Requires that particular attention is paid to the impact on the character and setting of buildings and that the design is in accord with the Authority's Design Guide and development is appropriate to the character and appearance of the National Park.

90. DS1 - *Development Strategy*. Sets out that most new development will be directed into named settlements. Tideswell is a named settlement.

91. L1 - *Landscape character and valued characteristics*. Seeks to ensure that all development conserves and enhances valued landscape character and sites, features and species of biodiversity importance.

92. L2 says that development must conserve or enhance the biodiversity of the National Park unless there are exceptional circumstances. L3 says that development must conserve or enhance the cultural heritage of the National Park and other than in exceptional circumstances development that has a harmful impact will not be permitted.

93. HC1 – *New Housing*. Sets out that provision will not be made for housing solely to meet open market demand. Housing land will not be allocated in the development plan. Exceptionally, new housing can be accepted including where it addresses eligible local needs for homes that remain affordable with occupation restricted to local people in perpetuity.
94. Policy CC1 states that development must make the most efficient and sustainable use of land, buildings and natural resources.

#### Development Management Policies

95. Policy DMC3 says that 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.
96. Particular attention will be paid to siting, scale, form, mass, levels, design, details and materials, landscaping, access, amenity, accessibility and our adopted design guide.
97. DMC5 says that applications for development affecting a heritage asset must clearly demonstrate its significance and why the development is desirable or necessary. DMC5 and DMC7 are relevant for development affecting heritage asset and their setting. These policies require applications to be supported by heritage assessments and for development to be of a high standard of design that conserves the significance of heritage assets and their setting.
98. DMC11 requires proposals to achieve net gains in biodiversity and geodiversity and provide details of appropriate safeguards and enhancement measures for a site, feature or species of nature conservation importance that could be affected by the development. DMC12 is relevant for development affecting sites, features or species of wildlife, geological or geomorphological importance and set out the exceptional circumstances where development will be permitted.
99. Development of a designated or non-designated heritage asset will not be permitted if it would harm the significance, character and appearance of a heritage asset unless it is outweighed by the public benefits of the proposal.
100. DMC11 says that proposals should aim to achieve net gains to biodiversity as a result of development. In considering whether a proposal conserves and enhances all reasonable measures must be taken to avoid net loss by taking into account matters set out in (i) – (v).
101. DMH1 states that Affordable housing will be permitted in or on the edge of Core Strategy policy DS1 settlements, either by new build or by conversion provided that there is a proven need for the dwelling(s); and any new build housing is within affordable size thresholds.
102. DMH6 says that re-development of previously developed land for housing is acceptable provided that it conserves and enhances the valued character of the built environment or landscape on, around or adjacent to the site and subject to viability includes an element of affordable housing (in accordance with policies DS1, GSP2 and HC1).
103. DMT3 and DMT 6 set out the requirement for safe access and appropriate parking levels.

**104. Principle of Development**

105. The site is located within Tideswell Village which is a named settlement for the purposes of policy DS1. The removal of the garages would be welcomed as they do cause some minor visual harm to the immediate locality and removal would enhance the site. However, this quite modest enhancement would not amount to the 'significant' overall benefit to the wider National Park as required by Policy GSP2 and HC1C (II) to warrant exceptional development in the form of market housing.
106. Policies HC1 and DMH1 exceptionally allow for the development of affordable housing in principle within DS1 named settlements where it addresses eligible local needs for homes that would remain affordable with occupation restricted to local people in perpetuity. This is provided there is a proven need for the dwellings and the housing would be within affordable size guidelines.
107. The proposal is for three affordable dwellings which are of an affordable size in terms of our policies and designed to meet the local needs identified in the 2017 village housing need survey. Although the survey is 3 years old, no housing has been provided in the intervening period to meet the needs identified although a large site elsewhere in the village has been earmarked for development. We therefore consider it reasonable to accept that the dwellings would meet the proven need in the Parish for affordable housing and consequently the principle of development is acceptable.
108. The key issues therefore relate to whether the proposal is acceptable in terms of the site specific considerations of layout, design, landscape/streetscape impact with particular regard to the impact upon the protected trees and the Tideswell Conservation Area along with consideration of the impact upon local amenity and the highway implications.

**109. Layout, Design and Appearance**

**110. Layout**

111. The arrangement of the houses on the site attempts to avoid the trees with one detached near the frontage and the other two set further down the site, back from Sherwood Road as a pair of semidetached properties with the area between dominated by the parking. Rather than the proposed layout being designed to closely relate to the built form of Sherwood Road, this layout seems to have primarily been generated by a combination of keeping the access point and to use the available space between the existing trees which is extremely limited, even with the proposed removal of the lime tree.
112. The protected trees present a major constraint to any development on the site and in this case have led to a cramped layout and a culs-de-sac style of development in some depth back from the street. The layout of the parking spaces is also tight with the spaces themselves being only 4.8m x 2.4m which is below the adopted standards of 5.0m x 2.5m and none are designed as accessible spaces.
113. Consequently the proposed layout of the buildings would relate poorly to the existing pattern of development in the immediate locality as well as to the trees. The development would be wholly out of keeping with the established development along Sherwood Road which is characterised by buildings fronting or close to the street with private gardens to the rear running down the slope.
114. The proposed development would not therefore result in a layout that detracts



from, instead of respecting the valued character of the local built environment contrary to Policy DMC3.

115. Design

116. The houses are reflect a simple traditional style and would be constructed in natural local stone, with natural stone dressings to corners and openings. The roof would be blue slate. The houses are simply fenestrated with doors and window frames in painted timber.
117. There are no design concerns regarding the detached house which would be a typical two story house having a modest rectangular plan form and a traditional narrow gable width at 5.5m. It would be sited backing directly onto Hardy Lane and close to the adjacent listed Hardy House. It has been designed with its main elevation facing north into the site and would have a largely blank rear facing Hardy Lane.
118. In contrast the semi-detached houses would have a much deeper plan form with an over-wide gable width of over 8m. Coupled with the steep roof pitch to accommodate bedrooms in the roof space this form results in an over-dominant and uncharacteristic roof in terms of the ratio of roof to wall height which would not reflect the established local building tradition sufficiently. As a result we would have sought amendments to the design to lower the roof pitch and narrow the gable had the development, in other respects, been found acceptance.

119. Impact upon trees

120. The application is supported by an arboricultural survey which identifies the 6 trees on the site, all of which are protected by TPO. The agents supporting statement explains that one tree is proposed to be removed to facilitate the development and that strict rules will be set out for the protection of these trees during the construction works. The agent considers that the proposals have been carefully designed in relation to the trees with the houses set well away from their canopies and the access road and car parking areas designed to pass underneath. The agent concludes that whilst the loss of the tree is unfortunate it is necessary to develop the site and when balanced against the long term benefit of providing affordable local housing provision and the fact that the tree has a life expectancy of only a further 10 years it is considered that its loss would not be sufficient to warrant refusal of the scheme.
121. We take a different view and our specialist Tree Conservation Officer identifies that the submitted BS5837 Tree Survey contains significant errors, including incorrect identification of the tree that the proposed development requires to be removed along with various other minor inaccuracies which cast doubt on the efficacy and integrity of the survey.
122. In particular, the argument for the removal of the tree is based on it being incorrectly identified as an Elm and an assumption that the tree is therefore not suitable for retention because it is likely to succumb to Dutch Elm disease. However the tree is in fact a Lime tree and we are advised by our Tree Conservation Office that it is currently in a good physiological and structural condition with a potential remaining life expectancy of at least 40 years.
123. The layout of the proposed development is clearly incompatible with the protected trees on site in that it places each of the buildings underneath the canopies and therefore within the root protection areas of the protected trees. Three of the TPO'd trees on site are Beech trees which we are advised are particularly intolerant of soil disturbance within their rooting area, as they tend to be fairly shallow-rooted as a tree species. One

of the mature beech trees under which the pair of houses are proposed has already lost a significant limb, causing damage to a neighbouring wall and neighbouring trees. Surprisingly therefore the detailed plans of the houses show standard strip footings and alterations to ground levels which will cut through the root protection areas causing clear and unacceptable harm to these protected trees.

124. Notwithstanding the initial physical harm from construction, the houses would all be overshadowed by significant, mature trees, casting extensive shade leaving the houses feeling dark and the proposed gardens completely shaded. In future this would be very likely to put pressure on potentially already stressed trees for significant works or removal, due to fears of limb failure and concerns about shade in gardens and lack of natural light in the proposed houses. The likely impact on cars parked underneath, or washing and outdoor furniture from debris and dirt falling from the trees would only add to the pressure.
125. The clear advice from our in house tree specialist is that it is not possible to mitigate all of these issues with special engineering solutions and the proposed development would leave these mature, protected trees stressed and with their rooting areas significantly disturbed and thus compromised.
126. We therefore conclude that the development would cause severe harm to the protected trees and result in the immediate loss of the Lime and the likely loss of others in future. The resulting loss to biodiversity would be contrary to adopted policies DMC11 & 13.

**127. Impact upon the Conservation Area and adjacent Listed Building**

128. Policy DMC8 requires development to assess and clearly demonstrate how the character and appearance and significance of the Conservation Area would be preserved or enhanced. The loss of the open green space, the Lime tree and inevitable harm to the remaining trees along with the inappropriate layout of the houses would seriously detract from the valued character and appearance of the street scene along Sherwood Road and erode the special character and appearance as well as the significance of Tideswell Conservation Area.
129. The development would be sited close to and within the setting of the listed Hardy House which is located just to the south and across Hardy Lane opposite the proposed semi-detached houses. The loss of the green space and the substitution with the proposed layout with its wide gables and tall roof so close to Hardy House would have an inappropriate impact on the setting and therefore we conclude the proposal would be contrary to Policy DNC7 in that this less than substantial harm to setting would not be outweighed by the public benefits of the provision of affordable housing given the need can be accommodated close by on an already identified suitable site.

**130. Amenity Considerations**

131. There are no concerns that the houses would adversely impact upon neighbouring amenity in terms of overlooking given the separation from adjacent houses and the orientation. There are however very substantial concerns about the residential amenity of future residents were the development to go ahead. The main concern is the substantial shading of the houses and gardens from the trees which would make them overly dark inside with a gloomy outlook. There are also very strong concerns about the ability of future residents to enjoy the outdoor amenity space given mature trees dropping large amounts of leaves and other debris including branches of varying size up to and including that which could seriously harm residents and their property including cars. For these reasons the proposal does not accord with adopted policy DMC3 which requires a high standard of amenity.

### **132. Highways Considerations**

133. The proposed parking layout would utilise the existing access point off Hardy lane result in a material increase in traffic using the lane and its junction with Sherwood Road which has substandard emerging visibility not helped by parked vehicles. In addition the parking spaces fall below our adopted space size, albeit by a small margin and would need to be increased further making the layout a little more cramped. There are also no accessible parking provision or visitor parking and therefore albeit a small development there would be an increase in visitors parking on Sherwood Road close to the junction and contributing to local concerns over parking congestion and highway safety. However, as the Highway Authority has raised no objections we would be unable to sustain any formal objection in this regard.

### **134. Ecology Impact**

135. The protected species form accompanying the application has been incorrectly filled in as it has not acknowledged that the proposal involves the loss of a mature tree. Consequently although a tree report has been submitted no protected species survey has been submitted and therefore we have no information upon which to assess the impact of the development upon protected species. The proposal is therefore contrary to DMC11 & 12. We have invited the applicant to withdraw the application rather than go to the expense of further survey work given the fundamental objections we have raised as officers to the proposal however the applicant has requested determination as submitted.

### **136. Environmental Management**

137. In order to meet the requirements of Policy CC1 the supporting statement explains that the new dwellings will be built partly on brownfield land and sited within the village boundary. The agent further explains that the houses would be designed to achieve the equivalent of Code Level 3 in the (former) Code for Sustainable Homes, and in addition designed to Lifetime Homes standards. It goes on to set out that the following specific strategies are proposed (summarised):
138. Energy use: The houses will be 'super insulated' to reduce energy use in the simplest and most direct way. The homes will be heated using a high efficient A rated gas condensing boilers. All internal and external lighting will be 100% low energy and any white goods will, where fitted be A rated. Outdoor amenity space is also provided to all dwellings to allow for outside clothes drying
139. Water use: Low water use fittings will be specified and water butts will be provided to harvest rain water for use in the gardens.
140. Materials: The specification of materials will ensure minimum environmental impact. Natural materials which will be sourced locally will be used thus reducing their carbon footprint. All trades people will be local also ensuring that the carbon footprint of the proposal is minimised (this cannot reasonably form part of a planning condition). Glazing will be high performance double glazing without vents.
141. These energy efficient measures would go some way to meeting the terms of Core Strategy Policy CC1 however if the development were to be approved we would require more certainty as to the proposed specification in order to secure these efficiencies. In addition whilst it is recognised that solar Pv or ground source heat pumps would not be

appropriate on this site there has been no consideration of the use of air source heat pumps which could make a significant contribution to reducing the carbon footprint of the development. We have not however pursued this further given the other fundamental objections to the scheme.

**142. Conclusion**

143. The impact of the proposed housing development would be out of keeping with the local built environment, cause significant loss and harm to protected trees, reduce biodiversity and adversely impact upon valued character and appearance of Sherwood Road and the special character and significance of the Conservation Area as well as the setting of the listed Hardy House. Furthermore the application contains incomplete and inadequate supporting information to make full and proper consideration of key planning considerations and consequently the proposal is contrary to adopted policies GSP1-3, L1, DMC3, 5, 7&8, 11 -13, and is recommended for refusal.

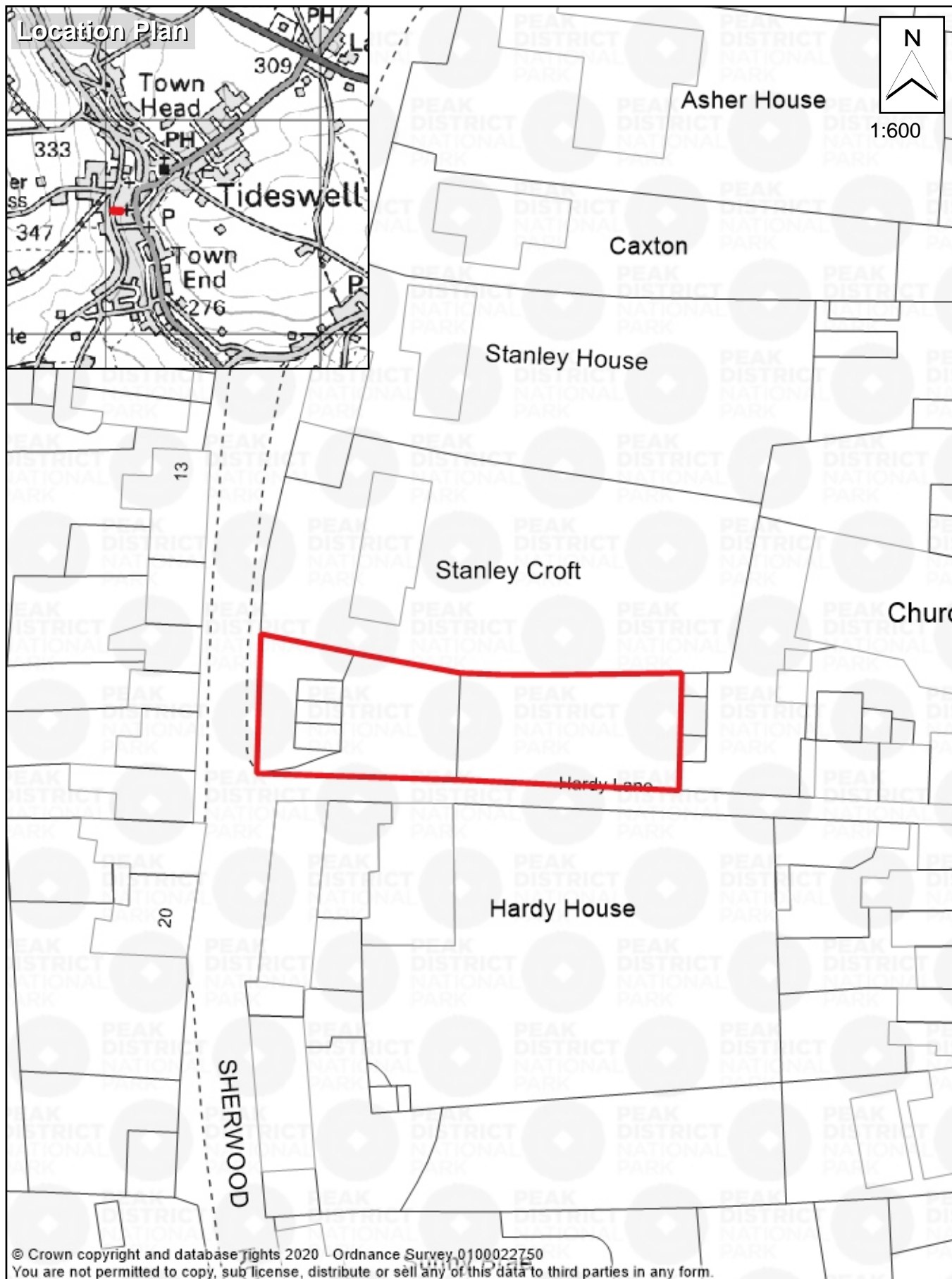
**144. Human Rights**

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


146. List of Background Papers (not previously published)

147. Nil

148. Report author: John Keeley – Planning Manager - North Area Team



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Committee Date:	Friday 30th October	<b>Title:</b> Land off Hardy Lane Tideswell	 <b>PEAK DISTRICT NATIONAL PARK</b>
Item Number:			
Application No:	NP/DDD/0620/0548		
Grid Reference:	415039, 375572		

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**5. FULL APPLICATION –PROPOSED SEMI-SUBTERRANEAN OUT BUILDINGS IN THE REAR GARDENING INCLUDING CREATION OF GARDEN TERRACE, THE MOUNT, THE HILLS, BRADWELL (NP/DDD/1219/1340, CW)**

**APPLICANT: MRS O'DRISCOLL,**

**Summary**

1. A proposed front parking space has been omitted from the proposal and the application now seeks permission for two semi-subterranean outbuildings in the rear garden and associated terrace area.
2. Subject to conditions, the development satisfies the relevant policies outlined below and the application is recommended for approval.

**Site and surroundings**

3. The site is located at The Mount, The Hills, Bradwell. This is a traditional, detached property. The front elevation is constructed from natural limestone rubble, whilst the sides and rear elevations have been rendered. The property has a hipped natural slate roof.
4. The site is located within Bradwell Conservation Area. The proposal does not affect any Listed Buildings.
5. The Mount is located on the west side of The Hills with its front (east) elevation facing the public highway and a public footpath running to the north of the plot. The property is surrounded by residential properties, to the rear of the property the land falls away and therefore there are steps down to access the rear garden.

**Proposal**

6. The proposal has been amended since submission with the omission of the previously proposed parking area on the front garden. Amended plans now only propose the construction of two semi-subterranean outbuildings at the lower ground level on the rear elevation of the house. The roofs would be level with the ground level of the main house and would formalise and extend an existing level area as a garden terrace, bounded by metal railings (replacing the submitted glass balustrade) and have a flight of stone steps running down between the outbuildings to access the lower rear garden level. Each room in the outbuilding would be accessed and lit by a pair of glazed French doors opening onto the lower garden.

**RECOMMENDATION:**

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

1. **3 year implementation period.**
2. **Development to be carried out in accordance with specified plans proposed side North ref.105 Rev A, proposed side south ref. 106 Rev A and proposed rear east ref 104 Rev C.**
3. **All new stonework shall be natural limestone faced, coursed and pointed to match the existing stonework of the house.**
4. **The new doors shall be recessed by 150mm from the external face of the stonework.**

5. The new doors to be provided in aluminium colour, to be approved in writing by the Authority prior to installation.
6. The new door openings shall each be fitted with a natural gritstone lintel.
7. The railing shall be painted dark grey and permanently so maintained
8. The glazing shall be provided in transparent glass with no mirror finish applied.

**Footnote: No permission granted for the front parking space which is omitted for the proposal;**

### **Key Issues**

- The effect of the proposal on the appearance of the building, on neighbouring amenity, and the setting of the conservation area and wider landscape.

### **History**

NP/DDD/0315/0172 – 3 storey extension to the rear of existing detached property – granted conditionally in May 2015

NP/NMA/1016/1067 – non-material amendment to door and window location – accepted in November 2016

### **Consultations**

7. Highway Authority – Raised concerns over parking element of the application, which has now been removed.
8. PDNP Conservation Officer - *The property is one of a row of early twentieth century villas on the west side of The Green (visible on the 1922 third Edition Ordnance Survey map). The villas make a positive contribution to the character and appearance, and significance of the Bradwell Conservation Area and are specifically identified in the Conservation Area Appraisal (CAA): “The twentieth century villas on the west side of The Green as it runs south are distinctive in the Conservation Area”.*  
*The 3-storey rear elevation of The Mount is clearly visible in views towards The Hills from within the Conservation Area - from Dale End, Brookside and Hungry Lane, as well as from the footpath which runs up from Dale End to The Green, beside the property.*  
*The CAA specifically identifies as important the boundary walling which runs between the garden to The Mount and the adjacent footpath on its north side, curving around the corner to meet The Green, and the low wall and railings to the front of the property.*  
*The current application appears to propose the removal of the important boundary walling and wall + railings identified in the CAA, in order to create an off-road parking space. This will result in the loss of important features within the conservation area, and the removal of the historic enclosure to the road and to the south side of the footpath at this point, which pre-dates the construction of the Mount itself (visible on the C19th Ordnance Survey maps). These proposals will have a negative impact on the historic character and appearance of the Bradwell Conservation Area.*  
*The land slopes steeply down from the road in this location, and it is unclear how a parking space can be created without considerable levelling of the land here, which would also alter, and have a negative impact on the historic character and appearance of the Conservation Area at this point.*  
*The large areas of glazing and the glass balustrade proposed to the rear elevation would be visible from the public domain and would be a non-traditional element within the Conservation Area, unsympathetic to its historic character and appearance. This*



would have a negative impact on the special interest of the Bradwell Conservation Area.

9. Bradwell Parish Council – Object for the following reasons
- *On the grounds of Design and Appearance. The rear of this property is clearly visible from many places in the village and the appearance is not in keeping with the character of the village. The removal of the parking space does not change this appearance.*
  - *Too large after previous work and external appearance out of keeping with other village buildings. Too much glass.*
  - *It's overdevelopment of the site and would like to know what the Peak Park rules on site development*
10. Derbyshire Dales District Council – No response to date.

### **Representations**

11. There were three letters of support received. As the parking element has been removed from this application the comments relating to this have not been included. The following points are made:
- *The garden of the property is secluded and not visible from the road or the majority of properties in the area.*
  - *the proposed development to the garden will have minimal/no impact on residents and their views, or road users.*
  - *proposed developments would be a continuation of the substantial renovation work carried out on the property by the owners. This has had a significant positive impact on the visual appeal of the road and the proposed alterations to the front and rear of the property would enhance this further.*
  - *The garden rooms and terrace will be in a private garden and are unlikely to impact on the neighbouring properties.*
  - *the rear extension will have little or no impact on the views from Bradwell Dale and the glass screen proposed for the balcony will reduce any visual impact.*
  - *In terms of glazing to the proposed rooms, these will be mainly below eye level from most perspectives.*

### **Main policies**

12. Relevant Core Strategy policies: GSP1, GSP3, DS1, L1, L3, CC1, CC5
13. Relevant Development Management Plan policies: DM1, DMC3, DMC5, DMC8, DMH8

### **National planning policy framework**

14. 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 which are to conserve and enhance the natural beauty, wildlife and cultural heritage and promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. 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.
15. The National Planning Policy Framework (NPPF) 2019 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 particular Paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.

16. In the National Park the development plan comprises the Authority's Core Strategy 2011 and the Adopted Development Management Policies. 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 with regard to the issues that are raised.

### Core Strategy

17. 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. 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.
19. Policy DS1 outlines the various development that is acceptable in all settlements and in the countryside, outside of the Natural Zone, one of which relates to extensions to existing buildings.
20. 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. L3 states that development must conserve and where appropriate enhance the setting, including statutory designations of importance or special interest.
21. Policy CC1 sets out options for climate change mitigation and adaptation, along with CC5 regarding flood risk and water conservation.

### Development Management Policies

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 DMC5 assesses the impact of development on designated and non-designated heritage assets. It states that planning applications for development affecting a heritage asset, including its setting, must demonstrate how the asset will be conserved and where possible enhanced.
24. Policy DMC8 deals with Conservation Areas specifically, and states that applications for development should demonstrate how the character and appearance and significance of the Conservation Area will be preserved and enhanced, taking into accounts matters such as views and vistas in and out of the Area, size of the development in relation to the existing building and design and materials to be used.

25. Policy DMH8 relates to new outbuildings and alterations and extensions to existing outbuildings in the curtilage of dwelling houses. It states that new outbuildings will be permitted provided the scale, mass, form, and design conserves or enhances the immediate dwelling and curtilage, any valued characteristics of the adjacent built environment and/or the landscape, including Listed Building status and setting, Conservation Area character, important open space, valued landscape character.

### Bradwell Neighbourhood Plan

26. The property sits within the Bradwell Neighbourhood Plan, and within the 'Built Area' designated to meet Bradwell's housing need. More relevant to this proposal is policy H5, which outlines high quality design for new development to enhance the character of Bradwell.

### Assessment

#### Principle

27. As an extension to an existing residential dwelling the proposal is accepted in principle by policies DS1 and therefore the main issue in the application is whether the scale, mass, form, design and materials of the proposed outbuildings would conserve and enhance the dwelling and curtilage, as well as the surrounding landscape including the setting of the Conservation Area (policies DMH8, DMC3, DMC5 and DMC8). Policies further require that the proposal not to impact adversely upon the amenity of the development and surrounding properties (policy DMC3).

#### Design

28. Policies DMC3 and DMH8 outline the design criteria required for new outbuildings. It has been agreed with the applicant that the outbuildings will be constructed in random natural limestone, with gritstone lintels to the doors. It was considered that the proposal as originally submitted was over-glazed, due to the large openings and a glass balustrade. Amended plans have now been received replacing the glass balustrade with metal railings, reduced door opening sizes with glazing bars to better reflect the divided window frames in the existing house.
29. The outbuildings would be accessed by steps running centrally down from the proposed new terrace to the rear garden which lies some 3 metres below the ground level of the main property. This will result in the top of the outbuildings being level with the ground level of the main property. The roof area of the outbuildings will be used as a terrace garden, with the fence at the top of the outbuildings, to be painted a dark grey.
30. The positioning of the steps within the footprint of the new outbuilding would divide the undercroft building below into two rooms each of which would measure approximately 3.5m x 3.5m. One of the outbuildings is to be used as a storage area/workshop and the other is to be used as a garden room. As required by policies DMC3 and DMH8 it is considered that the scale, form and massing of these outbuildings is modest and would be appropriate in this garden location. They would be constructed from natural local materials and would sit below the main property and thereby not be obtrusive outside the garden or dominate the original building.

31. It is therefore considered that in line with DMC3 and DMH8 the amended proposal does not detract from the character and appearance of the main building and its setting.

#### Heritage

32. Originally this application included a parking space to the front of the property. Due to the highway concerns raised and the impact on the Conservation Area, this element has now been removed from the application.
33. As the proposal is situated in a Conservation Area, policies DMC5 and DMC8 are also considered. The parish council has raised objections that the outbuildings will be visible from other parts of the village. These concerns were also originally raised by the Conservation Officer, due to the level of glazing. It is considered that with the replacement of the glass balustrade with a more traditional lightweight metal railings, the reduced opening sizes as well as the use of limestone, will all ensure that even when glimpsed from the limited viewpoints outside the site. It would appear appropriate in scale and detail to blend with the existing building and would thereby conserve the Conservation Area.

#### Landscape

34. Policy L1 state that development must conserve and enhance valued landscape character.
35. It is considered that whilst part of the development may visible from the rear of the property, this is in relation to an already established residential area and with the use of traditional materials this would not have any adverse landscape impact.
36. It is considered that the amended design ensures that the landscape character is conserved and that the proposal satisfies policy L1.

#### Amenity

37. Due to the secluded nature of the rear garden, at a lower height than much of the surrounding land, it is considered that there will be no amenity or privacy issues on the main building, or surrounding properties.

#### Highways

38. As the parking element to the front of the property has been removed, there are no highway issues to be considered.

#### Conclusion

39. The amended proposal is of a sensitive design and suitable materials which match the main house and therefore satisfies policies DMC3, DMC5, DMC8 and DMH8. As outlined by policy DMH8, the proposal will not have a detrimental effect on the character and appearance of the dwelling, its setting, or the surrounding area. In line with policy DMC3, it will not result in an unacceptable impact on the amenities of the locality or the quiet enjoyment of the nearest neighbouring properties. In line with policies DMC5 and DMC8, the character and appearance of the Conservation Area will be preserved. Approval is therefore recommended.

### **Human Rights**

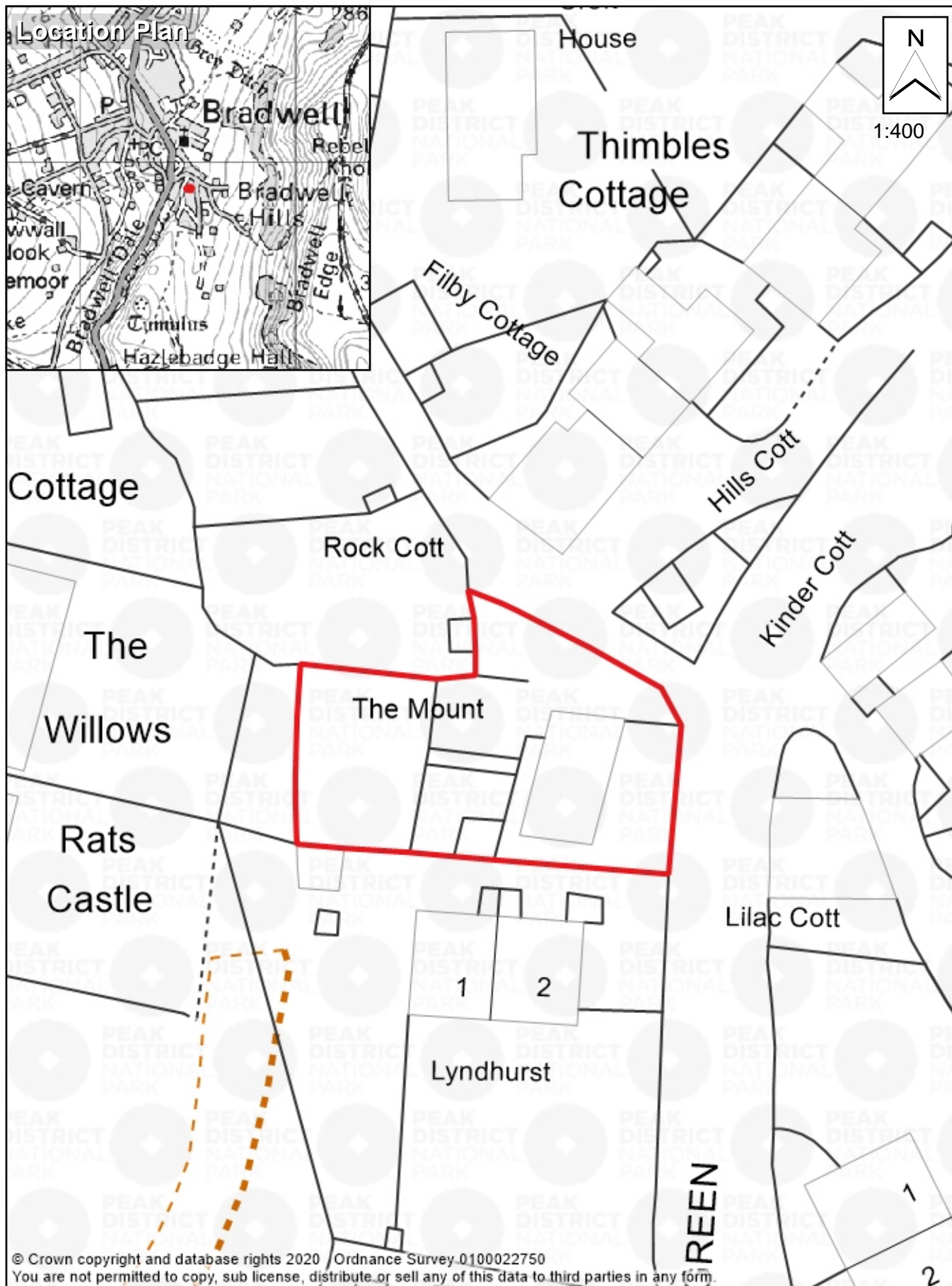
Any human rights issues have been considered and addressed in the preparation of this report.

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

Nil

Report Author: Clare Wilkins, Sustainable Communities Officer

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Committee Date: Friday 30th October  
Item Number:  
Application No: NP/DDD/1219/1340  
Grid Reference: 417505, 380873

**Title:** The Mount  
The Hills  
Bradwell



**PEAK  
DISTRICT  
NATIONAL  
PARK**

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**6. OFFER OF SECTION 106 AGREEMENT IN RELATION TO ENFORCEMENT ACTION AGAINST THE CREATION OF A SURFACED TRACK ON LAND AT MICKLEDEN EDGE, MIDHOPE MOOR, BRADFELD (ENF: 15/0057)**

**1. Introduction**

- 1.1 This report seeks the Planning Committee's decision on an offer of a section 106 legal obligation in respect of an Enforcement Notice relating to an unauthorised track at Midhope Moor, near Langsett. This report is being brought to Committee for two reasons. Firstly, it is a matter which has raised significant concerns as it involved the construction of a new track in the Natural Zone and within an area that is also designated as a SSSI, SAC and SPA. Secondly, whilst officers have delegated powers to enter into section 106 legal agreements where they are related to planning applications, Standing Orders do not permit officers to make such decisions on behalf of the Authority where they are not related to applications, as is the case here. This matter is being brought to this Committee so that it can be dealt with urgently, given that any further delay would result in both parties incurring further costs in preparing for the public inquiry, due to start on 8 December 2020.
- 1.2 The unauthorised development which is subject of this report lies within the Peak District Moors Special Protection Area (SPA) and South Pennine Moors Special Area of Conservation (SAC), and has the potential to affect the interest features. A retrospective application for the development was refused on 15 June 2018 (application ref: NP/S/1217/1304). A copy of the report to that Committee is attached as appendix 1 as it sets out the matter in some detail. Following the refusal of the application the Authority served an Enforcement Notice in October 2018 to secure removal of the track and appropriate restoration; a copy of the Notice is attached as appendix 2.
- 1.3 Following service of the Enforcement Notice the applicant submitted an appeal, requesting that the appeal be dealt with through a public inquiry. There was then a very lengthy delay awaiting registration of the appeal by the Planning Inspectorate. However, a date has now been set for a public inquiry, beginning 8 December 2020. It is anticipated that this could last a number of days, with the appellant's agent requesting that 5 days be set aside. The Inspectorate is not holding in person Public Inquiries at the moment and are scoping the potential to hold this appeal remotely using video conferencing.
- 1.4 Following submission of the appeal the appellant's agent wrote to the Authority to suggest that the Enforcement Notice should be withdrawn, as they considered that their client had a strong case. Officers responded on behalf of the Authority, rejecting this suggestion. Officers then met the appellant's agent on site in August 2019.
- 1.5 In July 2020, a discussion took place between the agents and officers and the appellant's agent offered to withdraw the appeal if the Authority accepted that the track could stay in place for a longer period of time. In response to this offer, officers made a number of suggestions relating to the detail of that offer. The agent then came back with an amended offer in September 2020, which was discussed with Chair and Vice Chair of Planning and the Chair of the Authority. Following this consultation, the offer was rejected by officers, but it was made clear that the principle of an improved offer was open for discussion. Consequently, a revised offer was submitted on 1 October which forms the subject of this report.

**2. Proposed Section 106 Legal Agreement**

- 2.1 As noted above, officers do not have the authority to agree a section 106 obligation where it is not related to a planning application. Section 106 of the Town and Country Planning Act 1990 (TCPA 1990) allows planning authorities to enter into agreements or accept obligations with persons having a legal interest in land to restrict the development or use of the land in any specified way or to require specified operations or activities to be carried out in, on, under or over the land or to require the land to be used in any specified way. They are also used to confirm agreements between planning authorities and landowners.

respect of other obligations relating to development.

2.2 The section 106 obligation that is being proposed by the appellant would contain the following key elements:

- The appellant would withdraw the appeal against the Enforcement Notice; this would mean that the Notice would come into effect. The public inquiry would not proceed.
- Both parties would agree not to claim costs against the other party and not to pursue them in the event that the Planning Inspectorate awarded costs of its own volition.
- The appellant's agent says that this offer is beneficial to both parties as it would avoid the high costs incurred in a public inquiry and avoid the possibility of costs being awarded against either party. It also gives certainty to the Authority as withdrawal of the appeal means that the notice would come into effect (it has been in abeyance since the appeal was lodged in October 2018).
- The Authority would amend the enforcement notice to allow for a longer period for compliance. The revised offer, received on 1 October, sets out a revised period for compliance of 28 months from the date of the obligation. This is longer than the period set out in the enforcement notice, which requires a number of steps to be taken (see appendix 2). The section 106 agreement would give a longer period for compliance, but would give greater certainty to the Authority. An appeal always has a degree of uncertainty about outcomes. It should also be noted that if the notice is upheld at appeal, the period for compliance will only come into effect once the appeal has been determined, which is likely to be in the first quarter of 2021, whereas the 28 months would begin as on the date of the obligation.
- The section 106 also offers a restriction on the use of the track during the period that it remains in place (no more than 50 days per year) and a limit on the weight of vehicles using it (no more than 1500 kgs). This restriction is not within the existing notice.
- The section 106 obligation also provides the Authority an opportunity to agree a detailed scheme for reinstatement of the ground once the track has been removed; currently this would be achieved through the steps set out in the enforcement notice.
- The Authority would agree not to take any further enforcement action during the compliance period.
- Finally, the draft section 106 obligation includes a clause which would have the effect of preventing the Authority from exercising its discretion to "*decline to determine*" a future application to retain the track. This power, under section 70C of the TCPA 1990, which allows LPAs to decline to determine applications which relates to development on land "*to which a pre-existing enforcement notice relates*". This power is discretionary. In the revised section 106 obligation the appellant would be allowed to submit an application between January and March 2022 and the Authority would be obliged to determine it, but it would not be obliged to approve it.

### 3. Assessment:

3.1 Officers consider that the offer of a section 106 obligation in return for withdrawing the appeal is in the public interest for the following reasons, provided the terms of that obligation do not undermine the Authority's position:

Firstly, the withdrawal of the appeal would mean that the Notice would immediately come

into effect (it has been in abeyance since the appeal was submitted). In this circumstance, the Authority could consider a number of options including taking action to prosecute the landowner, through the courts, seeking an injunction or it could take direct action to remove the unauthorised track and recover associated costs.

Secondly, the withdrawal of the appeal would give greater certainty of outcome. Whilst officers are confident that an Inspector would support the Authority's case and dismiss the appeal, there is no guarantee of outcomes at appeal. The Inspector could, in theory, allow their appeal and quash the Notice.

Thirdly, even if the Authority were to win the appeal, we would incur significant costs in defending our position, particularly as this appeal is being dealt with by means of a public inquiry which is likely to last several days. The Authority has engaged a barrister to act as our advocate in making our case and several officers are likely to be engaged as expert witnesses. Whilst the Authority has a specific reserve to fight legal cases such as this, any decision to use this reserve needs to be carefully justified. It is also possible that both parties could claim costs against the other (the appellant's agent has made it clear that they intend to seek costs against the Authority). This could result in the Authority recovering some or all of its costs, or, in the alternative, being liable for some or all of the appellant's costs. The normal position is that there is no order for costs, however, this is also an area of uncertainty.

Fourth, accepting the section 106 obligation would provide an opportunity to engage collaboratively on a detailed scheme for restoration.

### 3.2 In considering these benefits, Members also need to consider the following points:

Accepting the section 106 obligation would extend the length of time the track is in place. Given the policy position in relation to development in the Natural Zone, the Authority's strong opposition to the planning application for the track and the public interest in this matter, any extended period is a negative factor.

Allowing the track to remain in place for a further period could weaken the Authority's position if the track becomes more established during this time. It has already been in place for 6 years – some parts have become less intrusive and have become covered by vegetation (albeit grasses rather than other plants), but some parts have not performed well and have broken up and become even more intrusive. Development in the Natural Zone is in principle contrary to our strategic policies, if a decision was later made (by the Authority or an Inspector) on the basis of improved appearance of the track over the passage of time, this risks undermining this key strategic policy principle.

As drafted by the appellant, the obligation requires the Authority to waive its power to "*decline to determine*" a future application to retain all or part of the track. This would have put the Authority in a position where it would have to determine an application (if submitted) but we would be under no obligation to approve it. However, the appellant would then have the right of appeal and this could lead to further delays.

Crucially, however, the Authority's legal team has advised that the Authority cannot 'fetter its discretion' to use a power granted to it under the TCPA 1990. We have advised the appellant's agent that we cannot accept this. The consequence is that if the appellant submits an application for development of the type prohibited by the enforcement notice at a future date (with the Notice in place), then the Authority has the discretion to decline to determine it. If the Authority declines to determine it, the appellant can seek a judicial review of that decision. If the Authority does not decline to determine, the application would then be dealt with in the normal way. Which option the Authority takes would be a matter for the Authority at that time, but the legal advice is that we cannot fetter that discretion by agreeing to that clause in the draft s106 agreement.

In conclusion, officers consider that, subject to the omission of the clause requiring the Authority to waive its discretion to decline to determine an application, the offer of a section 106 obligation in return for withdrawing the appeal should be accepted. The precise wording of the obligation and terms still needs to be discussed and agreed with the appellant's agent, but this can be delegated to the Director of Conservation and Planning in consultation with the Head of Development Management and the Head of Law.

**4. RECOMMENDATION**

- 4.1 That the offer of a section 106 obligation in respect of the Appeal relating to the creation of a track, Midhope Moor, Langsett (PINs ref no: APP/M9496/C/18/3215789) be accepted, subject to the omission of the clause requiring the Authority to waive its power to decline to determine a future application.**
- 4.2 The detailed wording of the section 106 obligation to be delegated to the Director of Conservation and Planning in consultation with the Head of Development Management, and the Head of Law.**
- 4.3 APPENDICES**  
**Appendix 1 – Copy of Committee Report dated 15 June 2018**  
**Appendix 2 – Copy of Enforcement Notice, October 2018**

**Report Author and Job Title:**

**John Scott: Director of Conservation and Planning**

**7. FULL APPLICATION - RETROSPECTIVE PLANNING CONSENT ON MIDHOPE MOOR TO RESTORE AND REPAIR PREVIOUSLY DAMAGED ACCESS ROUTE TO INCLUDE THE LAYING OF PLASTIC ACCESS MESH TO FACILITATE VEHICULAR ACCESS. OPEN MOORLAND SITE, SPLIT BY THE CUT GATE PATH AND CROSSING MICKLEDEN BECK ON MIDHOPE MOOR (NP/S/1217/1304)**

**APPLICANT: WAKEFIELD FARMS LTD**

**1. Site and Surroundings**

- 1.1. Midhope Moor lies near the north-eastern edge of the National Park and to the south-west of Langsett and Upper Midhope. The moor is designated as part of the South Pennine Moors Special Area of Conservation, the Peak District Moor (South Pennine Moors Phase I) Special Protection Area, the Dark Peak Site of Special Scientific Interest and is Section 3 land forming the 'Natural Zone' in the PDNPA Development Plan. It is also open access land under the CROW Act and is bisected by the Cut Gate Bridleway, a very popular north-south route across the moor for walkers, cyclists and horse riders which runs from Langsett Reservoir southwards to the Upper Derwent at the northern end of Howden Reservoir. The Authority's Landscape Strategy and Action Plan places the site within the Moorland slopes and cloughs landscape character type within the Dark Peak landscape character area.
- 1.2. The application site essentially straddles the Mickleden Clough near the top of the moor some 2.8km SW of Upper Midhope. It comprises of an approx. 760m long sinuous section of a longer access route running roughly east-west from 'Lost Lad' down over the Cut Gate Bridleway and across Mickleden Beck rising up to the lower slopes of Harden Moss around 230m west of the Beck. This section of the route has been overlaid, after the underlying vegetation was cut back, with a 2m wide run of green plastic ground reinforcement mesh held down by metal pins. It is laid along mostly what appears to be the former route, but in places has been laid adjacent to some sections which were very badly eroded from over use. It was laid in December 2014 by the current owner to reinforce the route for vehicular access to the moor west of the site where works to conserve and enhance the moor had been consented by Natural England. At the western end it has been widened to 4m over a 20m section. Some short sections underlying the matting were repaired/improved by inverting the substrate and/or using existing material from within the line or close by to provide a level surface for the matting to be overlaid. There are two breaks in the run of matting where it crosses the Cut Gate Path and Mickleden Beck. Since it was laid in 2014 the underlying vegetation has grown through the meshing to varying degrees along its length.
- 1.3. Access from the nearest public road is gained to the site firstly via an established access track from the public road adjacent Upper Midhope up to a timber shooting cabin some 1.2km east of the application site. From the cabin informal access routes lead west to the application site past numerous shooting butts, a number of which were noted at the officer site visit to have been replaced/rebuilt in the recent past.

**2. Proposal**

- 2.1. The application seeks retrospective planning permission to retain, on a permanent basis, the plastic ground reinforcement matting and associated groundworks. The site is a 700m length of route with matting laid down over 670m approx. at 2m wide. The matting has gaps where it crosses the Cut Gate path and Mickleden Beck. At the western end the matting has been doubled in width to 4m to allow room for parking and turning. The application states the matting is only to be used by 'All Terrain Vehicles' or ATV's.
- 2.2. The construction methodology describes that a tracked vehicle was used to level undulations in the ground from previous use of the route with a 45m steep section near the Cut Gate path manipulated by inverting the ground level material to create a level surface on which the

matting was laid. Loose rutted stone was flattened out and existing material realigned along the route and consolidated; old wooden structures in the wetter areas were removed. The application states that in the wet flush sections laying of log rafts may be required in due course. It was noted at the officer site visit that large pallets of logs have been recently delivered alongside these areas which are already suffering vehicle damage which has caused the matting to break apart and sink into rutting. The application states that after laying the entire route of the matting was then seeded (no details of the seed used) and additions of lime and fertiliser repeated until a suitable covering of vegetation achieved.

- 2.3. The application is accompanied by a supporting statement which explains the need for the matting. It includes photographs of the route before and after the works as well as a copy supporting letter from Natural England (dated 9/2/16 and submitted previously with the 2016 invalid application), an extract from 'the restoration plan' with description of the methodology for the laying of the matting, product details for the 'GrassProtecta' grass reinforcement mesh, a plan showing cross sections through the matting as laid, and a copy of Natural England's consent notice for moorland restoration works to be carried out between 2014 and 2017 on the moor west of the application site with associated Habitats Regulation Assessment.

### **3. RECOMMENDATION**

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

- 1. The justification for the access matting advanced in the applicants supporting statement does not amount to exceptional circumstances to warrant development in the Natural Zone. The proposal is therefore unacceptable in principle and contrary to policies L1, LC1, GSP1-3 and paragraph 115 and 118 of the NPPF.**
- 2. The adverse visual impact of the matting itself and the consequent changes to the vegetation along its length arising from its installation significantly harms the valued character and appearance of the moorland landscape contrary to policies L1, LC4, GSP1-3 and NPPF paragraphs 115 and 118.**
- 3. Harm to the moorland ecology and habitat along the length of the application site from the initial installation of the matting and associated groundworks coupled with the damage caused subsequently from the increased vehicle use of the route contrary to policies L2 and LC17.**

### **4. Key Issues**

- The principle of development within the Natural Zone.
- The impact of the track and associated works upon the fabric, character and appearance of this moorland Landscape
- The ecological impacts of the development.

## 5. Relevant Planning History

- 5.1. 2012 It is understood the applicant purchased Midhope Moor around this time for use as a grouse shooting moor. At that time the moor had suffered from some damage along moorland routes due to excessive vehicular use by the previous owners. This had damaged the vegetation and caused rutting/exposure of the underlying peat/substrate. And especially in the vicinity of the application site.
- 5.2. 2014 December - Ranger reports new track works to Monitoring and Enforcement Team.
- 5.3. 2015 January – Update from ranger with photographs reporting plastic matting laid down on route. Furthermore, ranger discussions with Natural England (NE) had ascertained the track was to be temporary and had been consented by NE to enable a gully blocking excavator to access the moor to the west for conservation works.
- 5.4. 2015 June – Monitoring and Enforcement Team write to owner advising that the matting and associated works were unauthorised and requesting an application be submitted by August, pointing out however that the Authority's policies normally seek to prevent any development in the Natural Zone and that enforcement action will be considered if the track remained after that date. Correspondence followed with the agent who initially disputed the need for consent before an application was submitted in 2016.
- 5.5. 2016 Planning application submitted for retention of access matting but subsequently deemed invalid, principally due to inaccurate plans. A revised application was requested with better drawings and a more detailed justification statement, eventually resulting in the current application.

## 6. Consultations

- 6.1. Bradfield Parish Council – Recommend refusal based on the impact on nature, conservation interests and biodiversity opportunities, Landscaping, Risk of flooding, Inappropriate use of plastic on the landscape.
- 6.2. Natural England – No objection - subject to appropriate mitigation being secured. Comment in detail as follows:
- 6.3. *"The planning application documents show that the plastic access mesh was put in place as a temporary feature to support a Higher-Level Stewardship scheme for moorland restoration. Its purpose is to prevent damage to the SSSI/SAC by reducing braiding and erosion from vehicles being driven on to the moor as part of restoration works. The restoration scheme is continuing and is currently expected to be completed within the next 5 years. Removal of the track before these restoration works are completed is likely to result in the SSSI/SAC being damaged again due to the vehicular access required to carry out these restoration works. Once restoration works have been completed, the temporary trackway should be removed and the area restored. Removal and restoration works would be subject to separate Habitats Regulations Assessment.*
- 6.4. *If the Park are considering granting permanent planning consent then we have set out the considerations which they would need to take into account when reaching a decision. The advice below will also allow the Peak District National Park Authority to undertake a Habitats Regulations Assessment (HRA) as competent authority when determining the application*
- 6.5. *We consider that without appropriate mitigation the application would:*
  - *have an adverse effect on the integrity of the South Pennine Moors Special Area of Conservation and the Peak District Moors (South Pennine Moors – Phase 1) Special Protection Area*

- *damage or destroy the interest features for which The Dark Peak Site of Special Scientific Interest has been notified.*
- 6.6. *In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:*
- 6.7. 1. *Suitable ground monitoring by the operator and agreement holder should be undertaken as part of the restoration operation to ensure relevant precautions are taken so that vehicles do not impact upon the qualifying features of the above-named sites.*
- *Restrictions on vehicle use are: track decommissioning and construction – machinery storage and re-fuelling and thereafter daily use for purposes of restoration limited to ATVs only.*
- 6.8. 2. *Permission for the trackway should be granted for a time limited period. This would allow reviews to be undertaken as the evidence base on mesh track usage on moorland develops.*
- *The time limitation could allow for the completion of the restoration programme for this area of moorland detailed in the supporting information provided with the planning application.*
  - *Continued use for agricultural and non-agricultural purposes beyond the restoration programme element of the application should be considered in accordance with the Advice on long-term use of the track and HRA at Annex B. This should be for no more than 5 years to allow for a future assessment of the suitability of the track against any new evidence on the impacts of mesh trackways. Please refer to our explanatory information for more detail.*
- 6.9. *We advise that an appropriate planning condition(s) or obligation(s) is attached to any planning permission to secure these measures.”*
- 6.10. *Annex A: Explanatory information in support of Natural England’s advice*
- 6.11. *Decommissioning of previous ad-hoc track upgrades*  
*In order for the laying of the mesh to take place, decommissioning of any previous ad-hoc track was required. However, limited information is supplied for the necessary site preparation in advance of laying plastic meshing down. Without more detail of the above requirement to decommission the site, it is not easy to ascertain what the immediate impact would be to the qualifying features of the European sites. Without additional supporting information to dispel any of the potential impacts, at this stage it is considered that there is a credible risk to qualifying features from activities required to decommission existing structures on the track and as such mitigation measures are required.*
- 6.12. *Construction of the mesh track*  
*The considered method of construction may present a credible risk of localised soil compaction, hydrological change and vegetation change to the qualifying features of the SAC. As with decommissioning, mitigation measures are required.*
- 6.13. *Further advice on mitigation requirements*  
*Uncertainty remains over the long-term use of mesh tracks for vehicle access on the impact of qualifying features: namely Blanket bog. In a recent summary report of a study ‘The Impact of Tracks on Blanket Peat Ecohydrology (McKendrick-Smith et.al. 2017a), it is suggested that presence of a stone track can affect soil moisture content, particularly where*



tracks cut across flow pathways.

- 6.14. *The age of the track appears to influence the average moisture content of the peat around the track' (McKendrick-Smith et.al. 2017 b). The study also considered the effect of tracks on other hydrological properties including overland flow and it is suggested that there is a higher overland flow immediately in and around a stone track, and where vegetation is least established.*
- 6.15. *Whilst some plastic mesh tracks were included in the wider track survey, the main plastic track research was carried out on a recently laid track over a two-year period. The results of research indicated a non-significant impact of the mesh track on peat hydrological processes. **The evidence base on this type of use is limited and thus we are prepared to accept a time-limited consent which will allow reviews as the evidence base on mesh track usage develops.***
- 6.16. *Continued operation and de-commissioning*  
*Natural England cannot identify any adverse effects on integrity arising from the removal of previous ad hoc track upgrades and the laying of a mesh track for restoration work, provided conditions are set out for monitoring and review of ground conditions and restriction of vehicular use.*
- 6.17. *Our advice on considerations for HRA in relation to long term use of the track is at Annex B. Officer note – A summary is included below with only relevant sections reproduced;*
- 6.18. *Annex B: Advice on long term use of the track and HRA*
- 6.19. *We advise that it is for your authority to determine the need for a track on a long term basis. In coming to this decision, you should consider all options, including other access arrangements that may be available.*
- 6.20. *In coming to a view on the long term status of the track in this location for this application using the existing mesh track, you may find the following advice useful in order to assist you in undertaking a Habitats Regulations Assessment (HRA) as part of any planning consent.*
- 6.21. *Your authority should consider the potential ways in which the plan or project might credibly pose a risk to European Site(s), based on an early and rapid assessment of the location of European Sites, their proximity to the plan or project in question and the nature, type and scale of the plan or project in question.*
- *The available advice provided by Natural England's Impact Risk Zones and /or statutory Advice on Operations for European Marine Sites should be considered as appropriate to inform this initial risk assessment.*
  - *Any future decisions on the potential modification of the track to incorporate a log raft would require clear supporting information that would need to be considered separately to this retrospective planning application.*
  - *The retrospective planning application maintains that the access track provides 'a long term solution to facilitate access across dangerous terrain'. The application states that 'installation of the matting has reduced further erosion and minimised impact and enabled the ground to be restored towards favourable condition'. Additional justification is provided within the application for the use of the route, including continued restoration work for distribution of bags of sphagnum and transferring cut heather for brash from one part of the site to the other. Other uses include: safe access and egress for the Estates staff across difficult terrain, a safe route for gathering stock grazing the moor, grouse moor management, and a linking*

route to access this, and the neighbouring site for wildfire control.

*However, the residual and long-term effects of surfacing the access route with plastic matting may include an increased use of this track in preference to others, going beyond the function originally intended in the Higher Level Stewardship Scheme for restoration works. Continued and regular use of the track for agricultural and non-agricultural use, may result in an increase in soil compaction, a localised effect on hydrology and a limited recovery of vegetation. There is then potential for a credible risk to the qualifying features.*

- 6.22. *Your authority will therefore need to take these considerations into account when considering whether to grant permission for the long term use of the trackway and ensure you have sufficient evidence in order to carry out an HRA to determine no LSE on these N2K sites.*
- 6.23. *Further general advice on consideration of protected species and other natural environment issues was provided at Annex C and is available on the Authority's web site in the full copy of the response".*
- 6.24. PDNPA Landscape Architect – Object – Highly significant impact which is not possible to mitigate.

Summary of detailed comment;

This is development within the natural zone and can therefore only be justified in exceptional circumstances.

I am unsure why a permanent vehicular track is required to facilitate ongoing restoration works – this would only be necessary for the duration of the restoration works?

After the track was installed it was highly visually intrusive and it is accepted that the visual effects of the track have reduced over time; however, the track is still a visually intrusive and incongruous development in the natural zone.

The new track has also not been laid on the route of the previous eroded track – and this eroded route has not been restored. Given that, I do not support the application.

6.25. PDNPA Ecologist:

The track falls within the Peak District Moors SPA, South Pennine Moors SAC and Dark Peak SSSI. According to our records, it is located on modified blanket bog habitat and skirts around a flush to the north of the site. Natural England's letter dated 09/02/2016 provides a breakdown of habitat that the route crosses in more detail, listed as follows:

Dry heath	320m2
Dry heath/acid grassland	380m2
Bracken	110m2
Marshy grassland/juncus flush	360m2
Flush/stony ground/river bed	50m2
Blanket bog	100m2

This totals 1320m2. The letter also states that 3500m2 (including the area of the mesh track) of habitat has been affected by vehicle use along the route.

As well as upland bird interest, there are historical records for water vole along the Mickleden beck.

Natural England's letter dated 13th April 2018 notes that HRA is required, but have no objection to the application, subject to appropriate mitigation being secured, which includes granting permission for use over a limited time period. The letter states that the restoration scheme is continuing and is currently expected to be completed within the next 5 years. However, the application and the letter are unclear as to what works remain and whether alternative methods are available that would not require the use of the track.

A permanent track cannot be justified on ecological grounds as it is not necessary for management of the site in the long term and likely to have a significant effect on a European site. In addition to loss of habitat, it is likely that compaction and hydrological damage has occurred through the construction method that has been used (levelling the route with a tracked vehicle and the inversion technique that was carried out along 45m of the route). Continued use would also exacerbate this problem. It would be difficult to avoid harm through modifications, conditions or restrictions. Conditions on track use in terms of type of vehicle use would be impossible to enforce. As stated in NE's letter, the surfacing may lead to an increased use in preference to other tracks on the site.

Doubling the width of the track to 4m over 20m length is also not acceptable.

A temporary track to facilitate moorland restoration could be acceptable on ecological grounds, but only if:

(a) there are no alternative means of carrying out the restoration, such as airlifting materials into the site, alternative routes etc. The applicant would need to clearly demonstrate that any alternatives could not be implemented at this site, especially given that these techniques have been used on other sites in the Peak District, avoiding vehicular access. Only two alternatives are presented in the application – the creation of a stone track, which is also unacceptable, and leaving the route in its previous state, which would cause further damage. However, stopping vehicle use altogether has not been considered, which would have allowed the site to recover.

(b) the timescales for restoration and retention of the track are clear, and limited. In order to assess this, further information is required on the remaining works that are being completed, along with a clear timescale for these works.

If temporary permission is deemed to be acceptable, then details of the track restoration must also be provided with the application for the restoration of the track, so that this can also be assessed under HRA. Restoration works within 10 metres of the watercourse would need to consider the presence of water voles.

#### PDNPA Rangers (consulted on the bridleway impacts/access issues)

The proposed access route crosses a public bridleway (Cut Gate), popular with walkers, horse riders and cyclists. It also crosses Access Land and is clearly visible from a wide area. The plastic mesh previously laid across the bridleway has already been removed following objections from the Highway Authority.

Although the track/mesh are clearly visible from public access locations and may be considered therefore to have a detrimental visual impact, public access is not impaired directly by the proposal.

It is therefore recommended that efforts are made to ensure that the bridleway surface remains unaffected and visual intrusion is minimised.

#### Suggested mitigation/conditions/footnotes:

- Replace plastic mesh with locally derived stone to a minimal length and width necessary to facilitate an overall reduction in the impacts of both track and vehicle use on the natural beauty and amenity of the area.
- Ensure use of the track by vehicles is minimised to prevent continued collateral

damage to the moor.

- Undertake restoration of associated vegetation and habitat damage.
- Restore natural hydrology

## **7. Representations**

7.1 At the time of writing 187 letters of objection had been received raising the following summarised issues/concerns:

- The matting has a negative impact on the landscape being an intrusive feature that can be seen from quite a distance crossing this wild valley and its continued existence detracts from the enjoyment of the area and from those particularly using the Cut Gate Path.
- Access route does not appear on OS mapping and only began use by previous owner in 2004/5.
- Conflicts with PDNPA's planning policies for the Natural Zone in which "development is not acceptable other than in exceptional circumstances". There do not appear to be any exceptional circumstances to justify planning permission for this track to be granted.
- PDNPA own policy GSP1 states 'where there are conflicting desired outcomes in achieving national park purposes greater priority must be given to the conservation of natural beauty, wildlife and cultural heritage of the area, even at the cost of some socio-economic benefits.
- Matting has promoted a grassy sward along a strong linear feature through which the matting is visible in many places rather than the typical mosaic of moorland plants.
- The matting has not achieved any purpose that may have been integral to its initial justification.
- The track has clearly enabled extensive habitat damage through continued vehicle usage; furthermore vehicles don't stick to using the track, they are widening its extent by driving alongside it where it crosses the stream.
- It is likely to further contribute to the already existing problem of peat and sandstone erosion in the area.
- Why allow vehicles to damage scenery and then allow roadway to be built?
- Conveys a message that those charged with protecting the quality and character of the landscape are allowing it to be spoiled; an order should also be made by the Peak Park Planning Authority to remove the plastic track (including sub-base) and restore the moorland to its former or an improved state.
- It is not necessary, impinges on the natural wild nature of the moorland, affects a natural watercourse, affects the natural habitat of the landscape.
- Threat to wildlife / detrimental to the presence of wild birds due to increased access through use of the track.
- does not enhance moorland management; will facilitate an intensification of management of the area to the detriment of the peat.
- The materials used in forming the track are not appropriate to this environment and are an eyesore. They add to the plastic pollution in the environment.

- the track has not been installed, as is claimed by the applicant, to facilitate habitat restoration works, it has been installed to get to shooting butts, which themselves have not received the required planning consent.
- The description of the track in the application does not accurately describe what is on site; The forms are incorrect, the site is near water, Mickledon Beck and Bull Clough that run into The Little Don
- The track does not comply with the EU Habitats Directive and the EU Birds Directive, does not benefit the SAC/SPA/SSSI and indeed is adversely affecting the integrity of these designations and is not necessary for site management
- The information provided does not detail how long the mesh product can be expected to last, or how it can be removed once it has reached the end of its design life. With no commitment to remove the track at the end of the design life, it is assumed that this track is intended to be a permanent feature.
- Some of the matting is breaking up and will run off into the water course and cause pollution in the water system. This is completely contrary to current views on the impact of plastics on the environment.
- Matting is unsafe to walk on, causing a slip and trip hazard.
- Question durability of the matting which is breaking up and is in itself inappropriate plastic in the environment and this has detrimentally affected moor and watercourse.
- It is a SSSI and therefore should be absent of vehicle access.
- The track across open moorland is not required for the benefit of moorland restoration as the original scheme was completed some years ago. The route should have been reinstated on completion of the project, there is no further requirement of an artificially surfaced track to aid moorland management.
- National Trust and Moors for the Future carry out a great deal of moorland restoration work without the need to report to plastic tacks and so question the validity of the original justification
- The matting is far too heavy gauge to allow grass to regenerate, the matting is inhibiting its growth and recovery, causing more damage and erosion to the peat bog and sensitive habitat it is supposed to protect.
- The 2013 Natural England HRA makes no mention of the installation, use, or removal/re-instatement of the polyethylene mesh trackway.
- Supportive Statement mis-represents NE's HRA. This HRA specifically considers the burning and grazing management of the moor under the HLF management agreement and makes no mention of the presence, use or likely impacts of the access track.
- New lines of shooting butts have appeared close to the western end of the track. While it may have facilitated some restoration work its primary purpose is clearly to provide vehicle access to the shooting butts. Also of note the locations of the current Butts are not the same as recorded on early versions of OS maps for this area. Is permission required, and was it sought, for these?

- From Natural England correspondence the bulk of conservation work and access by large machinery had been completed before the first application in 2016.
- Feel previous objection letters to the 2016 application should be included.
- access can be gained by other means albeit may take a bit longer
- This issue has been rumbling now over a couple of years. The Park are not giving the thought and backing to stop this catastrophic degeneration of this special area. Strongly recommend the PDNPA refuses it and begins enforcement action to ensure that the moor can be properly restored.
- Concern about the growing creep of routes in the Park and unease at Authority's response; granting retrospective permission here could set a precedent for future developments.
- Application states another purpose is to aid rescue. However none of the Mountain Rescue Teams are aware of any rescue-related vehicle access on this track. Woodhead MRT - the team who mainly cover this area - will only drive up as far as North America which is over one mile away to the north. As in any other area of the Peak they walk in and out (or heli-medpatients where needed?

## 8. **Policies**

8.1. 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:

- Conserve and enhance the natural beauty, wildlife and cultural heritage
- Promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public

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

- 8.2. 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 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 saved policies in the Peak District National Park Local Plan 2001. 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.
- 8.3. Paragraph 115 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.'*

8.4 Paragraph 118 of the NPPF states that ...*“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*

- *if significant harm 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;*
- *proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site’s notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have 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;*
- *development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;*
- *opportunities to incorporate biodiversity in and around developments should be encouraged;*
- *planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss; ....”*

#### Development Plan policies

- 8.5 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.
- 8.6 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.
- 8.7 Policy DS1 sets out the development strategy within the National Park and the types of development which are acceptable in countryside outside the Natural Zone and within named settlements.
- 8.8 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.
- 8.9 Policy LC1: Conserving and managing the Natural Zone – sets out that;
- (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 it is essential:

- (i) in the national interest; or
  - (ii) for the management of the Natural Zone; or
  - (iii) for the conservation 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 exceptional circumstances prevail, the need for new or significantly enlarged buildings or structures will, nevertheless, be rigorously examined.
- (d) Where development is permitted:
  - (i) detrimental effects must be minimised by the use of, for example: appropriate siting; landscaping; layout and design; materials and construction; and
  - (ii) particular attention will be paid to matters such as: scale; intensity; hours of operation; vehicle movements; arrangements for parking; storage of vehicles, equipment and materials;and where necessary and appropriate:
  - (iii) permitted development rights will be excluded by means of planning conditions; and
  - (iv) permission will initially be restricted to a period of (usually) 2 years, and except where it is essential in the national interest, further permission will not be granted if arrangements for minimising the development's impact prove to be unacceptable in practice; and
  - (v) permission will initially be restricted for the personal benefit of the occupant.

8.10 Policy LC17: Sites, features or species of wildlife, geological or geomorphological importance states that

- (a) For statutorily designated sites, features or species of international, national or regional importance:
  - (i) development applications in the vicinity of designated sites will be carefully considered to assess the likelihood of adverse effects; and
  - (ii) development considered likely to have an adverse effect will be treated as if that effect is established; and
  - (iii) in particular, development having a significant effect on the ecological objectives or integrity of a Special Protection Area or Special Area of Conservation will not be permitted unless there is no alternative site or better practical approach available, and it must be carried out for imperative reasons of overriding public interest. Where a site hosts a priority habitat or species, development will not be permitted unless there is no alternative and it is required for reasons that relate to human health, public safety, or beneficial consequences of primary importance to the environment, or for other imperative reasons of overriding public interest determined by the European Commission,
- (b) Development that would detrimentally affect the value to wildlife of established patterns of wildlife stepping stones and corridors will not be permitted.
- (c) Development will not be permitted unless adequate information is provided about its likely impact on the special interests of a site. In particular, if development is likely to affect a



designated site or species, information should include:

- (i) an assessment of the nature conservation importance of the site including a habitat/vegetation map and description (with identification of plant communities and species), and a description of fauna and geological/geomorphological features; and
- (ii) an assessment of the direct or indirect effects of the development including pollution, changes in hydrology, associated visitor pressure, and changes to the ease of management of habitats; and
- (iii) details of any mitigating measures.

8.10 The Authority's Landscape Strategy and Action Plan are relevant offer further guidance on the application of these policies.

## 9.0 **Assessment**

### 9.1. Principle of development in the Natural Zone.

The application site lies within the Dark Peak Open Moorland area of the National Park which is designated as Natural Zone. In this area, Development Plan Core Strategy Policy L1 states that *'other than in exceptional circumstances, proposals for development in the natural zone will not be permitted'*. The exceptional circumstances in which development can take place in the natural zone are set out in saved Local Plan policy LC1. It should be noted that the local plan policy has been reviewed in the Development Management Policies DPD with the main change being the omission of the exceptional circumstance for development that is essential "in the national interest."

The exceptional circumstances are therefore *"those in which a suitable, more acceptable location cannot be found elsewhere and it is essential: (ii) for the management of the Natural Zone; or (iii) for the conservation or enhancement of the National Park's valued characteristics"*. It goes on to state in LC1(b) that 'Development that would serve only to make land management or access easier will not be regarded as essential.' The key issue is therefore whether there are any exceptional circumstances in this proposal to justify retention of the matting and if so, whether the proposal accords with other policies in the plan which seek the normal high standard of detailed design and that it respects, conserves and where possible enhances the landscape and other valued characteristics of the area.

### 9.2 Consideration of the applicants case for retention of the matting

Notwithstanding the emerging DMP, no case has been made that retention of the matting is essential development in the national interest (LC1(i)). Neither has a case been advanced that it is essential for the management of the Natural Zone (LC1(ii)).

9.3 The explanation set out in the applicants supporting statement is that the matting was carried out to facilitate safe access and egress to land west of Mickleden Beck whilst undertaking moorland restoration works agreed under a Higher Level Stewardship agreement consented in 2014 and for works taking place between 2014 - 2017. Furthermore, the supporting statement states that retention of the matting is required to facilitate future land management.

9.4 Although the matting may have been consented by Natural England in respect of access to carry out those beneficial works to enhance the condition of the moorland, their consent does not override the need for other consents that may be necessary under other legislation in this case the need for prior planning permission before carrying out development.

- 9.5 Clearly the enhancement works which have been carried out to the moorland are welcomed as they accord with national and local policies seeking to bring the moorland back into favourable condition. The laying of the matting and the associated groundworks to facilitate “safe access” have however damaged part of the fragile moorland habitat natural zone and in themselves are not works that are essential to the conservation or enhancement of the natural zone (policy LC1(iii)). They therefore would not normally warrant any exception to the strong presumption against development in the Natural Zone.
- 9.6 The only way the matting could be considered for retention, even on a temporary basis (although the application itself seeks a permanent consent) would be on the basis of a very clear and convincing essential need case that it was constituted the only way that the conservation and enhancement works to the moorland could be carried out. However, the retrospective nature of the work is such that it has pre-empted any proper consideration of alternatives that would normally occur through engagement with officers prior to development through the pre-application process.
- 9.7 The supporting statement advanced to explain the need for the matting and the case for its retention is considered by officers to be weak, despite very clear officer steer given to the applicant about the very strong policy presumption against development in this landscape and hence the need in any application for clear justification. The statement simply states that the matting was needed for safe access and egress to facilitate the 2014-17 restoration plan on land west of Mickleden Beck and for future land management purposes. That period has passed and no details have been submitted in the statement to confirm if any further moorland conservation/enhancement works are outstanding or planned. The statement only makes passing reference to the intentions of the owner being keen to expand upon past conservation works subject to the matting remaining and that if it has to be removed, further works will have to be curtailed. The response from Natural England seems to suggest further on-going works are taking place, hence their support for a 5 year retention. In the absence of any clear detailed information from either party as to what these works actually are, officers can only conclude that insufficient information exists to properly consider the need for any exception.
- 9.8. The retention of the access matting long term for the “future land management purposes” as the agent sets out (for estate staff daily duties, stock monitoring and gathering and access for fire management) would be unacceptable in principle by virtue of being contrary to saved Local Plan policy LC1(b) and the emerging Development Management Policy DMC2. These policies both state that development that would serve only to make land management or access easier will not be regarded as essential and thereby do not benefit from being considered an exceptional circumstance to permit development in the Natural Zone.
- 9.9 Consequently whilst officers agree that the previous conservation works already carried out to the moorland west of the site have benefitted the valued characteristics of this area, it is clear that the development comprised of this matting and the underlying ground works cannot be accepted in principle under policies L1, LC1 and the emerging DMC2, given the whole purpose of the matting was to make access easier, notwithstanding the fact that it was used in connection with beneficial moorland restoration works. Furthermore given the experience of other enhancement works being carried out without the need for such access tracks the consideration of alternatives in the applicants supporting statement is limited. The suggested two alternatives dismissed in the statement of essentially either doing nothing or to lay a stone access track are of course both harmful and unacceptable.

## 10. Ecological Considerations

- 10.1 The application site lies within the SAC, SPA and is part of an SSSI. Policy L2 in the Core strategy covering sites of biodiversity or geodiversity importance states that development must conserve and enhance such sites and that other than in exceptional circumstances development will not be permitted where it is likely to have an adverse impact on such sites. Furthermore, saved local plan policy, LC17 seeks to protect sites, features or species of wildlife, geological or geomorphological importance.
- 10.2 The Authority's Ecologist refers to Natural England's letter which states that the restoration scheme is continuing and currently expected to be completed within the next 5 years, but notes that it is unclear as to what further conservation works remain and whether alternative methods are available that would not require use of the track. The Planning officer has already noted above that the supporting statement from the applicant is equally unclear.
- 10.3 The Ecologist concludes the proposed permanent track cannot be justified on ecological grounds as the development is not necessary for the management of the site in the long term and is likely to have a significant effect on a European site. The doubling the track width to 4m at the western end is also considered unacceptable. In addition to the loss of habitat, the ecologist considers that it is likely that compaction and hydrological damage has occurred through the construction method and that continued use would exacerbate this problem. She concludes it would be difficult to avoid harm through modifications, conditions or restrictions and that any conditions to restrict the type of vehicles used would be impossible to enforce.
- 10.4. In her response the Ecologist has stated that a temporary track could be justified on ecological grounds BUT only if there are no alternative means of carrying out the restoration such as airlifts or alternative routes etc. Only two alternatives are stated in the application to have been considered by the applicants, a stone access track or doing nothing and leaving the route in its previous state, both clearly unacceptable alternatives that would cause obvious further damage. In this case the application is for permanent retention of the track and whilst it is within the remit of the planning authority to consider a temporary consent, for the reasons outlined above this would equally be unacceptable in principle as well as on landscape and ecological harm grounds in these circumstances.

## 11. Design and landscape Impact considerations

- 11.1 The matting is a green coloured heavy-duty polyethylene open weave meshing designed to permanently reinforce parking areas or heavy pedestrian routes. The product is designed to be laid on the ground with grass normally being allowed to grow up and 'knit' with and around the mesh, reducing its visual impact and increasing its strength and ability to resist wear and tear of the ground. When it was laid it was a bright, almost turquoise green colour which in 2015 was an extremely visible feature in the landscape running almost from horizon to horizon in the field of view from the Cut Gate path. In this Dark Peak open Moorland Landscape that totally surrounds the site the matting stood out as a stridently different and significantly intrusive and incongruous man-made feature causing significant harm to the scenic quality of the moorland landscape.
- 11.2. Since the matting was laid, the colour has faded a little and due to the applicants seeding, liming and fertilising regime, the underlying vegetation (mainly grass) has grown through the open weave to varying degrees. The net result today is a mixed appearance along the length with large areas of lush green grass across the full width, whereas other areas relatively bare of through growth with the matting are the predominant feature and in other sections, in addition to the grass sward, the heather is growing through. In the boggy areas near the beck, sections of the matting have completely broken apart and sunk into deep ruts formed as a result of vehicle usage. Consequently, as set out in the applicant's statement, there is no doubt that any continued use will require the use of the log rafts anchored over the matting, which, although a natural product, will nevertheless also have an adverse visual

impact on the landscape.

- 11.3. Whilst it has to be acknowledged that the matting has been obscured to a degree over time by the vegetation since it was first laid in 2014, nevertheless it can still be clearly seen over long sections and in close views where it is it is an incongruous and intrusive feature in itself on an otherwise open moor. Even where the matting has been largely hidden by the vegetation the resulting route appears mainly as a grass rich, green swathe running through the very contrasting darker heather moorland vegetation either side of the route. The difference in appearance is marked and this green 'drive' route has become a landscape feature which in itself detracts considerably from the established and valued character and appearance of the dark peak moorland.
- 11.4. Furthermore, it was noticeable on each officer site visit that the compaction of the route appeared to be making the route wetter than the adjacent land and thus helping the lush grass growth which in turn was seemingly drawing sheep to the route. These were clearly grazing the grass and other young plants growing through the matting and over most of the length were keeping it generally to a low sward. Other than the section west of the beck this leads to concerns that after nearly four years the underlying vegetation has still failed to grow sufficiently through and provide any reasonable mitigation of the routes appearance by matching the adjacent heather moorland vegetation. Consequently, the officer conclusion is that the appearance of the matting covered route is wholly unacceptable in terms of its landscape impact. It is therefore contrary to both adopted planning policies and the Peak District National Park Landscape Strategy and Action Plan which seek to protect the valued characteristics of the Dark Peak moors, especially in terms of its open undeveloped character and its sense of remote wildness and tranquillity.
- 11.5. This harm to landscape character is therefore wholly contrary to adopted policies L1, LC4, GSP1-3 and NPPF paragraphs 115 and 118.

#### Highway/Public Right Of Way Considerations

- 11.6. These relate mainly to the impact of the matting upon the public right of way known as Cut Gate Path crossing the line of the matting, although the whole of the area is access land. When installed the matting was physically laid over the Cut Gate path. However, following representation from the public to the Highway Authority, the applicants were required to remove it from the path. It was therefore cut back to finish on either side away from the line of the bridleway and the subsoil/gravel material was removed that had been used to infill the recessed bridleway and create a 'level' surface with the matting either side. The proposal as so amended no longer raises any rights of way concerns in relation to the Cut Gate path.
- 11.6 Some concerns have been raised from objectors regarding the difficulty of walking upon the matting given that it is within open access land. Having walked the matting on a few occasions, the officer view is that the matting has largely created an easier route to walk upon compared with the adjacent heather moorland, apart from the steeper sections which are a significant slip concern, especially if conditions are wet. However, given the area covered in the context of the wider moor, little weight has been attached to this compared to the substantive objections outlined above.

#### **12.0 Conclusion**

- 12.1 The laying of the matting and its associate groundworks has caused clear physical and visual harm to the moorland landscape which is continuing. The case advanced by the applicants to support the need to retain the development lacks clarity and detail and fails to demonstrate any overriding essential need to warrant any exception to the very strong presumption in national and local policy against development in this highly protected Natural Zone landscape.

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13.0

13.1 Furthermore, retention of the development, even on a temporary basis, would perpetuate the ecological harm already caused without good reason. Any approval in these circumstances would therefore set a clear precedent for other similar development in many comparable areas of moorland across the National Park that could individually and cumulatively undermine the key landscape conservation purpose of the National Park. This would be against a background where other equally important moorland conservation and enhancement works and indeed land management have been successfully undertaken without the need for reinforced vehicular access routes.

13.2 For all the above reasons, the application is recommended for refusal.

14.0 **Human Rights**

14.1 None.

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

None

**Report Author and Job Title**

John Keeley MRTPI, North Area Team Manger - Development Management,

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## PLANNING ENFORCEMENT NOTICE



Ref: ENF: 15/0057

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY****TOWN & COUNTRY PLANNING ACT 1990 (as amended by the PLANNING & COMPENSATION ACT 1991)**

1. **THIS IS A FORMAL NOTICE** which is issued by the Peak District National Park Authority because it appears to it that there has been a breach of planning control under Section 171 A (1) (a) of the above Act, at the land described below. It considers that it is expedient to issue this notice having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the Notice and the enclosures to which it refers contain important additional information.
2. **THE LAND TO WHICH THE NOTICE RELATES**  
  
Land at Mickleden Edge, Midhope Moor, Bradfield in the County of South Yorkshire, being a surfaced track and shown marked in red on the attached plan ("the Land")
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**  
  
Without planning permission, engineering operations consisting of the laying of geotextile matting and wooden log 'rafts' on the Land to form a track.
4. **REASONS FOR ISSUING THIS NOTICE**
  - a) The breach of planning control has occurred within the last four years.
  - b) Paragraph 115 of the National Planning Policy Framework ("NPPF") states that great weight should be given to conserving the landscape and scenic beauty in the National Parks. Paragraph 207 of the NPPF says effective enforcement is important as a means of maintaining public confidence in the planning system. It states that although enforcement action is discretionary, local planning authorities should act proportionately in responding to suspected breaches of planning control. In this case, the unauthorised development is situated in an area of open moorland which is open to public access. The development has a significant visual impact and does not conserve the landscape and scenic beauty of the National Park. The unauthorised development is therefore in conflict with Paragraph 115 of the NPPF and enforcement action is consistent with Paragraph 207 of the NPPF.
  - c) Core Strategy policy L1 says that all development must conserve and enhance valued landscape character as identified in the Landscape Strategy and Action Plan and other valued characteristics. This policy also states that other than in exceptional circumstances (as set out in Local Plan policy LC1 and the Development Management Policies Document ("DMPD") policy DMC1) proposals for development in the Natural Zone will not be permitted. The Natural Zone, as defined in the Development Plan, covers wilder areas with minimal obvious human influence whose 'more natural' beauty it is particularly important to conserve. The unauthorised development is situated within the Natural Zone and none of the exceptions set out in the relevant policies apply. The development also fails to conserve and enhance valued landscape character. For these reasons, the development is in conflict with Core Strategy policy L1, Local Plan policy LC1 and DMPD policy DMC1.
  - d) Core Strategy policy L2 states, amongst other things, that development must conserve and enhance any sites, features or species of biodiversity importance and where appropriate their setting. It goes on to say that other than in exceptional circumstances development will not be permitted where it is likely to have an adverse impact on any sites, features or species of biodiversity importance or their setting that have statutory designation or are of international or national importance for their

biodiversity. Local Plan policy LC17 sets out the detailed policy for sites, features or species of wildlife importance. Where there are statutory designations of international, national or regional importance it requires development applications to be carefully considered to assess the likelihood of adverse effects and states that development considered likely to have an adverse effect will be treated as if that effect is established. In particular, the policy says, development having a significant effect on the ecological objectives or integrity of a Special Protection Area ("SPA") or Special Area of Conservation ("SAC") will not be permitted unless there is no alternative site or better practical approach available, and it must be carried out for imperative reasons of overriding public interest. Policy LC17 also sets out the information required to be submitted in relation to development on statutorily protected sites or development likely to affect a protected site or species. Policy DMC 11 requires, amongst other things, that proposals should aim to achieve no net loss of biodiversity as a result of development. In considering whether a proposal conserves and enhances sites, features or species of wildlife importance all reasonable measures must be taken to avoid net loss by demonstrating that the following matters have been taken into consideration: (i) enhancement proportionate to the development; (ii) no alternative sites exist that cause less harm; (iii) adverse effects have been avoided; (iv) appropriate mitigation; and (v) in rare cases, as a last resort, compensation measures to offset loss. The unauthorised development is situated within the Dark Peak Site of Special Scientific Interest, an extensive tract of semi-natural upland vegetation typical of and including the full range of moorland vegetation of the South Pennines and supporting a breeding bird assemblage of great regional and national importance. It is also situated within an SAC as defined in the European Union's Habitats Directive (92/43/EEC), and an SPA under the European Union Directive on the Conservation of Wild Birds. The unauthorised development has resulted in a significant loss of habitat and is likely to have led to compaction and hydrological damage which would be exacerbated by continued use of the route by vehicles. The development has, therefore, had an adverse impact on the integrity of the SAC and SPA and would damage or destroy the interest features for which the Site of Special Scientific Interest has been notified, in conflict with Core Strategy Policy L2, Local Plan policy LC17 and DMPD policy DMC11.

## 5. WHAT YOU ARE REQUIRED TO DO

The steps below ((a) to (f), inclusive) shall only be carried out between 1 September and 28 February, in the following year:

- a) Place between 30 and 35 cubic metres of locally sourced heather brash, which has been collected between 1 October and 31 January in the following year, alongside the Land. The heather brash shall be placed in bags or piles between 20 and 50 metres apart with each bag or pile consisting of between 1 and 2 cubic metres of heather brash.
- b) Following the completion of step a), remove the geotextile matting, wooden log 'rafts' and any other imported materials used in the construction of the track from the Land. The removal shall either be carried out by hand or using low ground pressure tracked vehicles, equipment or machinery. Any equipment or machinery used in the removal shall at all times during the removal works be stationed on the Land. The removal shall commence at the north-west end of the Land and shall progress in a generally south-easterly direction along the Land until all of the geotextile matting, wooden log 'rafts' and any other imported materials used in the construction of the track have been removed.
- c) Following the completion of step b), spread the heather brash by hand over the Land to a depth of between 1.5 and 2.5 centimetres.
- d) Following the completion of step c), plant sphagnum moss plugs by hand at a minimum density of one plug per 5 square metres over the areas where the wooden log 'rafts' have been removed. The sphagnum moss plugs shall consist of the following mix, or an equivalent in order to stabilise the peat bog, 10% *Sphagnum capillifolium*; 10% *Sphagnum papillosum*; 40% *Sphagnum palustre*; 30% *Sphagnum fallax*; 5% *Sphagnum cuspidatum*; 5% *Sphagnum fimbriatum*.

Time for compliance for steps a), b), c) and d): Within 12 calendar months of the date when the Notice takes effect.

- e) Any parts of the Land which, 30 calendar months after this Notice takes effect, have more than 30% grass cover over any 10 metre long section, shall be sprayed by hand with a grass-specific, selective herbicide.



- f) Following the completion of step e), spread heather brash, which has been collected between 1 October and 31 January in the following year, by hand over any areas of grass or bare peat on the Land to a depth of between 1.5 and 2.5 centimetres.

Time for compliance for steps e) and f): Within 42 calendar months of the date when the Notice takes effect.

**6. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on 12 November 2018 unless an appeal is made against it beforehand.

Dated the 21 September 2018

Signed

A black rectangular box redacting the signature of Reginald S J Cooper.

Reginald S J Cooper  
Assistant Solicitor  
On behalf of Peak District National Park Authority  
Aldern House, Baslow Road, Bakewell, Derbyshire, DE45 1AE.

## **ANNEX**

### **YOUR RIGHT OF APPEAL**

Please note that you have a right of appeal to the Secretary of State against this enforcement notice. If you do wish to appeal against the enforcement notice, then you may do so either:-

- a) on-line at the Appeals Casework Portal <https://acp.planninginspectorate.gov.uk/> ; or
- b) by completing enforcement appeal forms, which may be obtained from the Planning Inspectorate by telephoning them on 0303 444 5000 or by e-mailing them at [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

When submitting your appeal, you must state the grounds on which you wish to bring your appeal under section 174 of the Town & Country Planning Act 1990 ('the Act'), and state briefly the facts upon which you propose to rely in support of each of those grounds. A copy of the relevant sections of the Act, entitled 'Legislative provisions for enforcement notices and appeals', are enclosed with this notice for your information. In addition, the Planning Inspectorate have produced guidance booklets entitled "How to complete your enforcement appeal form", and "Making your enforcement appeal", which are available on request by telephoning them on 0303 444 5000 or by e-mailing them at [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk). Copies are also available on-line at <https://acp.planninginspectorate.gov.uk/>

**You MUST ensure that any appeal is received, or posted in time to be received, by the Planning Inspectorate before 12 November 2018, being the date this notice comes into effect.** In exceptional circumstances you may give notice of appeal by fax or letter. You should include:-

- a) The name of the local planning authority
- b) The site address
- c) Your address; and
- d) The effective date of the enforcement notice

A copy of the completed appeal forms and all documentation enclosed should also be sent to this Authority.

### **THE APPEAL FEE**

The total fee payable for the deemed planning application in this case is £936 which should be sent to the Authority together with their copy of the appeal form. Full details of how to pay the fee to the Authority are provided in the enclosed "Deemed Planning Application Fee Payment Form".

You will be notified in the Start Letter from the Planning Inspectorate, the latest date by which this fee must be paid to the Authority. If the required fee is not paid to the Authority by the date given in the PINS Start Letter, neither the deemed planning application nor any appeal on ground (a) will be considered. If other grounds have been pleaded, your appeal will proceed on those grounds alone. If your appeal is made on ground (a) only and you do not pay the fee, your appeal will lapse and, if there are no other appeals against it, the enforcement notice will come into effect.

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

**If you do not appeal against this enforcement notice, it will take effect on 12 November 2018** and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Authority.

### **PERSONS SERVED WITH THIS NOTICE**

The persons listed below have been served with a copy of this enforcement notice:-

- (1) Dunlin Limited, Estate Office, Wakefield Lodge Estate, Potterspury, Northants NN12 7QX



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## **7. MONITORING & ENFORCEMENT ANNUAL REVIEW – OCTOBER 2020 (A.1533/AJC)**

### **Introduction**

1. A report summarising the work carried out by the Monitoring & Enforcement Team is normally considered by the Committee each quarter in April, July, October and January. An annual summary is also normally included in the report to Committee each April. Due to the restrictions around the Covid-19 pandemic, however, the quarterly and annual reports were not presented to Committee in April or July this year. So the last report was considered at the Committee in January 2020.
2. This report provides an annual summary for the last full year, up to 31 March 2020. It also summarises the work carried out in the Team from 1 April to 30 September 2020.
3. 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 Development Management and Head of Law have joint delegated powers to authorise such action. Conversely, authority not to take formal action is delegated to the Head of Development Management, the Monitoring & Enforcement Manager and Area Planning Managers.
4. 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.
5. 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. The Local Enforcement Plan, which was revised and updated in October 2018 is available on the Authority's website.
6. Team Resources – In February 2020, one of the two Monitoring and Enforcement Officer posts became vacant although the postholder had been absent since October 2019. The post was advertised in March with a closing date of 22 March 2020. Due to the Covid-19 restrictions, however, the recruitment process was delayed and interviews eventually took place 'remotely' in June. Unfortunately, although offers of employment were made, it was not possible to recruit any of the candidates who were interviewed.
7. In April 2020 two Senior Monitoring and Enforcement Officer posts also became vacant. One of these was a fixed-term full-time contract for two years (with one year left to run), with the main focus on more complex cases and particularly those where formal action was likely to be required. The other post was a permanent part-time (2.5 days per week) role working on a backlog of listed building enforcement cases. These two posts had been created in April 2019 in order to help us continue to improve our performance and reduce the overall caseload. Again, recruitment to these posts was delayed by the Covid-19 restrictions.
8. Following the introduction of a Vacancy Control Process, providing greater scrutiny of proposed recruitments by Senior Leadership Team, a decision has recently been taken not to appoint to these the two Senior posts and allowed only an internal recruitment for the Monitoring and Enforcement officer which was unsuccessful. This leaves the Team

consisting of a Team Manager post, one full-time Senior Monitoring and Enforcement Officer post and one full-time Monitoring and Enforcement Officer post (currently shared by two postholders). Inevitably, this has resulted in a negative impact on our overall performance on casework. The impacts of this is reflected in the summary below, particularly in relation to our performance since 1 April 2020.

**RECOMMENDATION:**

**That the report be noted.**

**Summary of Activity 2019-20**

9. Notices issued

17/0044 Land at Woodseats Farm Windy Bank Bradfield	Excavations, creation of hardstanding and tracks and erection of lighting and CCTV columns	Temporary Stop Notice issued 24 April 2019 Ceased to have effect 22 May 2019
17/0044 Land at Woodseats Farm Windy Bank Bradfield	Excavations, demolition of retaining structures, construction of hardstanding and creation of new tracks; erection of extension, installation of foul and surface water drainage, erection of lighting, CCTV columns and service connections	Enforcement Notice issued 23 May 2019 - came into effect 12 July 2019 – compliance dates between 13 July 2019 and 12 March 2020
17/0044 Land at Woodseats Farm Windy Bank Bradfield	Excavations, construction of hardstanding, new tracks and erection of lighting and CCTV columns	Stop Notice issued 23 May 2019
15/0036 Land north of Hope Road Edale	Siting of a static caravan used for human habitation	Enforcement Notice issued 23 July 2019 – came into effect 6 September 2019 – compliance dates 2 November 2019 (cease use); 2 December 2019 (remove caravan) and 2 January 2020 (remove stored items, equipment, materials and fencing)
16/0022 Land north of Main Road Taddington	Erection of a building	Enforcement Notice issued 8 August 2019 – due to come into effect 20 September 2019 but appeal lodged

17/0095 Land at Big Marnshaw Head Longnor	(1) Erection of a building; (2) excavation of land and installation of a piped water supply; and (3) excavation and re-profiling of the land	Enforcement Notice issued 2 October 2019 – came into effect 15 November 2019 – compliance dates 15 January 2020 (building removal), 15 March 2020 (land restoration) and first seeding season after completion of land restoration (reseeding)
15/0138 Land opposite Dale Bottom Cottage Hopedale Alstonefield	Erection of a building	Enforcement Notice issued 11 November 2019 – came into effect 18 December 2019 — building removed before compliance date of 18 March 2020
17/0179 Land off Summer Cross (Otherwise known as Ingledene) Tideswell	Erection of a building	Enforcement Notice issued 18 November 2019 – came into effect 10 January 2020 – compliance date 10 April 2020
14/0583 Land at Bottle Croft Main Street Chelmorton	Non-compliance with conditions requiring (a) removal of building (temporary dwelling) within two years; and (b) reinstatement of the site to its former condition	Enforcement Notice issued 28 January 2020 – due to come into effect 6 March 2020 but appeal lodged
19/0189 Land south of Black Harry House Wardlow	Erection of a dwellinghouse	Enforcement Notice issued 25 February 2020 – due to come into effect 10 April 2020 but appeal lodged
17/0075 Land at One Acre Wood East of Heyburn Farm Little Hayfield	Construction of a dwelling and change of use of land to a mixed use comprising agriculture and residential use	Enforcement Notice issued 2 March 2020 – due to come into effect 6 April 2020 but appeal lodged

10. Appeals determined

18/0062 Land at Cartledge Flat/Rushy Dike North of Hollingdale Plantation Bradfield	Laying of crushed stone to form a track	9 May 2019 – Appeal dismissed with variation to the enforcement notice requirements. Four month compliance period ended on 9 August 2019.
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10/0189 Fox Holes Farm Hoar Stones Road Low Bradfield	Use as a venue for wedding events and other functions	2 August 2019 – Appeal dismissed. Three-month compliance period ended on 2 November 2019.
16/0022 Land north of Main Road Taddington	Erection of a building	23 January 2020 – Appeal dismissed with variation to the enforcement notice requirements. Three month compliance period for removal of building ended on 23 April 2020.

11. Workload and performance

12. This section of the report summarises the Monitoring & Enforcement Team's performance over the last year. Our main performance target in the Development Management Service Plan is to resolve 120 breaches of planning control. In the year ending 31 March 2020 we resolved 140 breaches – significantly exceeding our target. The number of new breaches found was 197, almost unchanged from 2018/19. The number of outstanding breaches at the end of the year increased from 592 (on 31 March 2019) to 649.

13. We have continued our strong performance on dealing with enquiries over the last year. 84% of enquiries have been investigated within 30 working days against a target of 80%. The number of enquiries received saw a slight year on year reduction from 491 to 480 and the number of enquiries outstanding at the end of the year decreased from 88 to 75.

14. The table below summarises the position at year end (31 March 2020). The figures in brackets are for the previous year (2018/19).

	Received	Investigated/Resolved	Outstanding
Enquiries	491 (400)	486 (467)	75 (88)
Breaches	197 (199)	140 (151)	649 (592)

**Summary of activity (April – September 2020)**

15. Notices issued

16/0118 Brackenburn Riddings Lane Curbar	Non-compliance with conditions for replacement dwelling – erection of gates/gateposts and brown stain finish to window frames	Enforcement Notice issued 12/05/2020 - Due to come into effect 19 June 2020 but appeal lodged
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17/0134 Land at Former Whitelow Mines Bonsall	Use of land for motorcross scrambling	Enforcement Notice issued 29 June 2020 - due to come into effect 21 August 2020 but appeal lodged
19/0218 Home Farm Main Street Sheldon	Excavations, laying of concrete base and construction of walls	Temporary Stop Notice issued 25 September 2020 – ceases to have effect 23 October 2020

16. Appeals determined

14/0583 Land at Bottle Croft Main Street Chelmorton	Non-compliance with conditions requiring (a) removal of building (temporary dwelling) within two years; and (b) reinstatement of the site to its former condition	23 July 2020 – Appeal dismissed – six-month compliance period for removal of building ends on 23 January 2021
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17. This section of the report summarises the Team's performance over the last two quarters. For the year 2020/21 we increased our annual performance target for resolving breaches of planning control from 120 to 150. In the first six months (ending 30 September 2020) we resolved 40 breaches, so there is a high risk that we will not meet our target at the end of the year. As mentioned above, our performance since 1 April 2020 has been significantly affected by the ongoing vacancies as well as the restrictions and working arrangements in place due to the Covid-19 pandemic. The number of new breaches found was 61 and the number of outstanding breaches at the end of September increased from 592 (on 31 March 2020) to 670

18. Despite the considerable difficulties we have faced since 1 April 2020 we have continued our strong performance on dealing with enquiries. 77% of enquiries have been investigated within 30 working days against a target of 80%. The number of enquiries received was 294 and the number of enquiries outstanding at the end of the period increased from 75 to 113

19. The table below summarises the position for the period between April and September 2020.

	Received	Investigated/Resolved	Outstanding
Enquiries	294	251	113
Breaches	61	40	670

20. Breaches Resolved

17/0110 Connaught House Summer Cross Tideswell	Breach of condition requiring erection of boundary wall.	Planning permission granted for fence
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18/0041 Gleadtail Quarnford	Veranda extension on front, erection of sheds on adjoining land and change of use of agricultural land to garden	Extension and sheds removed and use of land as garden ceased
19/0061 Land adjacent to Woodstone House Froggatt Edge Calver	Untidy Land - Portaloo and metal barrier	Portaloo and metal barrier removed and land tidied
19/0105 Co Op Store Bradwell	Breach of Conditions 10,11,12 and 23 of NP/DDD/1017/1104	Conditions discharged
19/0023 Merrymeet Back O Th Brook Waterfall Waterhouses	Breach of condition re parking for holiday units approved under NP/SM/0206/0130 and NP/SM/0807/0739	Not expedient to take enforcement action
19/0066 Land adjacent Green Farm Main Road Biggin	Installation of BT telecommunications equipment housing	Not expedient to take enforcement action
16/0144 Rowan Barn Long Lane Wardlow	Creation of vehicular access	Not expedient to take enforcement action
15/0021 Backdale Quarry Hassop Rd Hassop	Use of former quarry for storage of reclaimed building materials and a haulage business	Uses ceased - enforcement notices complied with
16/0109 51 Tithe Barn Close Tideswell	Erection of timber cabin and canopy over a hot tub	Cabin and canopy removed
16/0134 Dale Brook Farm Baslow Road Eastmoor Chesterfield	Erection of horse shelter/stable	Immune from enforcement action
18/0012 Dale Brook House Baslow Road Eastmoor Chesterfield	Alterations to dwelling and erection of stables	Retrospective planning permission granted

20/0004 15 Lowside Close Calver	Non-compliance with approved plans for erection of extension	Retrospective planning permission granted
19/0184 Bank Vale Croft Bank Vale Road, Hayfield	Erection of pergola and porch	Immune from enforcement action
19/0174 Unthank Lane Farm Unthank Lane Holmesfield	Use of land as campsite	Use ceased
16/0133 The Homestead Unnamed Section Of A623 From Housley Road To Long Lane Foolow	Static caravan and erection of gate and shed	Caravan, gate and shed removed
19/0180 Ridge Farm Bottom of Moor Longnor	Siting of trailer bodies on agricultural land	Trailer bodies removed
19/0060 Pedley House Pedley Hill Rainow	Erection of veranda	Veranda altered to comply with permitted development rights
17/0171 Hawthorn Cottage Weags Bridge Road Grindon	Erection of agricultural building and dog kennel and re-surfacing of menage	Retrospective planning permission granted
18/0077 Dains Mill, Roach Road, Upper Hulme	Surfacing of section of access track	Not expedient to take enforcement action
20/0033 Brick Field Cottage, Miers Lane Birchover	Erection of stable block	Retrospective planning permission granted
19/0025 Rutland Antique Centre Bakewell	LISTED BUILDING – Display of advertisement signs	Advertisement signs removed and permission for alternative scheme granted

19/0202 Bell House Uppertown Bonsall	Demolition of wall in Conservation Area	Wall reinstated
20/0077 44 Burton Edge Bakewell	Use of outbuilding as holiday unit in breach of condition	Use ceased
19/0157 Stanley Farm Chunal Glossop	Occupation of former barn as permanent dwelling in breach of s106 legal agreement	Use ceased
19/0035 Newlands Farm Coplow Dale Near Bradwell	Untidy land – scrap vehicles, tyres and building materials	Land cleared
11/0165 The Old Chapel Ible	LISTED BUILDING - Alterations and extension	Building de-listed
19/0195 Springhill House Unnamed Section Of C90 From Long Lane To B6049 Priestcliffe Ditch	Extension to dwelling and remodelling of external appearance of building	Retrospective planning permission granted
20/0075 Rose Cottage Bradshaw Lane Foolow	Removal of stone boundary wall in Conservation Area	Retrospective planning permission granted
14/0354 New House Farm The Brund Sheen	LISTED BUILDING - Double-glazed sashes to rear	Insufficient evidence of breach
10/0120 Land adjacent to Calver Village Hall Main Street Calver	Storage of stone on agricultural land	Storage of stone ceased – enforcement notice complied with
20/0039 Land at Sherriff Wood/Leam Wood Leam Grindleford	Construction of hardstanding for forestry operations	Permitted development

14/0472 1 Dale Cottages Litton Buxton	Change of use of garage to holiday let	Use ceased
20/0029 Field 300m North of Martinslow Farm Martinslow Lane Winkhill	Construction of track on agricultural land	Consent granted for access track in association with agricultural building
20/0028 Lea House Rocester Lane Waterhouses	Erection of extension (garden room)	Retrospective planning permission granted
19/0124 Eyre Arms Hassop Road Hassop	Pizza van trading from the pub car park	No breach of planning control – ancillary to pub
19/0163 Land to south of Shutts Lane Bakewell	Implementation of permission for 2no. rugby pitches and erection of storage and welfare building in advance of complying with condition 3 attached to NP/DDD/0917/0934 and NP/DIS/0419/0324	Condition complied with
20/0030 Land north of Leek Road Between Hardingsbooth Farm and Barrow Moor Longnor	Construction of an access track	Retrospective planning permission granted
20/0044 Castle Way Crowdicote Buxton	Slate roof on conservatory in breach of condition requiring glass roof	Section 73 application for variation of condition approved
15/0093 Lower Gotham Parwich Lane Pikehall	LISTED BUILDING – Installation of window frames	Window frames replaced in accordance with listed building consent
20/0106 Land adj to Hillcrest, Stanedge Rd, Bakewell	Removal of boundary wall and laying of hardsurfacing	Duplicate record – merged with 20/0105

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