

**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 large black rectangular redaction box covers the signature area.

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.

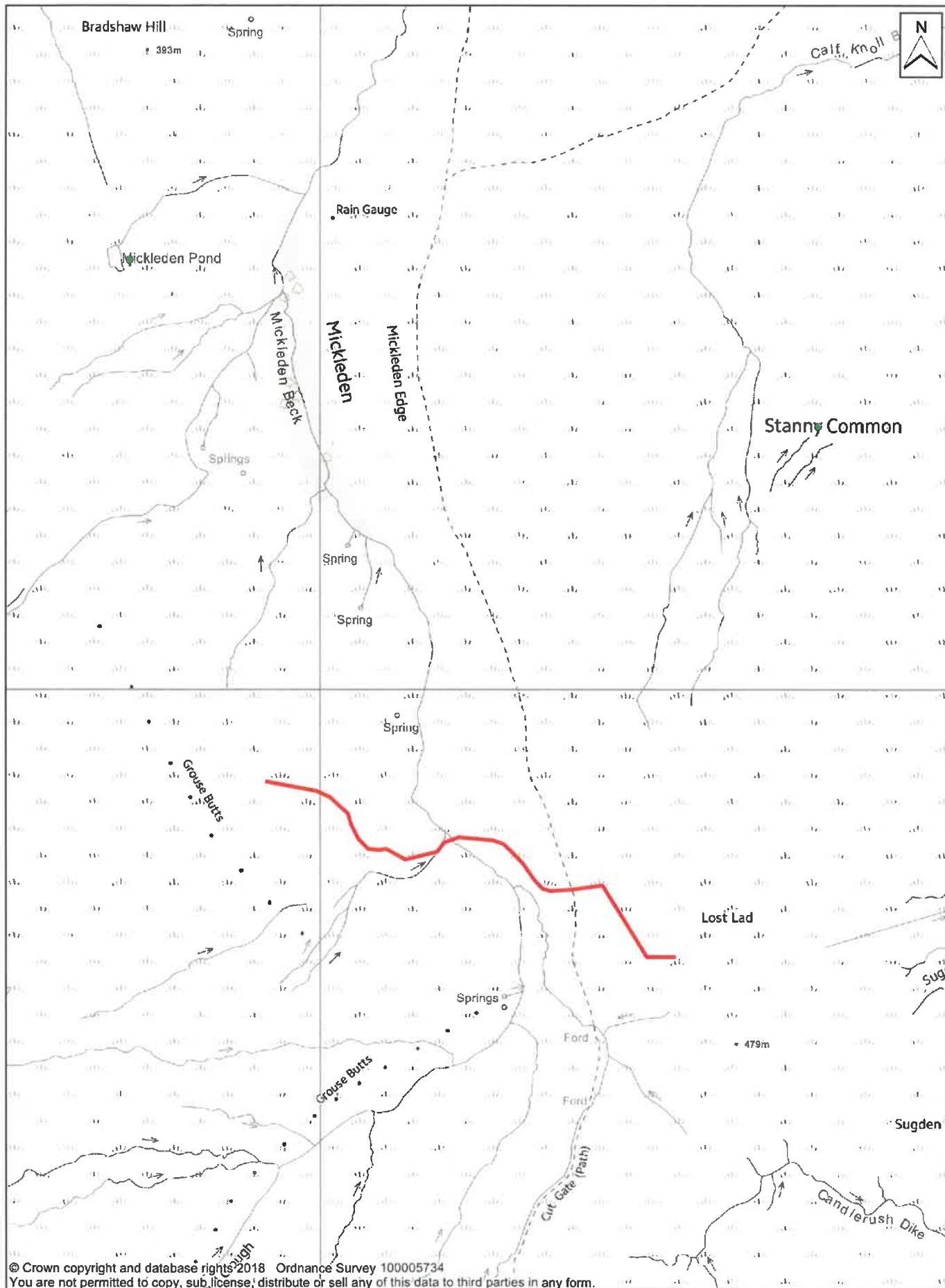
### WHAT HAPPENS IF YOU DO NOT APPEAL

**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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Drawn by: Cook Andrew  
 Date: 12 September 2018  
 Drawing No: 15/0057  
 Scale: 1:5000 at A3

**Title:** Enforcement Notice Plan  
 Land at Micklefen Edge  
 Midhope Moor  
 Bradfield  
 South Yorkshire

