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PEAK DISTRICT NATIONAL PARK AUTHORITY

Town and Country Planning Acts

Appeal by Dunlin Limited against an Enforcement Notice relating to engineering operations consisting of the laying of geotextile matting and wooden log 'rafts' to form a track on land at Mickleden Edge, Midhope Moor, Bradfield, South Yorkshire

Summary of Proof of Evidence of Frances Horsford BSc (Hons.), PgCert, MSc

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1.0 Policy Background

- 1.1 Paragraph 172 of the NPPF states that *'great weight should be given to conserving and enhancing landscape and beauty in National Parks'.....'which have the highest status of protection in relation to these issues'*
- 1.2 Paragraph 175 of the NPPF states that *'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'*. It also states that *'development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted.'*
- 1.3 These sites are protected under separate legislation with ODPM Circular 6/2005: *'Giving Guidance on Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System'* (CD1).
- 1.4 The National Park Authority has a statutory duty under section 28G of the Wildlife and Countryside Act (1981) to ensure that development proposals that may impact on National Sites (SSSIs) do not damage these sites and that they further their conservation and enhancement.
- 1.5 The Peak District National Park Authority's Core Strategy policy L2 states that *"development must conserve and enhance any sites, features or species of biodiversity importance and where appropriate their setting."* Development Management Policy DMC 12 states that development may be permitted under exceptional circumstances:
"For sites, features or species of national importance, exceptional circumstances are those where development is essential: (i) for the management of those sites, features or species; or (ii) for the conservation and enhancement of the National Park's valued characteristics; or (iii) where the benefits of the development at a site clearly outweigh the impacts on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs"

2.0 Habitat Description and case background

- 2.1 The appeal site falls within the Peak District Moors Special Protection Area, South Pennine Moors Special Area of Conservation and Dark Peak SSSI. Our records show it is located on modified blanket bog habitat and skirts through flush habitat to the north of the site.
- 2.2 Natural England breakdown of habitat that the route crosses in more detail: Dry heath – 320m²; Dry heath/acid grassland - 380m²; Bracken - 110m²; Marshy grassland/juncus flush - 360m²; Flush/stony ground/river bed - 50m²; Blanket bog - 100m², totalling 1320m², but the overall affected area

totals 3500m².

- 2.3 During site visits (2018; 2020), I noted ling heather dominated the plateau and the upper slopes of the clough, which then gave way to acid grassland and changing to flush habitat in the valley bottom. The flush is dominated by soft rush, with a number of indicator species observed.
- 2.4 Vegetation along the track in 2018 was dominated by grasses, along with the bare surface of the matting. The track was still dominated by non-indicator grasses in 2020, which were providing more cover than noted on the previous visit. Heather and bilberry had established in places along with the presence of acidic indicator species, however, the matting was breaking up in other areas and was still visible.
- 2.5 Natural England gave no objection to the retrospective planning application, subject to appropriate mitigation being secured, including limiting the time period for permission. They stated the restoration scheme was continuing and expected to be completed within the next 5 years. The application and the letter were unclear as to what works remain and whether alternative methods were available that would not require the use of the track.

Natural England raised concerns about a permanent track which could be used in preference to other routes and for other purposes unrelated to the restoration works. This could lead to a localised effect on hydrology and a limited recovery of vegetation, with potential damage to the qualifying features of the designation.

- 2.6 The planning application could not be determined positively under DMC 12 as the evidence to support the need of the development for the designate site, features or species was not provided.
- 2.7 An email sent from Mr Osborne on behalf of the appellant dated 3rd September 2020 has subsequently highlighted that works under the existing HLS agreement have been completed.

3.0 Key Ecological Issues

- 3.1 In my opinion a permanent track cannot be justified on ecological grounds as it is not necessary for management of the site in the long term and is 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. Continued use would exacerbate this problem.
- 3.2 In 2013, a Natural England review providing evidence of the impacts of tracks on the integrity and hydrological function of blanket peat concluded: *'Tracks alter the structural integrity of blanket peat. Building upon peat compresses the peat and alters the drainage patterns on and around the peat, both within the peat body and over its surface. The level of*

compression and disruption depends upon the structure and wetness of the peat in question’.

- 3.3 The compression has the potential to change the peat structure and alter the nutrient and hydrological environment, affecting the ecosystem services and biodiversity of blanket peat (CD6).
- 3.4 McKendrick-Smith, Holden & Parry (2017) completed an intensive two-year study of tracks and found clear impacts on the surface profile and vegetation characteristics, with lowering of surface peat elevation directly under mesh, wooden and unsurfaced tracks. Compared with before disturbance data, reduced cover of indicator species, a lowering in the height of the vegetation, and increased bare peat occurrence, were found 22 months after track installation and 13 months after the commencement of driving (CD7). It was noted that some of the impacts would be associated with construction and the cover of non-indicator grasses and sparse heather has certainly improved on the Midhope track overtime (when comparing the site from 2018 to 2020). However, the plastic mesh is beginning to fall apart (Appendix 1, figure 1), which is likely to contribute to vegetation loss / bare peat if traversed on in a poor state (as well as releasing small pieces of plastic into the environment).
- 3.5 The same study found little effect on water table depth when monitoring a mesh and wooden track over a two year period. Studies of existing stone tracks found higher volumetric moisture content upslope of the track compared to downslope, suggesting influences on hydrology (CD7). Although the track in question is mesh based, the site visit from 2018 shows that stone (Appendix A, figure 2) has been used to raise the track. In doing this, a greater surface load has been created, exerting more pressure, which can result in consolidation and water loss (CD8). This is likely to be more significant over-time, as has been exhibited in older tracks (CD7).
- 3.6 The two-year study was part funded by Natural England who conclude from the results that they are content in giving time-limited consent for mesh and timber tracks required for access and conservation objectives. The study also acknowledges that this does not cover the long-term impact (CD8).
- 3.7 As highlighted in my consultation response to the retrospective planning application, a temporary track to facilitate moorland restoration could be acceptable on ecological grounds, if there are no alternative means of carrying out the restoration. Only two alternatives were presented in the application – the creation of a stone track, which was unacceptable, and leaving the route in its previous state, which would cause further damage. However, stopping vehicle use altogether was not considered, which would have allowed the site to recover. Clear timescales for restoration and retention of the track would have also been required along with further information on the remaining works.
- 3.8 The application was submitted as a permanent trackway and there was insufficient information regarding the above. As far as I'm aware, various

landscape scale partnerships have not installed tracks to carry out large scale moorland restoration works, relying instead on existing tracks, the use of specialist machinery and transporting materials by helicopter.

4.0 Justification for restoration under the enforcement notice

- 4.1 In relation to ground f, aerial photography from 2005 suggests that the use of the route was light as it is hardly visible and there is no evidence of a parallel track (Appendix 1, Figure 3).
- 4.2 Approximately 260m of the track is situated alongside the original unsurfaced route which would have resulted in additional habitat damage (Appendix 1, Figure 4). Case notes from Natural England (detailed in Andrew Cook's Proof of Evidence) and aerial imagery from 2012 suggest that some areas had suffered damage prior to the installation of the matting, however, this is a result of previous unconsented works. In my opinion, restoration to previous habitat is justified. I am aware of successful habitat restoration works of a similar nature elsewhere to repair eroding/disturbed peat. Such techniques were visible when visiting the site in 2020, where heather brush had been cut alongside the track and used to repair eroding surfaces (Appendix 1, Figure 5).

5.0 Conclusion

- 5.1 I consider the retention of the track on a permanent basis cannot be justified on ecological grounds as it is not necessary for the long term management of the features or species associated with the designation and would be likely to damage the structure and integrity of the peat, contributing towards issues with vegetation structure and hydrology.
- 5.2 I consider a temporary track may be acceptable on ecological grounds, providing it can be fully demonstrated that there are no alternative means in carrying out restoration and clear timescales are provided for the retention and restoration of the track. This evidence has not been provided.
- 5.3 Landscape scale moorland restoration works are being carried out in the National Park and elsewhere without the need for additional track creation.
- 5.4 Part of the newly surfaced track runs parallel with the original unsurfaced route as a result of unconsented works over a number of years. Therefore, it is my opinion that the area should be restored to its previous state before unconsented works took place.