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BY EMAIL ONLY

Dear John

Planning consultation: Retrospective planning consent to restore and repair previously damaged access route to include the laying of plastic access mesh to facilitate vehicular access.

Location: Open Moorland Site, split by the Cut Gate Path and crossing Mickleden Beck, on Midhope Moor

Thank you for your consultation on the above dated 15 February 2018.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

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.

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.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

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.

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:

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.
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.

We advise that an appropriate planning condition(s) or obligation(s) is attached to any planning permission to secure these measures.

Further explanation of this advice is at **Annex A**

Our advice on considerations for HRA in relation to long term use of the track is at **Annex B**

The Dark Peak SSSI

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Protected Landscapes

The proposed development is for a site within a nationally designated landscape namely Peak District National Park. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal.

Further general advice on consideration of protected species and other natural environment issues is provided at **Annex C**.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our [Discretionary Advice Service](#).

If you have any queries relating to the advice in this letter please contact me on 02080261978.

We would be pleased to provide advice on the discharge of planning conditions or obligations attached to any planning permission to address the issues above.

Should the proposal change, please consult us again.

Yours sincerely

Andy Stubbs – Lead Adviser
Sustainable Development - East Midlands

Annex A: Explanatory information in support of Natural England's advice

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.

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.

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.

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.

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.**

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.

Annex B: Advice on long term use of the track and HRA

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.

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.

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.

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.

Annex C – Further Environmental Considerations

Protected Species

Natural England has produced [standing advice](#)¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraph 113 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)². Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails

Paragraph 75 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

² <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>