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Development Management Service
Peak District National Park Authority
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FAO Mr Andrew Cook

By Post and By Email: andrew.cook@peakdistrict.gov.uk

Our Ref: RDP/7984.1

Your Ref: ENF.15/0057

6th November 2018

Dear Sirs

**Enforcement Notice – Land at Mickleden Edge, Midhope Moor, Bradfield
Appropriate Assessment;
Authority to issue enforcement notice; and
Requirements of enforcement notice**

As you know, we are instructed by Dunlin Limited.

Appropriate assessment

On 15 June 2018, the Authority's Planning Committee resolved that an Appropriate Assessment ("AA") was not considered necessary with respect to the development the subject of planning application NP/S/1217/1304.

However, on 14 September 2018 the Authority's Planning Committee resolved that the exact same development would need to be subject to an AA in the event of a Ground A appeal against an enforcement notice to secure its removal.

1. Please would you explain the Planning Committee's contradictory resolutions as recorded above.
2. Please would you also explain the statutory or policy basis entitling the Authority to undertake a Stage 1 Habitats Regulations Assessment ("HRA") as to whether or not an AA would be required in the event of a Ground A appeal against an enforcement notice, given that the Authority would not be the competent authority in the event of any such Ground A appeal.

The officer report for and minutes of the meeting on 14 September 2018 disclose no consideration by the Authority as to whether or not the development in question is directly connected with or necessary to the management of the European site.

3. Please confirm that the Authority did not consider regulation 63(1)(b) of the Conservation of Habitats and Species Regulation 2017 ("the 2017 Regulations").

The Authority resolved on 14 September 2018 that the alleged unauthorised development in question, "is likely to have a significant effect on the Peak District Moors SPA and South Pennine Moors SAC and the special qualities for which they were designated..."

4. Please would you explain the extent to which, if at all, the Authority consulted Natural England or the general public prior to that resolution.
5. Please would you also explain the extent to which, if at all, the Authority applied regulation 63(6) of the 2017 Regulations prior to its 14 September 2018 resolution and in particular the extent to which it considered the potential for imposing a time-limiting condition on any planning permission granted on a Ground A appeal.
6. In the event of a Ground A appeal, the competent authority with the duty for making any AA is the Secretary of State. It is not a duty on our client. Please confirm that this is also the Authority's understanding.

Authority to issue enforcement notice

Paragraph 1.2 of the HRA officer report for the 14 September 2018 meeting of the Planning Committee states: "The authority to pursue enforcement action is delegated jointly to the Head of Development Management and Head of Law." The 14 September 2018 resolution refers only to delegation to the Head of Development Management. The enforcement notice is signed by the Assistant Solicitor.

7. Please provide this firm with evidence that the enforcement notice was validly issued on 21 September 2018, including a copy of the officer decision record of the Head of Development Management and/or Head of Law together with a copy of the Authority's Scheme of Delegation.

Requirements of enforcement notice

The land the subject of the enforcement notice ("the Land") is within a SSSI.

8. We infer it to be the Authority's position that our client would require Natural England's written consent under section 28E of the Wildlife and Countryside Act 1981 for the carrying out on the Land of the steps in section 5 of the enforcement notice. Please confirm.

We await hearing from you very soon with your response to the 8 points above. You will appreciate that the enforcement notice takes effect on 12 November 2018 unless an appeal is made against it beforehand.

Yours faithfully



LOXLEY