



Loxley  
Langford Mill  
Kingswood  
Wotton under Edge  
Gloucestershire  
GL12 8RL

Your ref: RDP/7984.1

Our ref: ENF.15/0057

Date: 16 July 2019

Dear Sirs,

**Enforcement Notice-Land at Mickleden Edge, Midhope Moor, Bradfield**

I am writing in response to your letter of 1 July in which you request a further reply to your letter dated 6 November 2018. You had an interim reply from our Assistant Solicitor, Reg Cooper, dated 16 November 2018. Mr Cooper explained in his reply that he was responding to some of the points raised in your letter and that the remaining matters would be addressed by myself or another member of the planning team.

I apologise for not following this up previously. I have set out our response to those matters below, using the paragraph numbering from your letter dated 6 November 2018.

2. Mr Cooper acknowledged in his letter of 16 November 2018 that the competent authority in respect of any likely effect on a designated site, if the appeal is validated, will be the Secretary of State. However, the Authority considered that the decision to issue an enforcement notice amounted to the undertaking of or giving of authorisation for a plan or project and thus fell within the remit of regulation 63(1) of the 2017 Regulations. As that was a decision to be made by the National Park Authority and we are a 'competent authority' we decided to make an assessment.
3. As you say, the report and minutes for the meeting on 14 September 2018 do not address the question as to whether the development in question is directly connected with or necessary to the management of the European site. However, that question had been expressly addressed by the Authority in determining the earlier retrospective planning application and when delegated authority was given to take enforcement action.
4. The Authority did not carry out any consultation with the general public and it is difficult to imagine how in practical terms such consultation could have been carried out. However, we had received representations from several third parties who expressed concern about the development which is subject to the enforcement notice and the potential for adverse effects



being caused to biodiversity. As you will be aware, this included a significant number of written representations from members of the public in relation to the retrospective planning application.

The Authority did not consult Natural England prior to the resolution. However, we had received a detailed consultation response from Natural England in relation to the retrospective planning application. This response included advice which Natural England stated would allow the Authority to undertake a HRA as competent authority when determining the application. This advice was also referred to in the report to our Planning Committee on 14 September 2018 – see paragraph 7.2 of the report.

5. Regulation 63(6) requires the competent authority to have regard to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given. The Authority did not consider the potential for imposing a time-limited condition as it was clear from the retrospective application that the owner was seeking permanent retention of the development and that was the basis on which the application was determined. A time-limiting condition would only be considered if it was linked to a specific timetable for moorland restoration works, for example. However, no such proposal has been submitted by the landowner.
8. We are aware that Natural England's consent may be needed for carrying out the requirements of the enforcement notice. It would be for Natural England to confirm whether such consent would in fact be required.

I trust that the above comments address all of the remaining matters from your letter dated 6 November 2018 and I apologise again for the delay in writing to you following Mr Cooper's interim response.

In your letter of 1 July 2019 you ask whether we would agree to a joint request being made to the Planning Inspectorate to delay issuing a start letter for the appeal in order to allow time for the parties to negotiate. Our Director of Conservation and Planning, John Scott, will shortly be writing to you in relation to this.

Yours faithfully,



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